



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, March 17, 2020

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. He indicated none of the City Council Members were ill and were all practicing social distancing. (*City Council Members were sitting six feet apart from each other and Staff.*)

2. Invocation

Pastor Scott Keele 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

Council Member Johnnie Parks led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond indicated Item E was to 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 E

The motion carried by the following vote:

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

- A. 20-6** Approval of the City Council Meeting Minutes
- B. 20-313** Acceptance Planning Commission meeting minutes of February 27, 2020
- C. 20-318** Approval of and authorization to execute the Tulsa County Urban County Community Development Block Grant (CDBG) Application for FY2020 Funds
- D. 20-303** Notification of City Manager's, Assistant City Manager's and Department Director's execution of Professional Consultant Agreements with a value of less than \$25,000
- E. 20-316** Award the lowest responsible bid to Cherokee Pride Construction, Inc. and approve and authorize execution of a construction contract for the Washington Street and Aspen Avenue Intersection Improvement (ST1705/ST2038)
- F. 20-304** Award the most advantageous bid to Hyperion Munitions for the purchase of duty and practice ammunition for the Police Department
- G. 20-310** Approval of and authorization to execute Change Order #2 with RECO Enterprises on Construction Contract #163511; Fire Station No. 3
- H. 20-312** Approval of and authorization to execute Resolution No. 1308, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 2.0, which consists of 25 square feet of permanent Right-of-Way for the Washington Street Improvements: Olive to Aspen, located at the Southwest corner of Fir Avenue and Washington Street, Broken Arrow, Oklahoma in the Southeast Quarter of Section 16, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Bruce Blankenship and authorization of payment in the amount of \$60.00 for the Washington Street Improvements: Olive to Aspen, Parcel 2.0. (Project No. ST1616A/ST1927)
- I. 20-299** Acceptance of a Deed of Dedication from Berryhill Investment Group, LLC on an approximately 20-acre unplatted property located approximately one-third mile south of New Orleans Street (101st Street), east of 9th Street (177th East Avenue/Lynn Lane) as shown in Exhibits E.1 and E.2, Tulsa County, State of Oklahoma (Section 25, T18N, R14E)(9th Street/Lynn Lane)
- J. 20-300** Acceptance of a Deed of Dedication from Berryhill Investment Group, LLC on an approximately 20-acre unplatted property located approximately one-third mile south of New Orleans Street (101st Street), east of 9th Street (177th East Avenue/Lynn Lane) as shown in Exhibits G.1 and G.2, Tulsa County, State of Oklahoma (Section 25, T18N, R14E)(West of South Park Street)
- K. 20-301** Acceptance of a Utility Easement Dedication from Berryhill Investment Group, LLC on an approximately 20-acre unplatted property located approximately one-third mile south of New Orleans Street (101st Street), east of 9th Street (177th East Avenue/Lynn

- L. 20-292 Lane) as shown in Exhibits F.1 and F.2, Tulsa County, State of Oklahoma (Section 25, T18N, R14E)(9th Street/Lynn Lane)
Approval of BAZ-2047, Berryhill Property, 20 acres, A-1 (Agricultural) to RS-3 (Single-Family Residential), one-third mile south of New Orleans Street (101st Street), east of 9th Street (177th E. Avenue/Lynn Lane)
- M. 20-295 Approval of PUD-301 (Planned Unit Development) and BAZ-2045 (Rezoning), The Colony at Cedar Ridge, 78.12 acres, A-1 (Agricultural) to CM (Community Mixed-Use), RS-3 (Single-Family Residential) and PUD-301, located one-quarter mile east of Olive Avenue (129th East Avenue), south of New Orleans Street (101st Street)
- N. 20-341 Ratification of the Claims List Check Register dated March 13, 2020

6. Consideration of Items Removed from Consent Agenda

Assistant City Manager Kenny Schwab thanked Council Member Gillespie for requesting this Item be removed for discussion. He reported Item E was for a construction contract for the intersection of Washington (91st Street) and Aspen (145th E. Ave.). He noted this intersection was one of the worst in the City. He reported the design plans were completed and the project was advertised on February 13, 2020 and February 20, 2020. He stated bids were opened on March 10, 2020 with seven (7) bids received and all bids responsive. He stated three bids were within \$115,000 dollars of each other. He indicated the lowest responsible bidder was Cherokee Pride Construction, Inc., with a Total Bid of \$1,758,476.46 dollars. He stated Staff recommended awarding the bid to Cherokee Pride Construction Inc.

Council Member Gillespie stated the difference between the low bid and the high bid was approximately \$900,000 dollars which was a large cost difference; she asked if the City had experience with this contractor. She stated she wished to be certain Cherokee Pride did not knowingly bid low intending to raise costs during construction. Mr. Schwab stated the engineer's estimate was \$1.85 million dollars; therefore, Cherokee Pride was approximately \$90,000 dollars lower than the engineer's estimate. He stated Staff was comfortable with the engineering estimate being a little above the lowest bidder. He stated Broken Arrow had experience working with Cherokee Pride; Cherokee Pride did adequate work but occasionally needed encouragement to stay on schedule. He noted Cherokee Pride was currently working on Detroit Street (near City Hall) and the City was extending the contract with Cherokee Pride to work the second phase of the Detroit Street project.

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

Move to award the lowest responsible bid to Cherokee Pride Construction, Inc. and approve and authorize execution of a construction contract for the Washington Street and Aspen Avenue Intersection Improvement (ST1705/ST2038)

The motion carried by the following vote:

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

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

- A. 20-240 **Presentation of the newly redesigned citizen website, BrokenArrowOK.gov**
Communications Coordinator T.J. Gerlach reported for the last year the Communications Team worked to redesign the current City Website. He stated the City chose to utilize a new vendor for this project; the past vendor was Civic Plus; the new vendor was Granicus. He noted the contract with Granicus was for five years and began last April. He displayed the current website. He noted the current website was a bit outdated and was not user friendly or mobile friendly. He indicated 60% of website visitors utilized a mobile device; therefore, it was important for the new website to work with mobile devices. He displayed and discussed the new website which was designed to be mobile user friendly and meet more ADA requirements regarding the visually impaired. He continued to review the website pointing out various website features. He reviewed the Broken Arrow GIS website which contained information regarding Broken Arrow Capital Improvement projects, bond projects, and City projects. He noted the website listed the estimated cost and estimated completion date for every City project.

Council Member Gillespie asked if all the projects were currently loaded onto the GIS website. Mr. Gerlach responded in the affirmative; the Operations Communications Officer Lisa Jones was keeping this website updated.

Vice Mayor Eudey asked when the new website would go live. Mr. Gerlach responded the new website would launch midday Thursday March 19, 2020. He noted the information regarding the projects would be accessible through the City's website via the Engineering and Construction page.

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)

Mayor Thurmond indicated two Citizens signed up to speak.

Citizen Lori Gracey stated her address was 712 West Granger Street, Broken Arrow. She indicated she was concerned about the declaration made by Mayor Thurmond today

concerning the COVID-19 virus. She noted there were no documented cases of COVID-19 in the City of Broken Arrow and the declaration was leaning in the direction of closing businesses, as was being done in Tulsa. She stated she felt this was a direct infringement on her civil liberties: her first amendment right to assemble freely, her right to speak freely, and her right to be safe on her property and person as a small business owner. She stated if a small business owner's livelihood was staked in one company and said company could not open to the public and did not have drive through services the business owner would lose their livelihood as would the business's employees. She indicated she felt this was an overreaction to the situation with the COVID virus. She stated she felt it was a slippery slope to trample upon citizen's civil liberties. She implored City Council to take her civil liberties seriously and recommend, ask or suggest businesses close, but avoid requiring businesses to close.

Vice Mayor Eudey noted Ms. Gracey was referencing a declaration made by Mayor Thurmond today; however, no declaration was made today. He stated a declaration was made yesterday to limit gatherings of fifty people or more at public facilities owned by the City. He noted no other emergencies had been declared at this time. Ms. Gracey stated this exceeded President Trump's recommendation of limiting gatherings to ten people. Vice Mayor Eudey noted the declaration was broader than the President's recommendation.

Mayor Thurmond stated his declaration mirrored the CDC's recommendation.

Ms. Gracey stated her information was incorrect; however, she was still concerned the City was moving in the direction of infringing on small business owner's rights; small business owners were the life blood of the City of Broken Arrow. She noted Broken Arrow did not need to follow in the footsteps of Tulsa.

Vice Mayor Eudey indicated Ms. Gracey's point was well taken; however, he wanted to be certain the correct facts were understood.

Ms. Gracey asked if the City Council had any concerns regarding moving forward with this declaration.

Mayor Thurmond explained he made the declaration based upon the advice of the CDC. He reported the CDC recommended public gatherings be limited to fifty individuals or less; President Trump recommended limiting public gatherings to ten individuals or less. He stated the declaration applied to gatherings on City owned properties. Ms. Gracey asked about churches and restaurants. Mayor Thurmond responded private property gatherings were not included in the declaration. Ms. Gracey asked about schools. Mayor Thurmond stated the City did not own the schools; the declaration only applied to City owned property. Vice Mayor Eudey stated schools would make decisions apart and separate from the City.

Citizen Ronda Vuillemont-Smith stated her address was 701 Meadow Wood Drive, Broken Arrow. She stated she agreed with Ms. Gracey's concerns. She indicated closing bars and restaurants would be detrimental to Broken Arrow and its businesses. She noted citizens had a right to choose to go out or to stay home and businesses should have the right to choose to close or remain open. She indicated when elected the City Council Members took an oath to defend the Constitution and the Constitution granted Citizens certain rights. She asked the City Council to keep this in mind as City moved forward with this pandemic. She stated Citizens should always have the right to assemble and provide for their families; she felt shutting businesses down removed this right. She stated keeping businesses open in Broken Arrow also might bring in new customers when businesses in Tulsa were closed.

9. General Council Business

A. 20-271 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1299, a Resolution of Necessity to Condemn Property that is generally located at the Southeast corner of Garnett Road and Florence, Broken Arrow, in the Northwest Quarter of Section 32, Township 18 North, Range 14 East of the Indian Meridian, Tulsa County, Oklahoma, for the Haikey Creek Lift Station Water Line Upgrade, (Project No. 205433)

Assistant City Manager Kenny Schwab reported this Item was for a Resolution of Necessity to Condemn Property. He indicated this property was needed to install a larger waterline to the Haikey Creek Lift Station. He stated Haikey Creek Life Station was part of the Regional Metropolitan Utility Authority (RMUA). He noted the waterline would run along the east side of Garnet starting at Florence (111th Street) and head south to the Life Station for approximately a half mile. He explained the reason a condemnation was needed was due to the title being "muddled." He stated the City negotiated with the current title owner, but it appeared there could be other individuals (family members) tied to the title; therefore, to ensure the City had clear ownership of the property the City Attorney recommended going through the condemnation process.

Vice Mayor Eudey asked if the City had reached an agreement with the current title holder

and was paying the value to the property to the current title holder. Mr. Schwab responded in the affirmative. Vice Mayor Eudey asked if a condemnation was needed to cleanly transfer the title. Mr. Schwab responded in the affirmative. Vice Mayor Eudey stated the City was not forcibly taking the property, the City had favorably negotiated with the property owner, and the condemnation was for the purposes of a clear title only. Mr. Schwab concurred.

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

Move to approve Resolution No. 1299 and authorize its execution

The motion carried by the following vote:

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

- B. 20-319 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1309, a resolution authorizing the execution of a contract for sale of real estate for real property generally located at 1811 South Main Street, located in the Southwest Quarter of Section 14, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma including structures and improvements; and authorizing the City of Broken Arrow's expenditure of the sum of \$690,000 plus closing costs to effect such purchase from La Donna R. Ross; designating representatives of the City of Broken Arrow, Oklahoma for purposes of granting certain approvals and executing certain instruments as required under and in connection with said Contract for Real Estate for the Senior Citizen's Activity Center (191719)**

Mr. Kenny Schwab reported this was a Resolution regarding the Senior Center. He reported this Resolution authorized the City to expend the monies of \$690,000 dollars to acquire the property and go through proper closing, pay closing costs, and obtain ownership of the property to enable the City to move forward with the Senior Center.

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

Move to approve Resolution No. 1309 and authorize its execution

The motion carried by the following vote:

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

- C. 20-326 Consideration, discussion, and possible approval of and authorization to execute an agreement with the Muscogee Creek Nation and Mission 22 for partnering together for the War at Home Memorial (Project 206043)**

Mr. Schwab reported this Item was regarding the War at Home Memorial. He explained Staff had been working with Mission 22 and with Muscogee Creek Nation for over a year to come to a three-way agreement to build the Mission 22 Memorial. He noted the negotiations had finally come to terms and this Item would approve and authorize execution of said agreement; however, due to current conditions in the United States and concerns regarding sales tax and donations, Mission 22 asked for this Item to be tabled. He noted Mission 22 worried donations would be lower than expected this year and wished to potentially return to this agreement at a later date.

Vice Mayor Eudey asked if Mission 22 was a party to the Creek Nation. Mayor Thurmond responded in the negative; Mission 22 had separate funding from Creek Nation. Vice Mayor Eudey asked why the agreement needed to be delayed. Mr. Schwab explained the War at Home Memorial project would cost approximately \$378,000 dollars and Mission 22 agreed to put \$200,000 dollars towards the contract. He noted Muscogee Creek Nation agreed to donate \$58,000 dollars and the City would cover \$120,000 dollars. Vice Mayor Eudey asked if the City accepted the donation from Creek Nation, the donation from Mission 22 could be delayed. Mr. Schwab agreed; however, if costs went up in the interim it would cause difficulties and it was unknown when Mission 22 could come back and contribute the \$200,000 dollars. He noted currently the War at Home Memorial was scheduled to open on Veteran's Day 2020; Mission 22 hoped to delay the opening until perhaps Memorial Day 2021. He stated Mission 22 was still committed but needed to determine how donations would be affected this year.

Council Member Wimpee stated there were many individuals who wished to donate to the War at Home Memorial and wondered about the possibility of a fund raiser.

Mayor Thurmond stated he believed the City should work towards raising funds to help Mission 22 if it could not contribute the full \$200,000 dollars.

Vice Mayor Eudey stated he was not excited about delaying the project; however, he understood Mission 22 was a necessary party to the agreement. He stated the City had been working with every Congressional Leader possible towards funding for this project, as well as private groups; therefore, he felt funding from other sources might be obtained.

Mr. Schwab stated the City would continue to work towards this Memorial.

Council Member Parks asked if this was to be tabled indefinitely. Mr. Schwab responded in the affirmative.

Council Member Gillespie asked about storage of the Memorial pieces. Council Member Wimpee noted this was a concern. Mr. Schwab responded Mission 22 had made arrangements with private storage for a time extension, but further extension would be needed.

Mayor Thurmond recommended tabling this Item until funding was available rather than indefinitely.

Vice Mayor Eudey noted he intended to make a motion to table this Item for 90 days. He stated he preferred definitive dates. Mr. Schwab indicated this would be acceptable.

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

Move to table this Item for 90 days and review the Item at the first City Council Meeting after the 90-day time period

The motion carried by the following vote:

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

D. 20-331 Consideration, discussion, and possible approval of and authorization for the City Council to waive development fees, not to exceed \$43,820 for the Tiger Hill Plaza Development located at 801 E Kenosha Street, Broken Arrow

Assistant to City Manager for Economic Development Norm Stephens reported City Council approved the waiving of development fees for fourteen ¾ inch water taps off the loop line for the Tiger Hill Plaza development, up to \$11,000 dollars. He noted on March 3 he met with Mr. Steve Walman who explained the project’s Construction Manager met with Development Services and was advised the ¾ inch size of the water taps were not sufficient. He stated Mr. Walman requested a waiver for development fees not to exceed \$43,820 dollars as Building A required four 1 inch lines for potential retail tenants, two 2 inch lines for potential restaurant tenants, and Building B required five 1 inch water lines for the potential retail tenants and three 2 inch water lines for the potential restaurant tenants, one 2 inch water line for irrigation and one fire line for the escrow, for a total of \$41,820 dollars.

Council Member Parks stated any time a water line was increased from a ¾ inch line it was a sign a larger business was intended to be developed; therefore, he felt this was a “win-win” situation as a larger business used more water and brought in more sales tax. Mr. Stephens agreed and noted Mr. Walman had worked with Broken Arrow regarding development issues on the site; he felt this was a fair request.

Vice Mayor Eudey stated he initially had not approved of this; however, after hearing Council Member Parks’ comments he agreed.

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

Move to approve and authorize the City Manager to waive development fees, not to exceed \$43,820 for the Tiger Hill Plaza Development located at 801 E Kenosha Street, Broken Arrow

The motion carried by the following vote:

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

E. 20-289 Consideration, discussion and possible approval of and authorization to execute a contract with A-max Sign Company for purchase and installation of an illuminated monument sign for the Public Safety Complex

Deputy Fire Chief Phil Reid and Police Captain Thomas Cooper were present to discuss this Item. Deputy Chief Reid reported during Fiscal Year 2020 both the Police and Fire Departments allocated equivalent monies to the design and purchase of a larger, more visible sign for the Public Safety Complex. He reported the sign would be located on the northeast corner of Kenosha and North 6th Street. He stated an easement was dedicated by the City for the purpose of placing the sign. He indicated the City requested quotes for manufacture of the sign from several local sign companies, but only one quote was returned. He noted the quote included the cost to connect power to the sign. He reported the sign would be manufactured to replicate the aesthetics of the Public Safety Building and would be fabricated from faux stone blocks and the illumination would be painted with an aircraft grade pain. He noted the lighting would be LED. He stated there would be a two-year manufacturer’s warranty on the sign. He indicated the sign was estimated to take five to six weeks to manufacture and install.

Council Member Gillespie asked why the sign did not include the Broken Arrow City logo. Deputy Chief Reid explained the sign was designed to reflect the Public Safety Building design; the Public Safety Building did not include the Broken Arrow City logo; therefore, the sign did not include the logo. He noted this was his fault as the concept was his idea; however, the sign could be redesigned as City Council wished. He noted there would be a kickplate surrounding the base of the sign.

Council Member Gillespie stated she would like to see landscaping around the sign. Vice Mayor Eudey asked if landscaping would be acceptable assuming the view of the sign was not obstructed. Deputy Chief Reid responded in the affirmative. Discussion ensued regarding the sign being two sided, the sign facing north/south to enable east/west traffic to read the sign, and the colors of the sign.

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

Move to approve and authorize execution of a contract with A-max Sign Company for purchase and installation of an illuminated monument sign for the Public Safety Complex

The motion carried by the following vote:

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

- F. 20-339 Consideration, discussion, and possible approval of Resolution 1314, a Resolution of the City of Broken Arrow, Oklahoma (the “City”) approving the incurrence of indebtedness by the Broken Arrow Municipal Authority (the “Authority”) issuing its Utility System and Sales Tax Revenue Note, Taxable Series 2020 (the “Note”); providing that the organizational document creating the Authority is subject to the provisions of the Indenture authorizing the issuance of said Note; waiving competitive bidding with respect to the sale of said Note and approving the proceedings of the Authority pertaining to the sale of said Note; ratifying and confirming a Lease Agreement by and between the City and the Authority pertaining to the City’s water, sanitary sewer, and solid waste disposal systems; ratifying and confirming a Sales Tax Agreement by and between the City and the Authority pertaining to pledge of certain sales tax revenues; and containing other provisions relating thereto.**
Finance Director Cindy Arnold indicated Item F needed to be discussed after the BAMA Meeting. Mayor Thurmond called for a motion.

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

Move to table Item F until after the BAMA Meeting

The motion carried by the following vote:

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

Following the BAMA Meeting, Finance Director Cindy Arnold explained the City Council was required to approve any debt incurred by the Broken Arrow Municipal Authority. She reported Resolution No. 1314 approved the action taken by BAMA under Resolution No. 1313 authorizing the refinancing of the 2012 OWRB Water Treatment Plan loan not to exceed \$27 million dollars, waiving competitive bidding, and authorizing the note to be sold on a negotiated basis.

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

Move to approve Resolution No. 1314 and authorize its execution

The motion carried by the following vote:

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

- G. 20-320 Consideration, discussion, and possible appointment of Scott Moore to the Elm and New Orleans Advisory Committee to replace current committee member Fred Dorrell and realignment of Lee Whelpley as a representative of the planning commission to the Elm and New Orleans Advisory Committee**
Special Projects Manager Farhad Daroga reported last August (2019), the City Council appointed a twelve-person Elm and New Orleans Advisory Committee which had been meeting for the past six months (approximately ten meetings). He reported Committee Member Fred Dorrell was appointed to this Advisory Committee as a representative of the Planning Commission; however, due to other commitments and time constraints, Mr. Dorrell requested he be replaced with another Planning Commission Member. He stated Lee Whelpley served as Vice Chairperson of the Planning Commission and as a Member of the Advisory Committee. He indicated it was recommended Mr. Whelpley be realigned as a representative of the Planning Commission for this Advisory Committee and Pastor Scott Moore be appointed as a new Member of the Elm and New Orleans Advisory Committee. He noted Pastor Scott Moore had attended all but one of the Elm and New Orleans Advisory Committee Meetings. Discussion ensued regarding Pastor Scott Moore being up to date with the Committee’s activities and Pastor Moore having a vested interest in the Elm and New Orleans area.

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

Move to approve the appointment of Scott Moore to the Elm and New Orleans Advisory Committee to replace current committee member Fred Dorrell and realignment of Lee Whelpley as a representative of the Planning Commission to the Elm and New Orleans Advisory Committee

The motion carried by the following vote:

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

H. 20-321 Consideration, discussion, and possible approval of a district name recommendation from the Elm and New Orleans Advisory Committee

Mr. Farhad Daroga noted the Elm and New Orleans Advisory Committee deliberated regarding this topic extensively. He introduced Dr. Roy Wood, the Chairperson of the Elm and New Orleans Advisory Committee.

Dr. Roy Wood stated the Committee believed naming the Elm and New Orleans area would make the area a readily recognizable landmark similar to the Rose District and provide an opportunity to brand and market the area in a unique and important way. He reported on March 5, 2020, the Elm and New Orleans Advisory Committee reviewed a list of potential names for the study area and special district from the online survey which was released in February 2020. He indicated over 2,000 people responded to this survey. He stated after considerable discussion the Committee narrowed the list to two names: New Orleans Square and Elm Quarter. He explained after lengthy discussion the Advisory Committee unanimously recommended one name: New Orleans Square. He stated the Committee believed this name highlighted one of the most important intersections on New Orleans Street and gave the area a unique identity which had the potential to influence branding and marketing in the area in a very positive manner. He stated the Elm and New Orleans Advisory Committee, with the support of City Staff, recommended City Council consider New Orleans Square as the official name of this important area of Broken Arrow.

Vice Mayor Eudey noted he was unable to be present at the last Advisory Committee Meeting. Council Member Gillespie indicated she was present. She explained the Committee considered the top ten suggestions from the survey; New Orleans Square was in the top ten. She noted the Committee had agreed upon this name unanimously. She stated she felt the name would promote branding and encourage residents to view the area as a destination rather than an intersection.

Vice Mayor Eudey noted Vice Chair Elkins contacted him following the Advisory Committee Meeting regarding the name choice. He indicated he approved of the name choice and agreed the name would promote the area and provide New Orleans related themed opportunities and events.

Mayor Thurmond stated more important than the name itself was the continued use of the name. He noted the downtown area was now known as the Rose District, and in the same way, by continued use of the name, the area would become identified as New Orleans Square.

Council Member Parks stated he approved of the name choice. He noted many New Orleans style events and themes could be employed to encourage recognition of the area as New Orleans Square.

MOTION: A motion was made by Christi Gillespie, seconded by Scott Eudey. Move to approve New Orleans Square per the proposal of the Elm and New Orleans Advisory Committee

The motion carried by the following vote:

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

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

A. 20-337 Consideration, discussion and possible adoption of Corrected Ordinance No. 3599 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. Farhad Daroga explained this Item was to correct a scrivener's error in Ordinance No. 3599. He reported in Ordinance No. 3599, pertaining to the Zoning Ordinance Section 3, there were charts and indexes which showed different lane uses; some of the lane uses were inadvertently omitted and the adoption of Corrected Ordinance No. 3599 would correct this omission.

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

Move to adopt Corrected 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 Johnnie Parks, seconded by Christi Gillespie.

Move for the emergency clause

The motion carried by the following vote:

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

B. 20-306 Consideration, discussion and possible adoption of Ordinance No. 3620, a Zoning Ordinance amending Ordinance No. 3603 of the City of Broken Arrow Code of Ordinances, amending Chapter 5, Development Standards, 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, repealing all ordinances to the contrary; and declaring an emergency
City Attorney Trevor Dennis reported this Ordinance was previewed at the last City Council Meeting. He explained Ordinance No. 3620 updated the definition of City recognized holidays as all holidays declared to be a holiday by City Council, not just holidays for which City facilities were closed.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.
Move to adopt Ordinance No. 3620

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 Johnnie Parks, seconded by Christi Gillespie.
Move for the emergency clause

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

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond stated much discussion was being held regarding the COVID-19 virus. He noted the Tulsa Mayor closed all restaurants, bars, gyms, spas, etc., in the City of Tulsa. He reported Jenks and Bixby were following suit. He stated he believed individuals needed to exercise personal responsibility. He noted many believed the government was in place to protect the Citizens; however, he felt the government should not be involved with the resident’s day-to-day life. He asked for the City Council’s opinion in this regard. He indicated, as Ms. Lori Gracey and Ms. Ronda Vuillemont-Smith pointed out, Tulsa closing its businesses did not mean Broken Arrow should do the same. He stated he hoped Broken Arrow would not be as heavily impacted economically as some other communities.

Vice Mayor Eudey stated in the court system, when guardianship was granted over an individual, said individual was given the opportunity to be heard and considered in the least restrictive circumstance. He stated he felt the Mayor had moved in the least restrictive direction through the emergency declaration by taking the advice of the CDC and restricting gatherings to no more than fifty individuals on public properties. He noted there may come a time when more restrictive options might be required; however, these more restrictive options should be the least restrictive option possible. He agreed it was important to be very careful when considering restrictions which impacted a citizen’s life, liberty and property. He noted the Broken Arrow Legal Department conducted copious research and the City Manager’s Office was doing its best to guide City Council regarding the COVID-19 virus situation. He indicated he appreciated Mayor Thurmond allowing the City Council Members to discuss this matter, as ultimately it was the Mayor’s decision by State Statute. He stated while he believed employing the least restrictive option was the best method, it was also important to exercise caution. He noted two of the City Council Members were of an age most negatively affected by the COVID-19 virus and following social distancing protocols was a small price to pay to protect these two individuals. He stated he believed the least restrictive option, the option which negatively impacted commerce and citizens’ rights the least, and which promoted safety of others, was the best option.

Council Member Wimpee agreed with Vice Mayor Eudey. She noted she received many, many emails and phone calls from business owners begging for businesses to be permitted to remain open during this event. She noted these requests needed to be considered. She stated she also understood Ms. Gracey’s and Ms. Vuillemont-Smith’s concerns.

Council Member Gillespie stated she agreed with Vice Mayor Eudey and Council Member Wimpee and noted she was grateful the City Council was of a like mind in this situation.

Council Member Parks stated it should be up to residents to be responsible. He noted his family would not go to events with large crowds or out to eat often for the duration of this event. He stated he and his family were exercising social distancing during this event with others and each other. He noted even his four-year-old granddaughter offered him an elbow bump as opposed to a hug today. He stated he was exercising caution and utilizing restaurant pickup as opposed to in-restaurant dining. He indicated he believed the COVID-19 virus would cause many financial hardships. He indicated if the COVID-19 virus became a detriment to public health he would not hesitate banning individuals from gathering in large groups. He stated he agreed in light restrictions right now; however, the time might come for the City to decide it did not wish to have large groups of people gathering in the Rose District

for health and safety reasons. He noted the situation was changing daily.

Mayor Thurmond agreed with Council Member Parks. He noted the situation was very fluid. He stated he had a very interesting discussion today with the Director of Public Health whose position was to shut everything down.

City Attorney Dennis stated he would leave the medical advice and direction to the CDC. He noted Dr. Dart with the Tulsa Health Department recommended minimizing the gatherings of individuals in public. He noted while he deferred to the medical experts on this issue, he understood the medical experts did not necessarily have complete eyes on the situation as citizens could be asymptomatic but still spreading the virus. He stated with the contagious nature of the virus and the potential bad outcomes he would still defer to the medical experts; however, he did wish to address the statements regarding Constitutional Liberties and what power the government had in these types of situations. He explained the Supreme Court repeatedly recognized the need to weigh Constitutional restrictions on government against the survival of the Country and its Citizens. He stated two Supreme Court Justices in two different Opinions (Justice Jackson and Justice Goldman) indicated the Constitution was not a suicide pact; therefore, State law specifically empowered the Mayor to proclaim an emergency when a disaster affected the life, health and property of the Citizens of Broken Arrow (which included prohibiting or restricting assembly on public or private property). He stated it was important to understand both the Supreme Court and State Statute authorized this type of action and it was specifically up to the Mayor, explicitly as authorized by a vote of one (1) by the Mayor, to make decisions regarding these issues.

Vice Mayor Eudey agreed with City Attorney Dennis. He stated he did not believe his previous statement regarding choosing the least restrictive option was inconsistent with City Attorney Dennis's statement and he believed whatever was decided it would be according to what the Constitution granted as interpreted by the Supreme Court. He noted it was a balancing act between individual rights and the rights of the Country as a whole. He indicated he understood a time might come which might require restrictions to be more limiting; however, it was important to make these decisions carefully.

Council Member Gillespie noted her grandparents were in their 80s and her family had decided her grandparents should stay home for the next few weeks. She noted her grandmother was not happy with the situation but understood. She stated she felt residents should be trusted to stay home when possible and only go out when necessary.

Mayor Thurmond stated it was important for residents to be responsible, especially in light of the ability to spread this virus before being aware of having it. He stated any individual showing symptoms obviously should stay quarantined. He noted he did not wish to tell residents not to operate local businesses. He commented Broken Arrow was taking a risk by continuing to operate local businesses, but he did not feel the City needed to mandate business closings; however, residents needed to be responsible and not gather in groups of more than ten individuals.

Vice Mayor Eudey noted he was going to the office and going straight home; he was limiting the number of people permitted in his office; he was acting responsibly in this situation. He indicated he had a 90-year-old grandmother who he had planned to visit next week, but this was no longer the case as he did not wish to accidentally infect his grandmother. He stated he preferred to allow Broken Arrow Citizens to act responsibly; however, if it became necessary tougher restrictions might be instated. He noted Mayor Thurmond had difficult decisions to make and he thanked Mayor Thurmond for listening to the positions of the City Council Members.

Mayor Thurmond stated no matter what decision was made someone would be unhappy. He stated Broken Arrow Citizens needed to exercise responsibility during this pandemic.

Council Member Gillespie encouraged the public to assist those who needed help; for example, contacting an elderly neighbor through the HOA and offering to go out and pick up groceries for said neighbor. She stated this was an opportunity to be helpful and show others who Broken Arrow was as a Community.

Council Member Parks asked for the Acting City Manager to keep the City Council informed regarding the COVID-19 virus.

Vice Mayor Eudey stated it was important to note Broken Arrow was blessed with great leadership and administrative staff. He stated he knew the City Manager, although out of town this week, was on top of this situation. He thanked Russell Gale, Kenny Schwab and those working hard to ensure Broken Arrow Citizens were safe; he thanked City Attorney Dennis for his efforts.

Vice Mayor Eudey stated four City Council Members recently attended the National League

of Cities (NLC) Conference and learned a great deal. He stated the Conference had very good attendance and he was provided opportunities to be heard on the Committees of which he was a part. He stated he had the privilege of being the sponsor of the Youth City Council and he believed the Youth City Council learned a great deal. He thanked Council Member Parks for providing a map of Arlington Cemetery. He noted he conducted the tour of Arlington Cemetery on behalf of Council Member Parks who traditionally conducted this tour.

Council Member Wimpee noted she sat on the Public Safety and Crime Prevention Committee with the NLC. She indicated whenever she attended the NLC Conference and the Public Safety and Crime Prevention Committee she came away with a renewed feeling regarding the greatness of Broken Arrow as a City. She commented on the positive differences between Broken Arrow and other cities. She noted Broken Arrow had excellent public safety which was appreciated by the residents of Broken Arrow.

Mayor Thurmond agreed with Council Member Wimpee and Vice Mayor Eudey. He noted the timing of the NLC Conference was excellent as Arlington Cemetery and other museums and such were closed after the Conference ended.

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

Assistant City Manager Russell Gale stated the Management Team was focused on navigating through the challenges of COVID-19 and was focused on complying with CDC guidance and with guidance from the Oklahoma State Department of Health in regard to ensuring the City addressed appropriate issues. He reported Mayor Thurmond signed an emergency order on March 16, 2020 which adopted the CDC recommendations issued on March 15, 2020. He noted approximately four hours after this was done the CDC changed its recommendations; the situation was very fluid and management meetings were held daily. He reviewed issues addressed by the Management Team: 1) Each Department developed emergency continuity plans in anticipation of mass absenteeism; 2) Continued to remain focused on social distancing, for example, the visible social distancing at the City Council Meeting (*City Council Members and Staff were maintaining a distance of six feet between individuals*) and today a leadership meeting was held via conference call; 3) Implementation of a travel freeze for all employees; 4) Developed policy to consider telecommuting for employees, especially for those with the capability of working from home without impacting operational services such as IT, accounting, community development, engineering, etc.; 5) Municipal Court was not being held this Spring Break week and consideration was being given to limiting Municipal Court in compliance with CDC guidelines; 6) Organization of Special City Council Meetings: none had been scheduled as of yet, but the Management Team was prepared to organize such meetings when necessary. He indicated he would keep City Council aware of such action steps moving forward. He noted this would be a difficult situation for many, but the Management Team would try to ensure employee issues were addressed moving forward.

Mayor Thurmond indicated there was an Executive Session; therefore, 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

Mayor Thurmond reconvened the City Council Meeting at approximately 7:45 p.m. He noted Item 9F would be discussed (see above). Following discussion of Item 9F he called for a motion for a brief recess to clear the room for the Executive Session.

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

Move for a brief recess to clear the room for the 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, conferring on matters and possible action in open session pertaining to:

- 1. Litigation, including potential resolution, of Worker's Compensation Claims involving Glen Hash v. City of Broken Arrow, Worker's Compensation Court Case Nos. CM2018-05084F, CM2018-05085J and CM2018-05083A, and taking appropriate action in open session, including possible authorization to settle this litigation, under 25 O.S. §307(B)(4).**

In the opinion of the City Attorney, 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 worker's compensation claim and litigation 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

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

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

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

Move to authorize the City Attorney and outside Worker's Compensation counsel to engage in settlement negotiations and settle the Worker's Compensation Claims involving Glen Hash v. City of Broken Arrow, Worker's Compensation Court Case Nos. CM 2018-05084F, CM 2018-05085J and CM 2018-05083A

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 7:54 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Mayor

City Clerk