



City of Broken Arrow

Minutes City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Scott Eudey
Council Member Johnnie Parks
Council Member Debra Wimpee
Council Member Christi Gillespie

Tuesday, August 20, 2019

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 6:30 p.m.

2. Invocation

Pastor Rich Manganaro performed the invocation.

3. Roll Call

Present: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

4. Pledge of Allegiance to the Flag

Cub Scout Pack No. 970 led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond stated Item 5A should be removed from the Consent Agenda. He asked if there were any other items to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to approve the Consent Agenda less Item 5A

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- A. 19-16** Approval of the City Council Meeting Minutes of August 6, 2019
- B. 19-1014** Accept Planning Commission meeting minutes of July 11, 2019
- C. 19-1015** Accept Planning Commission meeting minutes of July 25, 2019
- D. 19-1030** Approval of and authorization to execute Budget Amendment Number #3 for Fiscal Year 2020
- E. 19-1046** Approval of and authorization to execute Resolution No. 1259, a Resolution of the City of Broken Arrow casting a vote for Trustee of the Oklahoma Municipal Retirement Fund (OkMRF) to fill the expiring term of at-large Trustee representing the entire membership
- F. 19-1025** Approval of and authorization to waive Chapter 16, Section 12, subsection 5 to allow for the construction, installation, event activities and removal of lighting, ring and production equipment in the Rose District, 100-300 S. Main Street, Broken Arrow, OK, beginning August 21st through August 24th, 2019
- G. 19-1043** Notification of City Manager's, Assistant City Manager's and Department Director's execution of Professional Consultant Agreements with a value less than \$25,000
- H. 19-1052** Approval of and authorization to execute Amendment No. 6 to the Agreement between Unum Life Insurance Company of America and the City of Broken Arrow to provide long-term disability insurance to City employees
- I. 19-1031** Approval of and authorization to execute two (2) Contracts with Tulsa County for Public Improvements and for Provision of Public Services for the Federal Fiscal Year 2019 Community Development Block Grant (CDBG) Programs
- J. 19-1051** Approval of and authorization to execute the Professional Services Agreement between the City of Broken Arrow and McAfee & Taft, P.C. for providing counsel and legal advice regarding sovereignty law, employment law and labor law
- K. 19-992** Approval of the sole source purchase of five (5) Spacesaver pass thru evidence lockers with ControLoc and one (1) Spacesaver 4-door refrigerated evidence locker from Southwest Solutions Group, Inc.
- L. 19-1027** Approval of and authorization to purchase four (4) 2020 Chevrolet Impala full-sized automobiles from Vance Chevrolet, pursuant to the Oklahoma Statewide Vehicle Contract, for the Police Department
- M. 19-1024** Award the most advantageous bid to 911 Custom for the purchase of police vehicle equipment for the Police Department
- N. 19-1048** Approval of and authorization to declare two (2) Stair-PRO (Stair Chairs) of the Fire Department as surplus and authorize the donation of those items to education organizations such as vocational trade schools, junior colleges, and any other training institutions

- O. 19-1040 Approval of and authorization to execute Resolution No. 1257, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 13, which consists of 0.13 acres of Permanent Right-of-Way for 23rd Street, Houston to Kenosha, in the Northwest Quarter of Section 7, Township 18 North, Range 15 East, south of the Southeast Corner of 23rd Street and Sidney Avenue, from B-Z Properties, LLC, and authorize payment in the amount of \$8,300.00, for the 23rd Street widening from Houston to Kenosha (Project No. ST0914)
- P. 19-1044 Approval of and authorization to execute Resolution No. 1258, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 19, which consists of 0.54 acres of Permanent Right-of-Way for 23rd Street, Houston to Kenosha, in the Northwest Quarter of Section 7, Township 18 North, Range 15 East, north of the Northeast Corner of 23rd Street and Sidney Avenue, from B-Z Properties, LLC, and authorize payment in the amount of \$31,700.00, plus costs and fees of \$22,500.00, for the 23rd Street widening from Houston to Kenosha (Project No. ST0914)
- Q. 19-1013 Approval of PT15-103B, Conditional Final Plat, Stone Horse IV of Broken Arrow, 24.07 acres, 82 Lots, A-1 (Agricultural) to RS-3 (Single-Family Residential), one-quarter mile east of Olive Avenue (129th East Avenue), one-quarter mile south of Tucson Street (121st Street)
- R. 18-1453 Approval of the Broken Arrow City Council Claims List for August 20, 2019

6. Consideration of Items Removed from Consent Agenda

Mayor Thurmond called for a motion.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.

Move to approve Item 5A

The motion carried by the following vote:

- Aye:** 4 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey
- Abstain:** 1 - Craig Thurmond

7. Public Hearings, Appeals, Presentations, Recognitions, Awards

- A. 19-1056 A public hearing regarding the annexation of property located on approximately 1,240 acres located south of Dearborn Street (41st), east of 51st Street (Evans Road / 225th East Avenue) within all of Section 28, Township 19 North, Range 15 East, and parts of Section 27, Township 19 North, Range 15 East, and Section 33, Township 19 North, Range 15 East, and Section 4, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma and thereby amending the city's northern fence line in Wagoner County

Director of Department of Community Development Larry Curtis reported this annexation was requested by the Citizens of Fair Oaks who de-annexed themselves and requested this portion of the Community to be annexed into the City of Broken Arrow. He reported the area was roughly 1,200 acres. He noted proper notice had been published through the Tulsa World and Wagoner County Tribune, as well as through mailed notices within 300 feet of the proposed annexation area by certified mail. He stated some notices were not picked up; however, it was verified all notifications were sent out in accordance with State Statute.

Citizen Angie Lynn stated her address was 25501 E. 46th Street South. She reported her property back up to Area 27. She stated she did not receive notice, but learned from a neighbor of the happenings. She indicated she did some research and she discovered there was only one resident which asked for this entire area to be annexed. She asked how the annexation would benefit the City and how the annexation would benefit the resident who requested the annexation. Mayor Thurmond explained the resident would benefit as the resident would be able to participate in City Services upon annexation, and the City would benefit as the City would gain developed land which was taxable. Citizen Lynn stated she understood the land was undeveloped. She asked would the City of Broken Arrow install all utilities for this resident upon annexation. She noted Wagoner County refused to pay for utility installation. She asked if the City knew what the resident who requested annexation intended for the property. Vice Mayor Scott Eudey noted once the land was annexed the land would become subject to the Broken Arrow Comprehensive Plan which dictated what residents were permitted to do with Broken Arrow property whether developed or undeveloped. Citizen Lynn asked where she could find the Comprehensive Plan. Vice Mayor Eudey responded the Comprehensive Plan was published on the Broken Arrow website. Citizen Lynn indicated she was unable to find the Comprehensive Plan for review on the website. Council Member Johnnie Parks stated this property was not within the City of Broken Arrow yet; therefore, the Comprehensive Plan would not yet apply to the property. He noted he felt all of Wagoner County should be annexed into the City of Broken Arrow and fall under the jurisdiction of Broken Arrow. He noted the City did not install utilities or streets; streets and utilities were installed by the developer. He explained if the property was annexed any development would be required to follow the City of Broken Arrow guidelines and regulations.

Citizen Lynn noted there was a "low riding bridge" near her residence which was designed to allow water to go around the bridge. She stated there was a large amount of flooding in this

area. She stated she worried a developer would not bring anything of benefit to the area, only more people and more houses. Vice Mayor Eudey explained any development of land annexed into the City would be developed to the City of Broken Arrow standards including flood mitigation standards, street standards, and design standards. Citizen Lynn commented the flood mitigation standards were not high enough; flooding was still a problem. Vice Mayor Eudey responded if the area was developed according to the standards of Broken Arrow then the flooding would improve. Mayor Thurmond indicated Broken Arrow had some of the highest flood control standards in the State of Oklahoma. He noted Broken Arrow could not control development in Wagoner County's jurisdiction. He stated if the property was not annexed into the City of Broken Arrow then development of the property would not be subject to Broken Arrow flood control standards. Council Member Parks noted City Council did not know how the property was intended to be developed; however, he wished the property to be annexed so any development would fall under the jurisdiction of Broken Arrow development standards. Citizen Lynn stated she did see this as a benefit. She noted she was occasionally flooded into her property. She stated she was bothered Broken Arrow standards did not ensure wider roads. Council Member Parks stated Broken Arrow standards did require wider roads in developments. Citizen Lynn disagreed. She worried about development bringing in more residents which the City schools did not have room to accommodate. Council Member Parks explained the property would be developed with or without the City's permission. He explained if the property was annexed then the City would have some control over what was developed in this location. Citizen Lynn stated she wished to know what the developer of this property intended to develop. Discussion ensued regarding County Line Road being too narrow and flooding, County Line Road not being under the jurisdiction of Broken Arrow, the County planning road improvement, Wagoner County Standards being lower than Broken Arrow standards.

Citizen Lynn stated northern eastern Broken Arrow was nonfunctional and over developed. She stated she felt this annexation was moving too quickly and she asked why she was not notified at the very beginning of the process. Vice Mayor Eudey responded Oklahoma State Law dictated who received notice and when notice was to be given. Citizen Lynn stated as a Wagoner County resident she felt as if she was not given sufficient notice. Council Member Wimpee stated Area 27 was Level 1, rural residential zone, which would require larger lot sizes for home development. Mr. Larry Curtis reported certified mail was sent to Citizen Lynn's residence, and USPS sent a notice to the City indicating the mail was returned as unclaimed. Citizen Lynn stated she never received a certified mail notice and stated only one of her neighbors received the notification. She stated she believed it was not delivered properly. City Attorney Dennis stated notice was also published in both the Tulsa World and Wagoner Tribune (newspapers).

Citizen Lynn indicated the roads near her residence were crowded and narrow and flooded often, especially County Line Road and the road in front of the high school. She stated it was a problem for the residents who lived in her area. She stated she appreciated the City Council saying these issues were important, but she did not believe enough action was being taken in this regard. Vice Mayor Eudey responded the City of Broken Arrow just taxed itself to improve roads in and around the area Ms. Lynn was discussing. He indicated the City was doing the best it could with the resources available. He noted the City required developers to develop to a standard which accommodated surrounding roads. He explained often the City had no control over main arterial roads, such as County Line Road; however, the main arterials the City had control over were in the process of being improved. Citizen Lynn thanked City Council for listening to her concerns and allowing her to exceed the speaking time limit.

Citizen Kirt Wingate stated his address was 23900 E. 51st Street. He asked what types of City Ordinances and restrictions would be applied to the property once annexed, prior to development. Mayor Thurmond responded once the property was zoned residential City standards such as maintaining a mowed lawn would be required. Citizen Wingate asked about livestock. Mayor Thurmond responded if the property remained zoned agricultural then livestock was permitted. Citizen Wingate stated he understood the City would have control over development standards once the property was annexed, but he felt development of the property would place undue burden on the residents near the property. Mayor Thurmond stated anytime a property was developed flooding was improved due to Broken Arrow flood control regulations. Discussion ensued regarding flooding in the City of Broken Arrow versus flooding outside of the Broken Arrow City Limits, the biggest flooding problem areas in Broken Arrow being the Wagoner County neighborhoods which were annexed post development and were not developed to Broken Arrow standards. Citizen Wingate noted improvement of 209th Street was approved with the 2014 Bond package; however, no work had been done. Vice Mayor Eudey asked Director of Engineering and Construction Alex Mills to address the timeline for 209th Street. Mr. Alex Mills reported 209th Street (37th Street) from 56th through 61st was under construction. He noted 209th Street would be open for traffic before the end of the year. He stated the design for Albany (in front of the high school) from 9th to 23rd was complete and Staff was working on environmental clearances. He stated County Line from 61st to 51st was now under design, including a new

bridge expansion to five lanes. He stated the designs were complete for 37th Street (209th Street) from 61st to 71st and 71st to 81st and Staff was working on right-of-way. He stated the Tulsa County project for 51st Street from Elm to 9th and 9th to 23rd were under design, and the intersections at 31st, 41st and 51st on County Line were under design as well. He stated he understood the frustration, but he believed the City and County were moving in the right direction regarding road improvements in the northern eastern Broken Arrow area.

City Manager Michael Spurgeon stated he understood the annexation process seemed complicated. He explained first a property was annexed, then the property was zoned, then the applicant came to the City with the prospective development. He stated once a developer came to the City with a proposed development, Staff would review the project and the impact said project would have on the area. He discussed the efforts the City made to ensure the development was good for the area and did not negatively affect its neighbors. He discussed the tax implications of road improvements and the funds the City procured for road improvements.

Mayor Thurmond stated Citizen Matt Tandy filled out the form in opposition to Item 7A, but did not wish to speak.

Mayor Thurmond asked thrice if any others present wished to speak regarding the Public Hearing; hearing none, he closed the Public Hearing.

Director of Department of Community Development Larry Curtis stated he understood residents hoped if the property was not annexed, perhaps it would not be developed; however, this was not the case and the property could easily be developed regardless of annexation. He explained the difference was if the property was annexed into the City of Broken Arrow the property would be developed to the City of Broken Arrow standards which were higher than Wagoner County design standards. He explained if annexed, the property would be subject to zoning laws, development standards, and all City codes.

Council Member Wimpee asked about the low lying bridge area. Director of Engineering and Construction Mr. Mills responded the low lying bridge area had been troublesome since it was annexed. He stated there were master drainage plans which were being prepared for this area (included in the General Obligation Bond package) and regional detention was being considered to alleviate the flooding caused by the area not being developed to Broken Arrow's standards. He noted if the area had been developed to Broken Arrow standards the area would not be nearly as problematic as it was today.

Council Member Parks asked about the proposed property annexation time table. Mr. Curtis explained following the Public Hearing, in today's Agenda, there was a Preview Ordinance; City Council would review the Preview Ordinance and if approved the Ordinance would come before City Council for adoption at the next Council Meeting. He noted the Ordinance would enact all City code on the property. Council Member Parks commented if annexed then eventually the developer would be required to submit the proposed development to the City for approval. Mr. Curtis agreed. He explained upon annexation the property would be given a corresponding zoning designation which matched current County zoning for the property; however, the zoning would be marked "A" signifying annexation (for example if agricultural the property would be zoned A-agricultural). He noted prior to any development the property was required to be rezoned which required public notice.

Vice Mayor Eudey stated he appreciated Ms. Lynn's comments and noted City Council was very proud of its high development standards. He stated the developer who was requesting annexation of this property into the City of Broken Arrow had a reputation of making positive changes in the Community and building high quality developments. He noted annexation of the property allowed the City more control over the impact of the development in this area. He stated Ms. Lynn's comments did not fall on deaf ears.

City Attorney Dennis noted there was no emergency clause attached with the potential annexation Ordinance. He noted notice would be sent to all nearby residents regarding the annexation, as well as Indian Nations Council of Government (INCOG), Tulsa and Wagoner County Clerk's Office, Oklahoma Tax Commission, Tulsa County and Wagoner County Election Board, the utility companies and the US Census.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services (No action may be taken on matters under this item)

There were no Citizens who wished to address the Council on General Topics related to City Business or Services.

9. General Council Business

- A. 19-1012 Consideration, discussion, and possible approval of BAZ-2033 (Rezoning), Tidal Wave Rezoning, 3.11 acres, R-2 (Single-Family Residential) to CH (Commercial Heavy), south of the southeast corner of Houston Street (81st Street) and Elm Place (161st East**

Avenue)

Director of Department of Community Development Larry Curtis reported BAZ-2033 was a request by Tidal Wave to rezone the property currently owned by Broken Arrow Public Schools. He explained there was a requirement for a Comprehensive Plan amendment which was recommended for approval by City Council subject to rezoning. He stated through discussion it was determined a PUD would be best suited to ensure access was limited onto Elm Place. He noted the rezoning request was recommended by Planning Commission and Staff subject to the property having an associated PUD.

Council Member Parks noted only the rezoning was before City Council. Mr. Curtis concurred and indicated the PUD would come before City Council at a later date.

**MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee
Move to approve BAZ-2033 per Planning Commission and Staff recommendation**

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

B. 19-1018 Consideration, discussion, and possible approval of the appointment of Jaylee Klempa to the City of Broken Arrow Planning Commission for the remainder of Pablo Aguirre three-year term to expire May 1, 2021

Mr. Larry Curtis reported the Planning Commission Members were appointed to serve a three term and former Planning Commission Member Pablo Aguirre resigned his position on May 23, 2019, although his term was set to expire May 1, 2021. He noted Mayor Thurmond recommended the appointment of Jaylee Klempa to serve the remainder of Mr. Aguirre's term. He stated Ms. Klempa expressed her willingness to serve on the Planning Commission until May 1, 2021. He noted Ms. Klempa held a degree in Construction Science from Texas A & M University, was currently a program manager for PMG, LLC and was experienced in a variety of projects, including several in Broken Arrow and the surrounding areas.

Council Member Gillespie noted she was excited to have Ms. Klempa serve on the Planning Commission. She stated Mr. Klempa would be an excellent addition to the leadership of the City of Broken Arrow.

MOTION: A motion was made by Christi Gillespie, seconded by Debra Wimpee.

Move to approve the appointment of Jaylee Klempa to serve the remainder of a three year term on the Planning Commission to expire May 1, 2021

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

C. 19-1019 Consideration, discussion, and possible approval and authorization to execute Resolution No. 1251, a Resolution authorizing the City Attorney to seek issuance by the Court a Journal Entry of Judgment in the case of City of Broken Arrow, Oklahoma v. CWP, Inc., Wagoner County District Court Case No. CV-18-114, regarding the condemnation of property located on Government Lot 2, Section 7, T-18-N, R-15-E of Indian Meridian, Wagoner County, State of Oklahoma

City Attorney Trevor Dennis reported this 2.1 acres property was required by the City to complete the 23rd Street Kenosha to Houston road widening project. He stated the Commissioner's award came in at \$178,000 dollars and Resolution No. 1251 authorized the City Attorney to enter into a Journal Entry of Judgment to acquire the property for \$178,000 dollars. He noted all parties, except for one, agreed to the terms. He stated this was before Council for finalization with the hopes the final party would agree. He stated the City Attorney's Office recommended approval of Resolution No. 1251.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to approve Resolution No. 1251 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

D. 19-1023 Consideration, discussion and possible approval and authorization to execute Resolution No. 1256, a Resolution ratifying the City Attorney's effectuation of settlement, including the Journal Entry of Judgment approved by the Court, in City of Broken Arrow, Oklahoma v. Joe H. Wilson and Rebecca J. Wilson, Tulsa County District Court Case No. CJ-2019-182, regarding the condemnation of a portion of the property located at 11709 East 91st Street, Tulsa County, State of Oklahoma

City Attorney Trevor Dennis reported this 1,391 sq. feet property was required by the City to complete the Washington Street improvements, specifically garnet Road to Olive Avenue. He stated the Commissioner's award came in at \$18,000 dollars and Resolution No. 1256 ratified a Journal Entry of Judgment for acquisition of the property for \$18,000 dollars. He stated the City Attorney's Office recommended approval of Resolution No. 1256.

MOTION: A motion was made by Christi Gillespie, seconded by Johnnie Parks.

Move to approve Resolution No. 1256 and authorize its execution

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

E. 19-1050 Consideration, discussion and possible direction by City Council regarding adding Section 5.10, Light Pole Banners and Decorations, of the City of Broken Arrow Zoning Ordinance; specifically including rules and procedures for the City's acceptance of donation of decorative banners or other decorations designed to be placed on light poles
City Attorney Dennis reported City Council held a work session on June 20, 2019 during which options were discussed regarding the City owned poles and displays. He noted there had been no clear consensus from the work session; therefore, he attempted to draft two different ordinances for City Council's consideration, one of which was restrictive, but would permit banner display for City recognized holiday displays. He stated this type of ordinance would specifically accommodate veteran's banners and provided more control for the City. He indicated, alternatively, the more open approach would allow for banners and flags to be donated to the City and would allow other public events and activities to display banners. He noted Staff was hoping for direction and guidance from City Council regarding the light pole banners and decorations.

Citizen Tom Mancino, Executive Director of the Military History Center stated his address was 4205 N. Maple Place, Broken Arrow. He stated the idea of selling military banners honoring veterans surfaced last year and had been adopted in Muskogee and Emporia. He noted the venture was highly successful in these areas and he believed the venture would be successful in Broken Arrow, as well as being an excellent way in which to honor Broken Arrow Veterans.

Vice Mayor Eudey asked if the more restrictive ordinance would allow the City to display banners honoring Broken Arrow Veterans. City Attorney Dennis responded in the affirmative. Vice Mayor Eudey stated he approved the more restrictive ordinance as he believed the broader approach would cause unintended consequences.

Council Member Wimpee noted she wished to be able to display event banners, such as the recent Rumble in the Rose District boxing event. She asked if City would be permitted to display banners regarding City organized events such as this with the more restrictive ordinance. City Attorney Dennis responded City owned events such as Rumble in the Rose District would be permitted; however, City sponsored events in which the City was one of many sponsors, would not be permitted. Council Member Wimpee stated she understood the importance of the more restrictive ordinance as it protected the interests of the City of Broken Arrow.

Council Member Parks stated he agreed with Vice Mayor Eudey and wished to see a more restrictive ordinance.

Vice Mayor Eudey noted he was disappointed banners for certain events would not be permitted, but the City had to be mindful of the possibility of unintentional consequences which might arise with a broader approach to the ordinance.

Council Member Wimpee asked for fees to be included in the ordinance. City Attorney Dennis agreed to add fees.

Discussion ensued regarding the sale of Honorary Veteran Banners, the City only having 96 light poles which were banner enabled, the possibility of rotating the banners annually, the possibility of single sided banners, and the sale of banners supporting the Military History Center. City Attorney Dennis explained the process of selling banners to support the Military History Center and to honor Broken Arrow Veterans noting the City would not be involved in the sale of the banners, only the display of the banners in honor of Veteran's Day. He explained the City would own all display banners and as such the City would be required to sell or surplus the banners if it chose to get rid of the banners.

Mayor Thurmond noted consensus was to pursue the more restrictive ordinance. City Attorney Dennis thanked City Council for the direction.

10. Preview Ordinances

A. 19-862 Consideration, discussion, and possible preview of an Ordinance amending Chapter 2-Administration; Article IX-Employee Rules and Regulations, repealing Section 2-140, Statement of Purpose, Section 2-141, Amendment of Rules, Section 2-142, Statement of Policy, Amending Section 2-143, Application of Policy; Definitions, Section 2-147, Promotions, Section 2-148, Demotions, Section 2-149, Probationary Period, Section 2-150, Standards of Conduct, Section 2-152, Vacation leave, Section 2-153, Sick Leave, Section 2-155, Paid leave donation bank, Section 2-156, Civil Leave, Section 2-157, Official Representation, Section 2-158, Leave Without Pay, Section 2-159, Funeral Leave, Section 2-160, Military Leave, Section 2-161, Unauthorized Leave of Absence, Section 2-162, Pay Policy, Section 2-163, Classification Plan, Section 2-164, Pay Plan,

Section 2-165, Department Director Evaluation and Compensation, Section 2-166, Performance Evaluations and Employee Variable Pay Program, Section 2-167, Grade Changes, Section 2-168, Pay Schedule, Section 2-169, Separation, Section 2-170, Disciplinary Action, Section 2-171, Grievance Procedure; repealing all ordinances to the contrary; and declaring an emergency

City Attorney Dennis stated Legal Staff worked with the Human Resources Department to streamline the ordinances which affected employee rules and regulations. He noted it was more efficient to have these ordinances contained in the Personnel Manual. He stated the Legal Department reviewed the requests from Human Resources and believed the City Manager had the authority to add, delete and modify these rules; therefore, Staff recommended streamlining these rules into the Personnel Policy through Ordinance No. 3600. He recommended City Council preview the ordinance and set it for adoption.

Council Member Parks asked how often Personnel Policy changed. City Manager Spurgeon responded in many respects the Personnel Manual was a living breathing document. He explained occasionally a Federal Law changed, or changes were made to benefits or holidays.

MOTION: A motion was made by Debra Wimpee, seconded by Christi Gillespie.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

B. 19-1054 Consideration, discussion, and possible preview of an Ordinance amending Chapter 2, Article X, Section, 2-187, Purchase order system, Section 2-188, Invoice System, of the Broken Arrow Code pertaining to Invoice system; repealing all ordinances to the contrary; and declaring an emergency

Director of Finance Cindy Arnold reported currently the Finance Department was prohibited from making payments without first submitting payments to City Council for approval on a claims list, which was done every City Council Meeting. She explained with City Council Meetings being held twice a month, and with the possibility of rescheduling and/or canceling, issues arose with payment processing. She noted it was important to be able to pay vendors in a timely manner. She reported this ordinance would allow the Finance Department to pay on a weekly time frame, every other Friday, opposite of payroll, as well as enable the City to be more consistent with vendor payments. She noted occasionally there were three weeks in between City Council Meetings which was hard on the small vendors who were waiting for payment. She explained approval of this ordinance would also enable the City to take advantage of discounts.

Vice Mayor Eudey asked if this ordinance abrogated the fiduciary responsibility to the Citizens about approving and reviewing expenditures by the City. City Attorney Dennis responded in the negative. He noted he and Tammy Ewing reviewed this ordinance and Section 17-102 which governed payment of invoices read "any invoice against a municipality must be presented in writing and examined in the manner provided by municipal ordinance or in absence of such ordinance by their applicable law." He stated in terms of the municipal ordinance Section 17-102 read "the municipal ordinance shall establish an internal control structure adequate to provide reasonable assurance against unauthorized or illegal payments of invoices." He stated his understanding of the process was these payments being made were pursuant to contracts considered and approved by City Council. He stated the claims list ensured these were not unauthorized or illegal payments; however, it did not say the City Council was required to be the entity which determined the authorization and legality of payments. He explained this ordinance indicated Ms. Arnold, in her capacity as the Finance Director, would ensure there were adequate internal controls in place regarding payments.

Ms. Arnold explained every invoice which came through the Finance Department required certain levels of authorization, for example a purchasing order required the Purchasing Manager's and Finance Director's approval for payment. She reviewed the various levels of approvals and authorizations. City Attorney Dennis stated he felt the ordinance was appropriate, as long as the internal controls were in place and the City was in compliance with Section 17-102. He noted City Council would be required to ratify payments over \$25,000 dollars. Vice Mayor Eudey asked what happened if City Council did not ratify a payment. City Attorney Dennis noted ultimately Staff would attempt to take the payment back as it was not approved by City Council. He indicated this was a risk with approval of the ordinance. Ms. Arnold noted any unusual payments would be held back until City Council reviewed and approved payment.

Council Member Parks asked if the City Attorney was comfortable with the ordinance. City Attorney Dennis responded in the affirmative.

City Manager Spurgeon noted he approved of the ordinance as well. Mayor Thurmond asked how many times in City Manager Spurgeon's experience had a City Council not approved of a bill paid by a Finance Department. City Manager Spurgeon responded this had never happened.

City Attorney Dennis noted the Finance Department was currently permitted to make payments for previously approved contracts without specific City Council approval. Ms. Arnold noted utility bill payments were also permitted without specific City Council approval.

Vice Mayor Eudey noted this was not an issue of trust, or lack thereof. He explained as elected officials the City Council was responsible for all expenditures. He noted he wanted to be certain any change of policy was fulfilling City Council's obligations to the Citizens of Broken Arrow, as ultimately if there was a mistake the Council would be held responsible.

City Manager Spurgeon noted approval of this ordinance would enable the City Council to possibly only hold one Meeting in July without unnecessarily delaying payments to vendors.

Ms. Arnold noted the Finance Department could email the check register pay authorization to the City Council Members weekly for review prior to payment. City Attorney Dennis asked Ms. Arnold to review the internal controls which were in place. Ms. Arnold reviewed the various internal controls which were in place and noted at least two to three Staff Members reviewed every invoice which was submitted.

MOTION: A motion was made by Johnnie Parks, seconded by Debra Wimpee.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- C. 19-1055 Consideration, discussion, and possible preview of an Ordinance for voluntary annexation of approximately 1,240 acres located south of Dearborn Street (41st), east of 51st Street (Evans Road / 225th East Avenue) within all of Section 28, Township 19 North, Range 15 East, and parts of Section 27, Township 19 North, Range 15 East, and Section 33, Township 19 North, Range 15 East, and Section 4, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma and thereby amending the city's northern fence line in Wagoner County, repealing all ordinances to the contrary; and declaring an emergency**

Director of Department of Community Development Larry Curtis reported this preview ordinance was a part of the annexation request for which the Public Hearing was held earlier during the Meeting.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

11. Ordinances

- A. 19-1016 Consideration, discussion, and possible adoption of Ordinance No. 3598, an ordinance closing a utility easement from CRS Sanders Investments, LLC, on property located one-quarter mile south of Washington Street (91st Street), one-half mile east of Elm Place (161st East Avenue), Tulsa County, State of Oklahoma, (Section 23, T18N, R14E); repealing all ordinances to the contrary; and declaring an emergency**

Vice Mayor Eudey left the room prior to discussion of Item 11A and returned following the vote.

Director of Department of Community Development Mr. Larry Curtis reported Ordinance No. 3598 was for closure of a utilities easement. He noted this Ordinance was set for preview at the last Meeting. He noted the sewer line on this property had not been laid in the correct location; therefore, to ensure the existing line was properly platted this was a request to close the current easement, following which a new easement would be created as part of the platting process.

MOTION: A motion was made by Johnnie Parks, seconded by Christie Gillespie.

Move to adopt Ordinance No. 3598

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Craig Thurmond
Recused: 1 - Scott Eudey

MOTION: A motion was made by Johnnie Parks, seconded by Christie Gillespie.

Move for the emergency clause

The motion carried by the following vote:

Aye: 4 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Craig Thurmond
Recused: 1 - Scott Eudey

- B. 19-1017 Consideration, discussion and possible adoption of Ordinance No. 3599, an ordinance amending Section 3.1.F (Table 3.1-1) Table of Allowed Uses, Section 3.2.C, Commercial**

Uses, Section 3.3.D, Additional Standards for Specific Accessory Uses, Section 5.4.D (Table 5.4.1), Off-Street Parking Schedule A, and Section 10.3.D.11a, Definitions of the City of Broken Arrow Zoning Ordinance; repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency

Mr. Larry Curtis stated this was the Ordinance regarding to short term rentals. He noted this item came before City Council at the previous meeting for preview and review. He reported there was good discussion both with the Public and the Tulsa Realtor's Association. He stated the Ordinance was reviewed with Staff and the Legal Department to ensure the ordinance met the discussed requirements.

MOTION: A motion was made by Debra Wimpee, seconded by Johnnie Parks.

Move to adopt Ordinance No. 3599

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Christi Gillespie, seconded by Debra Wimpee.

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- C. 19-976 Consideration, discussion, and possible adoption of Ordinance No. 3589, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-1994, generally located north of Kenosha Street (71st Street), west of 9th Street (Lynn Lane/177th E. Avenue), granting an IL zoning classification be placed upon the tract along with PUD-271A, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

City Attorney Dennis reported Items 11C through 11J related to items previously reviewed and approved by the City Council for zoning changes. He explained these Ordinances were the codification of the previously approved zoning changes. He recommended approval of Items 11C through 11J with a single vote and approval of the emergency clause for Items 11C through 11J with a single vote as well.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to adopt the Ordinances in Items 11C through 11J

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Debra Wimpee, seconded by Christie Gillespie.

Move for the emergency clause for Items 11C through 11J

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- D. 19-986 Consideration, discussion, and possible adoption of Ordinance No. 3590, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-1996, generally located at 7755 Old Highway 51, granting an IL zoning classification be placed upon the tract along with PUD-274, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

- E. 19-987 Consideration, discussion, and possible adoption of Ordinance No. 3591, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-1916 and BAZ-1997, generally located one-quarter mile south of Omaha Street (51st Street) and west of Aspen Avenue (145th E. Avenue), granting CH and IL zoning classifications be placed upon the tract along with PUD-226A, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

- F. 19-989 Consideration, discussion, and possible adoption of Ordinance No. 3592, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-1999, generally located one-quarter mile west of Ninth Street (Lynn Lane/177th E. Avenue), north of New Orleans Street (101st Street), granting a R-2 zoning classification to be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

- G. 19-990 Consideration, discussion, and possible adoption of Ordinance No. 3593, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2003, generally located one-quarter mile west of Ninth Street (Lynn Lane/177th E. Avenue), one-quarter mile north of Kenosha Street (71st Street), granting a RS-1 zoning classification to be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency**

- H. 19-991 Consideration, discussion, and possible adoption of Ordinance No. 3594, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2004, generally located one-half mile north of Houston Street (81st Street), west of Evans**

Road (225th E. Avenue), granting a RS-3 zoning classification to be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

- I. 19-997 Consideration, discussion, and possible adoption of Ordinance No. 3595, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2006, generally located one-eighth mile south of Houston Street (81st Street), east of Main Street, granting a DM zoning classification to be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- J. 19-1003 Consideration, discussion, and possible adoption of Ordinance No. 3596, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, approving BAZ-2009, generally located north of Kenosha Street (71st Street), west of the Creek Turnpike, granting an CH zoning classification be placed upon the tract along with PUD-175D, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

12. Remarks and Inquiries by Governing Body Members

Council Member Wimpee noted Rumble in the Rose District would commence Friday August 23, 2019. She noted tickets were still on sale. Discussion ensued regarding the weather and the event possibly being held outdoors which would enable many more to attend, the Meet and Greet with Trey Morrison in three separate locations, and the Rumble in the Rose District generating national and international recognition for the City of Broken Arrow.

13. Remarks and Updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials

City Manager Spurgeon announced last Friday, Larry Curtis was offered and accepted the position of Director of Department of Community Development. He congratulated Mr. Curtis. He introduced the Parks and Recreation Director, Mr. Matt Hendren. He welcomed Mr. Hendren.

City Manager Spurgeon stated the Broken Arrow Director of Engineering and Construction, Alex Mills, decided to accept the position of Tulsa County Engineer which was an extremely prominent position within County Government. He noted he was not pleased to lose Mr. Mills; however, he was pleased Mr. Mills would be with an organization Broken Arrow worked with regularly. He stated he believed this would only strengthen the relationship between Broken Arrow and Tulsa County. He congratulated Mr. Alex Mills.

City Manager Spurgeon reported a couple of Council Members requested user groups supported by the City make presentations. He noted this would begin in the fall and would happen twice annually.

City Manager Spurgeon asked City Council to recommend individuals to serve on the Drainage Advisory Committee. He noted two City Council Members should also serve on the Drainage Advisory Committee. He stated he would add the recommendations as an Item to the September 3, 2019 City Council Meeting Agenda. He noted he was excited about the Drainage Advisory Committee.

He announced the first meeting for the Advisory Committee was scheduled for August 29, 2019. He noted next month Finance Director Cindy Arnold would discuss establishing a Finance Subcommittee of the Council to rotate and learn more about City financial procedures.

City Manager Spurgeon stated Norm Stephens indicated ticket sales for Rumble in the Rose District would be limited to 800 tickets until noon tomorrow, following which if the weather cooperated and there was no rain, ticket sales would be opened and additional tickets would be sold. He reported the Police Department began putting up the street closure signs for the event. He thanked City Attorney Trevor Dennis for his efforts regarding this event. He thanked the City Council for its support and responsiveness regarding this event.

Vice Mayor Eudey noted Mr. Matt Hendren had “big shoes to fill,” thanked Mr. Alex Mills for his service and commended Mr. Larry Curtis.

At approximately 7:55 p.m. Mayor Thurmond stated there was an executive session and he would entertain a motion for a brief recess to enter into BAMA and BAEDA.

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move for a brief recess to enter into BAMA and BAEDA

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

At approximately 8:15 p.m. Mayor Thurmond reconvened the Meeting of the City Council and stated he would entertain a motion for a brief recess to clear the room for Executive Session.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

Move for a brief recess to clear the room for Executive Session

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney and any other pertinent staff members discussing and conferring on matters pertaining to:

1. Litigation, including potential resolution, of a matter involving the litigation case of Joshua Andre Garza v. City of Broken Arrow, the United States District Court for the Northern District Case Number 19 CV 423 TCK JFJ, under 25 O.S. §307(B)(4).

2. Discussing the employment of the City Manager, Michael L. Spurgeon, and his employment agreements, and specifically to permit the City Council to conduct the annual evaluation as provided for in the City Manager's Employment Agreement as amended, and taking appropriate action in open session regarding his employment and contract as allowed for under 25 O.S. § 307(B)(1).

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to protect the confidentiality of the employee evaluation as allowed by the Open Meeting Act. Additionally, the Council is advised that the Executive Session is necessary to process the litigation and disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

MOTION: A motion was made by Christi Gillespie, seconded by Scott Eudey.

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

No vote taken for Item 1. Litigation case of Joshua Andre Garza v. City of Broken Arrow.

No vote taken for Item 2. Discussing the employment of the City Manager Michael L. Spurgeon.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to find the Executive Session necessary

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 8:37 p.m.

Mayor

City Clerk