



City of Broken Arrow

Minutes City Council Meeting

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, September 15, 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.

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

Vice Chair Scott Eudey led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked if there were any 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

The motion carried by the following vote:

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

- A. 20-1086** Approval of the Special City Council Meeting Minutes of August 26, 2020
- B. 20-17** Approval of the City Council Meeting Minutes of September 1, 2020
- C. 20-1092** Acceptance Planning Commission meeting minutes of August 13, 2020
- D. 20-1138** Ratification of a Proclamation signed by Mayor Craig Thurmond declaring September 7-13, 2020 as National Patriotism Week in Broken Arrow, Oklahoma
- E. 20-964** Approval of and authorization to execute a Proclamation declaring the week of September 17-23, 2020 as Constitution Week
- F. 20-1112** Approval of and authorization to execute Resolution 1344, A Resolution concerning funding pursuant to the CARES ACT and the Coronavirus Relief Fund, confirming that it is the policy of the City of Broken Arrow that all Public Safety Personnel costs are "Substantially Dedicated" to the COVID-19 response efforts of the City throughout the ongoing State of Emergency
- G. 20-1143** Approval of modification of colors used for the crosswalk for the tactical urbanism project at Elm & New Orleans
- H. 20-1091** Approval of and authorization to execute the ICMA Retirement Corporation Governmental Money Purchase Plan and Trust Adoption Agreement
- I. 20-1065** Approval of and authorization to execute Amendment No. 1 to Agreement for Professional Consulting Services with Benham Design, LLC for the 23rd Street Widening from Albany Street to Omaha Street and Bridge Replacement (ST1931 & ST1932)
- J. 20-1078** Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Danna Centeno, RN, d.b.a Lockedin RN, L.L.C. (Centeno) for providing city jail medical services
- K. 20-1056** Approval of and authorization to execute an Enterprise Licensing Agreement with Environmental Systems Research Institute (ESRI) for software, products, and licenses
- L. 20-1105** Approval of and authorization to execute Amendment No. 5 to Agreement for Professional Consulting Services with Garver, LLC for Washington Street Improvements from Garnett Road to Olive Avenue (ST1616)
- M. 20-1064** Approval of and authorization to execute Agreement for Professional Consulting Services with MKEC Engineering, Inc. for the 37th Street Widening from Houston Street to Albany Street (ST1413)
- N. 20-1132** Approval of and authorization to execute a Global Financial Professional Services Agreement with Municipal Finance Services
- O. 20-1020** Approval of and authorization to execute a Professional Consulting Services Agreement with Tulsa Engineering & Planning Associates, Inc. for providing design services for drainage improvements to Deer Creek, Unnamed Tributary to Covington Creek, and Covington Creek in the vicinity of Deer Creek, Stanford Landing, Wyckford, and Covington Estates Subdivisions (Project No. SW2006)

- P. 20-1094** Approval of and authorization to execute Virta Medical P.C. Services Agreement and Statement of Work to provide diabetes reversal programming to eligible members on the City's employee health plan
- Q. 20-1087** Approval of and authorization to execute a Promotional License between Ice Challenge Enterprises, LLC and the City of Broken Arrow for the installation and operation of an outdoor holiday ice rink at the Rose District Pavilion
- R. 20-1069** Notification of City Manager's and Assistant City Manager's execution of Professional Consultant Agreements and Amendments to an Agreement, as well as public Construction Contracts not subject to the Competitive Bid Act, with a Contract value of less than \$25,000
- S. 20-1141** Approval of and authorization to purchase of one (1) Articulating Aerial Device and Truck Chassis with Utility Body, from Altec Industries Inc., pursuant to the Sourcewell Cooperative Purchasing contract (formerly NJPA)
- T. 20-1062** Award the lowest responsible bid to 357, Inc. dba Reco Enterprises and approve and authorize execution of a construction contract for the Arrowhead Park Improvements Umpire Building, Concessions & Restroom (176036)
- U. 20-1082** Award the lowest responsible bid to Envision Civil Contractors, LLC., and approve and authorize execution of a construction contract for the Willow Springs IV Storm Sewer (SW1921)
- V. 20-1051** Award the lowest responsible bid to Myers-Cherry Construction, LLC and approve and authorize execution of a construction contract for the Indian Springs Sports Complex Shade Structures Project- Fields 1-8 (Project Number 196030)
- W. 20-1089** Award the lowest responsible bid to Traffic & Lighting Systems, LLC and approve and authorize execution of a construction contract for the State Highway 51 and Elm Place Traffic Signal Rehabilitation (TS1902)
- X. 20-1066** Approval and authorization to execute Change Order #1 with Builders Unlimited, Inc. on Construction Contract #176037; Events Park Softball Complex
- Y. 20-1084** Ratification of Resolution No. 1343 requesting assistance from the Oklahoma Department of Transportation in regard to constructing a traffic signal light to serve the Creek 51 Business Park located at State Highway 51 and the Creek Turnpike
- Z. 20-1116** Approval of PUD-316 (Planned Unit Development) and BAZ-2061 (Rezoning), The Lakes at Rabbit Run, 27.13 acres, A-1 to PUD-316/RS-4, located one-quarter mile south of New Orleans Street (101st Street), east of Olive Avenue (129th East Avenue)
- AA. 20-1048** Approval of and authorization to execute Resolution No. 1341, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 3.0, which consists of 0.06 acres of permanent Right-of-Way for the Olive Avenue: Kenosha to Albany Roadway Improvements generally located in the 1100 block of South Olive Avenue, Broken Arrow, Oklahoma in the Southwest Quarter of Section 4, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Bricktown West Retail Center Property Owners Association, Inc. Parcel 3.0. (Project No. ST1710)
- AB. 20-1052** Approval of and authorization to execute Resolution No. 1342, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 3.0, which consists of 0.02 acres of permanent Right-of-Way for the Houston: Olive to Aspen Roadway Improvements located at the Northeast corner of Olive and Houston, Broken Arrow, Oklahoma in the Southwest Quarter of Section 9, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from TenTen Inc., and authorization of payment in the amount of \$8,500.00 for the Houston: Olive to Aspen Roadway Improvements, Parcel 3.0. (Project No. ST2029)
- AC. 20-1067** Acceptance of a Temporary Construction Easement consisting of 0.06 acres from the Industrial Developers and Investments, LLC, on property located at 3724 W Vancouver Street, Broken Arrow, Oklahoma, a tract of land that is part of Lot 4, Block 2, Commerce Crossing, a Subdivision in located in the Northeast Quarter of Section 5, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Olive Avenue Improvements, Kenosha to Albany, Parcel 20.A. (Project No. ST1710)
- AD. 20-1079** Acceptance of a Utility Easement from John M. and Valerie Smith on property located at 8109 South Beech Avenue, Broken Arrow, Oklahoma 74011, located in the Northeast Quarter of the Section 9, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 2.0 for the Willow Springs IV Storm Sewer. Project No. SW1921
- AE. 20-1060** Acceptance of a Utility Easement from Jose A. and Linda P. Chavez on property located at 8101 South Beech Avenue, Broken Arrow, Oklahoma 74011, located in the Northeast Quarter of the Section 9, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 1.0 for the Willow Springs IV Storm Sewer. Project No. SW1921
- AF. 20-1080** Acceptance of a Utility Easement and Two (2) Temporary Construction Easements from David E. and Linda Jackson on property located at 8105 South Beech Avenue, Broken Arrow, Oklahoma 74011, located in the Northeast Quarter of the Section 9, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma. Parcel 3.0 for the Willow Springs IV Storm Sewer. Project No. SW1921
- AG. 20-1113** Ratification of the Claims List Check Register dated September 9, 2020

6. Consideration of Items Removed from Consent Agenda

No Items were removed from the Consent Agenda; no action was required or taken.

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

A. 20-970 Consideration, appointment of and swearing in of the new Youth City Council members for the 2020 - 2021 school year

Acting Community Relations Liaison Mackenzie Jones reported the Broken Arrow Youth City Council was established by the City Council on June 16, 2001 by former Mayor Wade McCaleb. She stated the Youth City Council represented an effort to link leaders of today with leaders of tomorrow. She noted Vice Mayor Scott Eudey and Councilor Johnnie Parks were proud to lead the Youth City Council for the 2020-2021 school year. She indicated this was the second class of sophomores to enter the program, committing to a three-year term with 12 returning seniors, 10 returning juniors and 14 potential new councilors (13 sophomores, 1 junior) for this school year.

City Attorney Trevor Dennis swore in the new Youth City Council Members for the 2020-2021 school year. Photos were taken and the Youth City Council Members entered the conference room for Oath notarization.

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 Mr. Mike Inman of the Broken Arrow Elks signed up to speak.

Citizen Mike Inman stated his address was 2702 W. Washington Place. He thanked City Council and the Mayor for their support and dedication to veterans. He thanked Council Member Debra Wimpee for her support.

Mr. Inman indicated he was present representing the Broken Arrow Elks #2673. He noted he was the NE Veterans Chairman for the State of Oklahoma. He reported the benevolent and protective order of Elks was founded in 1868, 152 years ago, and since its founding its primary cause was veteran's needs and support. He noted the Elks were the first to build a hospital for veterans. He noted the Broken Arrow Elks Lodge was founded in 1982 and since that time the BA Elks had supported several community events and outreach organizations, especially veteran's needs. He reported this year alone the Elks had donated over \$40,000 dollars. He noted Broken Arrow was an amazingly supportive veteran city and the Elks would like to put on an annual Veteran's Day Parade, sponsored by the Elks, with the support of the City, VFW, and most of the northeastern lodge of the Elks.

Mayor Thurmond stated this sounded excellent.

City Manager Spurgeon asked if the Elks wished to put on a parade this November. Mr. Inman responded in the affirmative; however, he was unsure whether this would be permitted with COVID. City Manager Spurgeon indicated this was up to City Council; many events had been modified or postponed until next year. He stated he believed the City Council should discuss this matter at the next City Council Meeting.

Vice Mayor Eudey indicated he loved the idea and was supportive whether it was held this year or needed to be postponed until next year.

Council Member Debra Wimpee asked if the parade would be held on Veteran's Day. Mr. Inman responded in the negative; the parade would be held on the Saturday before or after Veteran's Day. Council Member Wimpee felt this was the right choice. Vice Mayor Eudey agreed.

City Manager Spurgeon stated he would have Assistant City Manager of Operations Kenny Schwab and Parks Director Matt Hendren meet with Mr. Inman in the next week, following which he would put this subject on the Agenda for October 6, 2020. Mayor Thurmond approved.

9. General Council Business

A. 20-1076 Consideration, discussion, and possible action to authorize the expenditure of 2018 General Obligation (GO) Bond, Proposition No. 6, funds for the design and construction of a storm sewer system in Eagle Creek V subdivision and direct staff finalize the construction documents, obtain necessary easements and construct the drainage improvements

Stormwater Division Manager Patrick Wilson reported East 49th Street South ran through Eagle Creek V and into Eagle Creek IV subdivisions. He stated E. 49th Street South was constructed as a part of the Phase IV work; Phase V was built later, in 2006, and filled in the undeveloped parcels of land along the street. He noted from early on, the drainage system experienced several localized problems. He displayed a map of the area. He displayed photos of area flooding. He reported in 2011, the City passed a General Obligation bond program and included funds to address some of the drainage in and around the Eagle Creek vicinity; unfortunately, there were not enough funds to address this issue coupled with the fact that private property would have been used to mitigate the matter. He stated in 2014, the City hired a professional engineer to investigate and examine the drainage issue and provide a recommended solution. He noted the investigation revealed that the storm sewers along E.

49th Street South were undersized for the amount of runoff actually realized. He reported in 2016, the City selected a viable alternative and designed a solution. He stated the design was essentially complete but would need some documentation and calculation checks in order to be finalized. He noted an easement must be acquired prior to the start of construction, but an approach to mitigate the localized flooding in this area was in place and ready for funding. He displayed and discussed a map of the area, pointing out where the easements were needed and where the work would be completed. He noted the portions of the work which were within public right of way would be funded by Proposition 5 monies, but the majority of the work was on private property and would be funded by Proposition 6 monies as recommended by the Drainage Advisory Committee. He noted the project was located in the Adams Creek Basin. He noted this case went before the Drainage Advisor Committee last month.

Council Member Parks indicated this was an excellent example of Proposition 6. He noted this subdivision was developed prior to being brought into the City of Broken Arrow.

Mr. Wilson concurred; most of these properties were platted in Wagoner County under Wagoner County specifications prior to being annexed into Broken Arrow in 2004.

Vice Mayor Eudey thanked Council Member Parks for mentioning this. He stated while he was glad this situation was being addressed, and while this was exactly what Proposition 6 was intended to do, it was an excellent example of why properties should be developed to Broken Arrow standards.

Discussion ensued regarding annexing properties into Broken Arrow, understanding the problems with areas prior to annexation, this property being annexed in full understanding of the flood issues with the hopes of being able to assist the residents, and annexing undeveloped properties to ensure said properties were developed to Broken Arrow standards.

City Manager Spurgeon noted the City was approached periodically by completed developments in unincorporated areas interested in being annexed; however, this interest usually died when the developments understood the need to bring the roads and stormwater system up to Broken Arrow standards prior to annexation.

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

Move to approve and authorize the expenditure of 2018 General Obligation (GO) Bond, Proposition No. 6, funds for the design and construction of a storm sewer system in Eagle Creek V subdivision and direct staff finalize the construction documents, obtain necessary easements and construct the drainage improvements

The motion carried by the following vote:

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

B. 20-1120 Consideration, discussion, and possible approval of fee waivers for the Catholic Charities Farmers to Families Food Box Program

Parks and Recreation Director Matt Hendren reported Catholic Charities approached the Broken Arrow Parks and Recreation Department last May looking for a location to host a weekly Farm to Families Food Box Program. He noted initially the BA Events Complex was utilized (for two weeks) starting the first week of June but due to the traffic volume it was moved to the Indian Springs Sports Complex (for 13 weeks). He indicated over 1000 vehicles participated each week requiring 4 police officers to direct traffic for 4-6 hours during each event. He noted the cost for this service was \$1,200 per event and the City Manager had waived \$13,500 dollars in Police fees to cover the cost of the officers for the 15 events which had taken place to date. He noted Catholic Charities would like to continue the Food Box Program through the end of the calendar year (16 additional weeks). He noted approximately \$20,000 dollars in additional Police fees were requested to be waived to continue the program.

Vice Mayor Eudey noted the Agenda Packet indicated the City Manager waived \$18,000 dollars in police fees. Mr. Hendren indicated this was the estimated amount; the actual amount waived was \$13,500 dollars. City Manager Spurgeon agreed. He noted he hoped City Council would approve. He indicated CARES Act funds could be utilized to reimburse the Police Department for these services.

Council Member Wimpee reported Ivanka Trump created this Farm to Families program to help local farmers. She noted the Farmers were getting federal funds and were giving the produce and milk products out to families in boxes. She explained families were not required to sign up; you simply drove up and were handed a box. She indicated this was an excellent program and the citizens of Broken Arrow were thankful.

Discussion ensued regarding the ability to utilize CARES Act funds to reimburse the Police Department, the citizens of Broken Arrow benefiting from this program, and the ability to pick up multiple boxes for neighbors or family.

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

Move to approve up to the amount of \$20,000 dollars in Police fee waivers for the Catholic Charities Farmers to Families Food Box Program

The motion carried by the following vote:

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

C. 20-1125 Consideration, discussion, and possible approval of changing the name of the BA Events Complex

Mr. Hendren reported At the November 5, 2019, City Council meeting, the staff recommended that the Chisolm Trail South Park be renamed to “Broken Arrow Events Park”. He indicated after much consideration, City Council approved renaming the park the “BA Events Complex” and at the same meeting, the Council approved naming the new adult softball complex located at the BA Events Complex, “Broken Arrow Challenger Sports Complex.”

Mr. Hendren stated in August 2020, staff began designing signage for the BA Events Complex, as well as the Broken Arrow Challenger Sports Complex. He displayed illustrations of the sign mockups and noted after producing said sign mockups for review, it became apparent to staff that a possible name change for the park or softball complex may be necessary to avoid redundancy of the word “complex”. He stated staff recommended the BA Events Complex be renamed the “BA Events Park.” He explained while the City had not yet invested any money in signage or marketing material for the BA Events Complex, the end user group which programmed the Broken Arrow Challenger Sports Complex had already invested a significant amount of money in marketing the name of the complex.

Vice Mayor Eudey stated he wished for a better word than “park” which might better encompass the range of activities which were held at the facility. He noted this was far more expansive than a park.

Council Member Gillespie asked what the standard name for this type of facility was. Mr. Hendren responded typically a “complex” was located inside a “park” area. He noted the facility he worked for in Kansas City was so named.

Council Member Parks indicated he had no difficulty with the name “Events Park” as he called it the Events Park when he spoke of it. He noted calling it the Events Park with the Sports Complex inside the Events Park gave the opportunity to have another type of complex in the Park in the future. Discussion ensued regarding the name, residents of Broken Arrow all calling this facility something different, most residents calling the facility the Events Park, and the word “park” signifying fun.

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

Move to name the Broken Arrow Events Complex the Broken Arrow Events Park with the Challenger Sports

The motion carried by the following vote:

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

D. 20-1117 Consideration, discussion, and possible approval of PUD-315 (Planned Unit Development), Estates at Lynn Lane, 68.32 acres, R-2 to PUD-315/RS-3, located one-quarter mile north of New Orleans Street (101st Street), east of 9th Street (177th E. Avenue/Lynn Lane Road)

Community Development Director Larry Curtis reported Planned Unit Development (PUD)-315 involved a 68.32-acre parcel located one-quarter mile north of New Orleans Street (101st Street), east of 9th Street (177th E. Avenue/Lynn Lane Road). He stated with PUD-315, the applicant proposed a single-family detached residential development with up to 270 lots; the primary point of access would be from 9th Street. He indicated the property was annexed into the City of Broken Arrow on April 18, 1983 (Ordinance No. 1097). He noted this item, which was originally scheduled to be heard by the Planning Commission on August 13, 2020, was continued to August 27, 2020. He reported on October 3, 2017, BAZ-1984, a request to change the zoning on the property associated with PUD-315 from R-2 to RS-3 was approved by the City Council. He stated BAZ-1984 was approved subject to the property being platted. He noted the property had not been platted, so the zoning today remained R-2. He explained with PUD-315, the applicant was requesting to keep the RS-3 zoning classification approved with BAZ-1984 and add PUD-315 as an overlay. He stated the changes requested with PUD-315 from what had already been approved consisted of reducing the minimum lot width from 60 feet to 55 feet and the minimum lot size from 7,000 square feet to 6,500 square feet on up to 108 lots. He noted this equaled 40% of the lots; the remaining 60% of the lots would remain RS-3 zoning. He stated as part of PUD-315, a 10-foot wide landscape area would be provided along 9th Street with more landscaping than required by the Zoning Ordinance; in addition, a large tree would be installed on each lot. He noted a complete summary of the modifications requested with PUD-315 was included in the staff report to the Planning Commission and City Council.

Mr. Curtis reported according to the FEMA maps, a portion of the subject property was in the 100-year floodplain of the West Branch of Broken Arrow Creek. He indicated there was a pond and a drainage channel which passed through the southwest corner of the property. He noted according to the topographic information provided by the applicant, most of the property associated with PUD-315 drained into this existing pond.

He reported at the August 27, 2020, meeting, 12 public comment forms were submitted, all expressing opposition to the rezoning request. He noted five people spoke in opposition to the proposed PUD. He indicated some of the concerns expressed by the speakers included: Stormwater runoff; there being no fire hydrants on 96th Street; concerns about the stub streets connecting into the Washington Lane addition; concerns about the impacts the additional traffic would have on 9th Street; and concerns about the impacts the development might have on property values. He stated after reviewing the information presented in the staff report and listening to the comments expressed during the public hearing, the Planning Commission recommended approval (3-0) of PUD-315 per staff recommendation and subject to the property being platted.

Council Member Parks commented it seemed there had been many attempts over the years to develop this property. He asked why this was. Mr. Curtis responded this property had an extensive history; he briefly reviewed this history. He indicated this property had not yet been developed due to the history and location of this property and due to the cycle of development in the City. He noted as the development near this property was RS-3 zoning, it was appropriate for this property to be RS-3 as well. He noted this property could be developed as RS-3 with straight zoning without a PUD. He commented this property, when developed, would go through the rigorous development standards program to ensure there would be no additional stormwater drainage impact upon surrounding property owners.

Council Member Parks stated he was unfamiliar with the pond in this area. He asked if the pond would remain. Mr. Curtis responded in the affirmative; the pond would remain but be modified as part of the detention requirement. Council Member Parks stated the detention area needed to be made large enough not to allow more water through the area.

Vice Mayor Eudey asked if any underground retention was being considered. Mr. Curtis responded in the negative; no engineering had yet been submitted at this stage; however, there were engineering standards in place the developer would be required to adhere to.

Vice Mayor Eudey asked how many lots would be permitted to be developed with straight RS-3 zoning versus the number of lots this PUD would allow. Mr. Curtis responded with RS-3 zoning over 300 lots could be developed; this PUD allowed 270 lots. Vice Mayor Eudey indicated this was important to remember; if the PUD were denied, a developer could rightfully develop over 300 lots on this property; the PUD at least restricted the permitted number of lots to 270 lots.

Mr. Curtis noted the developer had no intention of reducing the size of the pond to develop additional lots. He noted the conditional final plat would come before City Council for approval; the conditional final plat would include engineering plans for stormwater.

Vice Mayor Eudey asked about the surrounding developments. Mr. Curtis responded Washington Lanes and Seven Oaks. Vice Mayor Eudey noted he had faith the stormwater could be contained, but it was important to remember stormwater was an issue in this area. Mr. Curtis agreed. He discussed how the water flowed from the property.

Council Member Gillespie stated she understood why the surrounding property owners were concerned as flooding was a problem in this area. She asked if the property owners to the south were on City water or had wells. Mr. Curtis responded he was unsure. A staff member indicated the property owners to the south had City water.

The applicant, Mr. Lou Reynolds, stated his address was 2727 E. 21st Street. He discussed the proposed development noting the property could hold almost 350 lots of RS-3 zoning with straight zoning. He stated PUD-315 had been requested in an effort to ensure uniform development of a challenging site. He indicated water and sewer lines ran out to this property and it was ready to be tied into the system. He discussed the challenges associated with the property: property shape, topography, the creek, and 96th Street (which had been developed to County standards). He noted the PUD would include a gated stub street to be used for emergency access only, as well as maintenance and development standards. He discussed the additional landscaping which would be planted and noted the landscaping would be maintained as part of the HOA covenants through the PUD. He noted the HOA would maintain the fencing as well. He indicated the drainage pond would be enlarged to accommodate the stormwater runoff and the HOA would be required to maintain the detention pond area. He explained the detention pond would be developed into a 10-acre park amenity for the subdivision with a walking trail and landscaping. He indicated the landscaping would be done in advance and would not interfere with the widening of 9th Street

(Lynn Lane) which was planned as part of the 2018 bond issue. He noted this property would be consistent with Seven Oaks. He asked for approval of PUD-315.

Vice Mayor Eudey asked if a traffic study was completed; he noted this was not required. Mr. Reynolds responded in the negative.

Council Member Parks noted he was curious why Mr. Reynolds wanted a PUD when it could be developed with straight zoning. Mr. Reynolds noted the PUD enabled development to higher standards and enabled required maintenance of the property through the HOA.

Mayor Thurmond indicated five residents signed up to speak.

Vice Mayor Eudey asked if a traffic study would be completed as part of the platting process. Mr. Curtis responded traffic studies were only completed when a heavy impact was expected. He noted a traffic study could be required by City Council as part of the PUD.

Mr. Curtis commented Mr. Reynolds was correct in his estimation of 350 lots being developed on the property; however, if you subtract the 10 acres of flood plain the number of developable lots was 300.

Citizen Kyle Posey stated his address was 1605 E. Edgewater. He stated for Lynn Lane Estates to be successful it must be allowed to appropriate the neighborhoods of Washington Lane and Seven Oaks as it only had one natural entrance. He indicated a public road existed to the east (96th Street) which would give future residents access to the east, north and south; however, the City would not update 96th Street to accommodate the development and he expressed concern about the planned entrances into the new development. He stated residents of Lynn Lane Estates would cut through the surrounding neighborhoods to access the main roads and 96th Street should be developed as the entrance for this development to prevent this from happening. He discussed problems with zoning in Houston which led to thousands of homes being destroyed by Hurricane Harvey. He stated it was important for the local government to sometimes say no to development. He noted streets and storm sewers could not be easily changed.

Citizen Robert Hurley stated his address was 3204 S. 16th Street. He asked if all alternatives for the land designated as Estates at Lynn Lane had been considered. He indicated there was little access for this development site which did not endanger the lives of children in the neighboring subdivisions. He suggested developing the property as a Broken Arrow Country Club which would enhance the value of the current and future neighborhoods. He asked about the value of Bixby's White Hawk addition and homes surrounding Cedar Ridge Country Club. He noted he understood this would require rezoning but felt this could be considered as an alternative which would not have the water and traffic issues associated with a housing development.

Mayor Thurmond commented both Cedar Ridge and White Hawk were being purchased to be redeveloped into housing.

Citizen Jon Blanton stated his address was 9905 S. Lynn Lane. He noted his property was adjacent to the proposed detention pond and his property had a pond as well. He indicated his family had enjoyed fishing in this pond for decades. He stated his pond, to the south and west would catch any overflow stormwater coming from the proposed detention pond he was afraid this would include pesticides, insecticides and fertilizers which would pollute his pond causing harm to the fish, deer and other wildlife which depended upon this pond. He stated the dam located on the west side of his pond could not handle a major inflow of water and if his dam were damaged, Lynn Lane would be flooded. He noted BA Creek, which his pond fed into, historically flooded at 101st Street. He indicated he understood the flow rate in the proposed PUD was not to exceed the current flow rate; however, he worried if the flow rate continued for hours rather than minutes, damage would be inflicted on his pond, his dam, and those downstream. He asked who would monitor the outflow from this development for pollutants before, during and after construction. He stated he hoped for a third-party review of the hydraulic and hydrologic modeling. He asked City Council to consider his and his neighbors' concerns.

Citizen Scott Summerfield stated his address was 1713 E. Laredo Street. He thanked City Council for its leadership during the COVID pandemic. He stated he was Secretary of the HOA of Seven Oaks which was a small neighborhood of 159 homes with many children which played in the streets and he was concerned about traffic through his neighborhood endangering the children. He stated he did not understand why the entrance would not be via 96th Street with an emergency entrance stub street access to Seven Oaks. He asked if there would be perimeter fencing along the east end of this development. He asked why a traffic study was not being conducted; he believed traffic would be a problem. He stated he worried his neighborhood would be inundated with traffic from the 300 new homes.

Mayor Thurmond stated traffic studies were typically conducted as a part of engineering; this was a zoning hearing.

Mr. Curtis stated residential developments which abutted other residential developments were not required to have perimeter fencing, but it could be added as part of the PUD requirement.

Citizen Karen Holman stated her address was 8600 S. 5th Street. She pointed out where her property was on the map in relation to the new development (south of the new development) noting she had a fishing pond on her property which was fed into by the pond on the proposed development site. She stated she and her siblings owned this property and would share a fence line with the proposed development. She indicated she was told by Broken Arrow staff it was possible to build on the northeast portion of her property, but only if a constant level pond was constructed on her pond; however, staff informed her if she were patient Lynn Lane would be widened and the drainage problem in the area would be corrected by the City. She indicated she and her siblings decided to wait to develop this portion of the property due to the flooding problems. She noted she understood Lynn Lane would not be widened for five more years. She asked how 270 homes could be developed in an area with such poor drainage. She asked how 270 homes could be a wise recommendation, but development of her home was not in the same location. She noted historically there were many instances of flooding along Broken Arrow Creek. She indicated the unnamed tributary to the west of this property was her water and her property, and she and her siblings did not want pollutants draining into her water, fishing pond, and habitat. She indicated the dam on her property was not designed to handle the runoff from 270 homes. She asked to have access to the stormwater and drainage plans prior to development so an independent hydrology expert could review said plans and provide recommendations. She stated she would like to know what the rate of water was coming from the east pond into her pond during a 100-year and 500-year flood. She asked, as a MS-4 community, was water quality testing required prior to construction, during construction and post construction. She noted this would help develop a baseline for future data collection and analysis. She asked for this protocol to be followed. She asked for documentation as to what the steps the City would initiate when her dam did not hold, her habitat was destroyed, and her water was polluted. She asked for extra time to do due diligence to ensure her property was protected. She invited City Council to visit her property to see firsthand how it would be impacted and flooded by the new development which was at a higher elevation than her own. She asked City Council to say no to this development.

Citizen Constance Sanford stated her address was 25922 Willow Street. She noted she was Karen Holman's sister and co-owner of the property just discussed. She listed the following points: 1) her pond dam was designed for household water and fishing in 1961; 2) the dam was weakened by natural forces and was repaired by her family; 3) why should her family maintain a stormwater project for an adjacent new subdivision; 4) did you know that Lynn Lane was a cattle trail and there was a water well in the northwest corner of her property which animals still utilized; 5) pollution from 270 homes and 500 plus cars would include oil, antifreeze, herbicides, pesticides, pet waste, and roundup; 6) her bee farm would suffer from the pollution; 7) eating fish was not possible from a polluted pond; 8) her habitat would be ruined by enabling this development; 9) who would repair her pond dam when it broke as a result of this development. She asked City Council to consider her points.

The applicant, Mr. Lou Reynolds, indicated the City of Broken Arrow had a very rigorous system for stormwater management. He stated he understood a larger pond and an extended dam would be necessary. He stated his engineers would be certifying the plans and the City would be reviewing the plans to make sure the pond and the dam would be more than adequate and safe. He stated he knew this was a difficult stormwater area and was sensitive to this difficulty. He noted the pond would be designed as an attractive amenity for the residents and would be a positive addition to the area.

Council Member Gillespie noted while a nicer product would be developed through this PUD than required with straight zoning, she felt the PUD was requested to allow the portion of RS-4 zoning in the area, not just to ensure a superior product. She stated the RS-4 portion worried her as it added more density. She stated she agreed with Ms. Holman's wish to review the hydrology report and she felt this was a reasonable request. She indicated she had visited Seven Oaks and she was worried about additional traffic going through the area with the children playing. She asked about the Lynn Lane street project.

City Manager Spurgeon stated the Lynn Lane street project would be completed towards the end of the ten-year program.

Council Member Gillespie asked why RS-4 zoning had been requested. Mr. Reynolds explained RS-4 was requested due to the shape of the property and the desire to make the detention pond park area larger. He stated almost 10 acres of the 60-acre property would be dedicated to the park area. Council Member Gillespie noted the 10 acres was food plain area and could not be developed regardless. Mr. Reynolds indicated not all of the 10 acres was

flood plain. He noted the PUD would also ensure the pond area was maintained by the HOA and would not be a cost to the City.

Council Member Gillespie asked what the City's responsibility was regarding runoff into a natural pond. She asked about pollutants. She noted typically a new development did not runoff into an existing natural pond which was in use. Mr. Reynolds responded his legal obligation was to the runoff rate and runoff was required to be within environmentally safe limits.

Council Member Parks stated he was concerned about the flooding, but he understood Broken Arrow code would address this and City Council would review the preliminary plat; however, this was a large area. He stated he understood the necessity of the stub street connections to the surrounding neighborhoods to allow safety vehicles access; however, he did not understand why 96th Street was not being utilized as an entrance.

Mr. Curtis explained in 2017 when the rezoning came before the Planning Commission and City Council for RS-3 zoning neighbors in the adjacent neighborhood on 96th Street requested that whenever this property was developed a fire gate be installed rather than allowing access through to the neighborhood. Mr. Reynolds concurred.

Council Member Parks stated gating of 96th Street was poor planning.

Vice Mayor Eudey stated he understood the concerns regarding the stub streets, but this was what stub streets were planned for. He stated he was puzzled about 96th Street as well. He indicated he could not approve this PUD unless a traffic study were conducted, and issues raised by the traffic study were addressed.

Mr. Reynolds indicated the land would be dedicated to the future widening of 9th Street (Lynn Lane). He stated he was willing to commit to constructing a deceleration lane along 9th Street into the development.

Vice Mayor Eudey stated this was why he wanted the traffic study, to see if this and other precautions were appropriate. Mr. Reynolds indicated even without a traffic study, if City Engineering asked, he was willing to install a deceleration lane.

City Manager Spurgeon commented the design for Lynn Lane (9th Street) would be done in 2023, the right-of-way acquisition in 2024, and construction in 2025. He explained there were other roads of higher priority which needed to be completed before Lynn Lane could be begun.

Council Member Parks asked what happened when a road was being widened and there was a dam in the way. He noted there was a dam right along the road in this area. City Manager Spurgeon stated the dam would have to be taken into consideration before the road widening project began.

Vice Mayor Eudey stated he shared the same concerns about the flooding in this area; the flooding needed to be addressed, but this was always the case. He stated City Council had a limited amount of control once an area had been zoned; City Council could not deny zoning arbitrarily. He explained if there were no PUD for this property, while the water issue and road issues would still need to be addressed, the developer would be permitted to develop as many houses as would fit with RS-3 zoning. He explained with a PUD there was a cap on the number of permitted lots. He noted he liked PUDs as PUDs gave the City a little more control of what was developed in the area. He stated if this moved forward it was important to be very careful as every concern expressed today was a legitimate concern.

Council Member Parks asked about the best method of controlling this pond long term. Mr. Curtis stated he was very proud of the Broken Arrow Stormwater Division as it ensured MS-4 permits and other permits were enforced; there was an enforcement team which ensured any runoff and sedimentation was monitored and maintained. He stated regarding the desire for a third party review of the stormwater plans, this was the job of the City; the City provided the third party review ensuring what was planned met the standards and requirements set forth by the City of Broken Arrow and the State of Oklahoma. He stated Broken Arrow was a Level 6 community regarding flood plain insurance programs and FEMA and stormwater was taken very seriously by the City. He noted the Broken Arrow Stormwater Team would be monitoring this project as it moved forward.

Vice Mayor Eudey noted if the City failed in its duty it would answer to the DEQ. Mr. Curtis agreed; however, Broken Arrow had an excellent relationship with DEQ as Broken Arrow immediately reacted to any issues raised by the DEQ.

Council Member Parks asked if the property were developed without the PUD, who would be responsible for the pond. Mr. Curtis responded the HOA would be the responsible for the pond regardless of the PUD. Council Member Parks asked how long the HOA would be in

place. Mr. Reynolds responded the HOA was unending. Council Member Parks noted his subdivision used to have an HOA, but after approximately 20 years it dissolved. Mr. Reynolds noted a condition of the PUD was there would always be an HOA in place obligated to maintain the pond area.

Council Member Wimpee asked what would happen when there were no willing residents to serve on the HOA. Mr. Reynolds stated by law the property was required to have an HOA in place. Vice Mayor Eudey stated if the HOA dissolved and the City was required to step in and maintain the area, it would be much more expensive for the residents of the subdivision.

Council Member Parks asked if the surrounding residents could be invited to the City Council Meeting during which the preliminary plat was reviewed. Mr. Curtis responded in the affirmative. Council Member Parks stated he was concerned about the stormwater and wished to see the impurities somehow filtered from the water as well. Discussion ensued regarding the difficulty of filtering impurities from stormwater, the direction of the creek, the homes in the area currently draining pollutants into the creek, and new development homes still needing to be aware of pollutants.

Council Member Parks asked about development of a street when a dam was in the way. Mr. Kenny Schwab responded this was a challenge. He indicated if the dam was in the right-of-way ownership became an issue. He noted if possible, the road could be built around the dam, if not the dam would need to be secured and a wall constructed. Discussion ensued regarding the dam on Aspen, and the wall built in the location of the dam on Aspen.

Vice Mayor Eudey stated regarding the possibility of a country club being developed in this location, the City could not rezone an area in a way which would prohibit the land from being developed in the manner for which it was zoned when the land was purchased. He noted a country club was a lovely idea, but legally the City could not force this to come about. He noted many golf courses were unfortunately closing; golf, like tennis, was sadly a dying sport. He noted there were many things the City could not control, but a PUD allowed the City a little control over some things, such as how many homes could be developed on the property. He noted the hydrologic study would become public record and any resident had the right to look at the hydrology study. He stated the developer had a right to build on this property regardless; therefore, as the PUD capped the number of houses to be developed and ensured a deceleration lane would be installed, he was in favor of the PUD.

Council Member Gillespie asked, if something went wrong with the development, and runoff flooded the neighboring property, who would be responsible to fix the problem. Mr. Schwab responded the owner of the pond would be responsible; therefore, in this instance the HOA would be responsible. He commented the hydraulics and hydrology in the area were required to meet City Ordinance which was stricter than FEMA requirements. He stated regarding stormwater quality, during construction OKR4 was required to be met, and regarding long term water quality, maybe in the PUD process it would be possible to develop ways to protect stormwater quality. He noted there were new techniques which could be implemented including wetlands, sediment ponds, etc.

Council Member Gillespie stated this sounded like a good compromise. Council Member Parks agreed. Mr. Schwab indicated there was a subdivision in Broken Arrow which created sediment ponds and wetlands to help clean the pollutants out of the water before it drained away.

Council Member Parks asked, if there was no PUD in place, would it be possible to require this type of water cleansing development. Mr. Schwab responded in the negative; the City could work through the PUD process to require some type of water cleansing. Vice Mayor Eudey asked if this should be included in the motion. Mr. Schwab responded in the affirmative.

MOTION: A motion was made by Scott Eudey, seconded by Johnnie Parks.
Move to approve PUD-315 subject to the recommendations as set forth by the Assistant City Manager, and subject to a review of the final approved plat in regular session of the City Council Meeting, and subject to a traffic study being conducted

The motion carried by the following vote:

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

Council Member Gillespie indicated she voted yes due to the additions to the PUD and the wish to be able to further review the development.

Council Member Wimpee stated she felt this property should not be developed yet.

Council Member Parks stated he approved due to the controls in place via the PUD.

Vice Mayor Eudey agreed. Mayor Thurmond agreed.

E. 20-1124 Consideration, discussion, and possible approval of PUD-64C (Planned Unit Development Major Amendment), Adams Creek Shopping Center, 1.37 acres, PUD-64/CG, located at the northwest corner of Kenosha Street (71st Street) and Midway Road (257th East Avenue)

Mr. Curtis reported Planned Unit Development (PUD)-64C involved a 1.37-acre parcel located at the northwest corner of Kenosha Street (71st Street) and Midway Road (257th East Avenue). He stated the applicant was requesting a major amendment to PUD-64 to allow a medical marijuana dispensary to be located on the property. He indicated the dispensary, which was under construction, was presently located close to the middle of the Adams Creek Shopping Center. He stated the property was platted as Lot 1, Block 1, Adams Creek Shopping Center Lot 1. He explained according to the Zoning Ordinance and State requirements, no schools were allowed within 1,000 feet of the medical marijuana dispensary. He indicated a detailed survey would be conducted as part of any application for a medical marijuana license from the City of Broken Arrow. He stated Staff did review aerial photographs, and no schools were observed within 1,000 feet of the proposed dispensary. He reported in the meeting of August 13, 2020, the Planning Commission recommended approval (3-0 vote) of PUD-64C per Staff recommendation. He stated Staff recommended approval and that platting be waived; no one spoke in favor of or in opposition to this item. He noted this item was continued by the City Council in their meeting of September 1, 2020.

Council Member Gillespie stated she had no objections to this location as it was far out and there were no other dispensaries in the area.

Council Member Parks asked if this dispensary was operational before. Mr. Curtis responded in the negative; this property had a history and was going through a remodeling permit, but dispensary was not previously an approved use for this location.

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

Move to approve PUD-64C per Planning Commission and Staff recommendations

The motion carried by the following vote:

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

F. 20-1145 Consideration, discussion, and possible action for the composition and goals for a working group for updates to Ordinance Nos. 3540 and 3542 establishing regulations for medical marijuana

Mayor Thurmond stated he wished to see the Ordinance for the 1,000-foot separation of facilities and the drive through regulation be established as soon as possible.

Mr. Larry Curtis reported on September 9, 2020, the Broken Arrow City Council had a working session in regard to updating Ordinance Nos. 3540 and 3542. He stated out of that working session it was suggested that a work group be created to help guide the City Council for changes to the ordinances regulating medical marijuana. He stated Staff met and discussed this item intently and wished for additional guidance from City Council. He stated specifically it has been recommended by Staff that the following members be added, along with potential optional members. He indicated Staff suggested the Broken Arrow Chamber have one member, Broken Arrow Public Schools have one member, Union Public Schools have one member, to include two business owners from the medical marijuana industry, one member from Youth Services of Tulsa, and one commercial broker. He stated in addition, it was suggested to have one of the following optional individuals on the Committee: Epic Charter Schools, Oklahoma Medical Marijuana Authority Commission, Oklahoma Tax Commission, and the Oklahoma Bureau of Narcotics and Dangerous Drugs. He stated Staff needed direction from council on the following items: expected goals, what process, and expected timeline.

Council Member Gillespie stated a private school representative and a preschool representative should be considered as well.

Vice Mayor Eudey indicated the goals included developing language dealing with uses related to children and where these uses were located. He noted he also asked for the PUDs throughout the City to be brought into compliance. He stated he had given this a lot of thought since the last meeting and he had full faith in the ability of the Broken Arrow Legal Department and Planning Department to look at what the law said about this, and to look at permitted uses, at language, at what could and could not be done with regard to children, what other jurisdictions had allowed, and fashion an ordinance for the City Council to consider which could then be discussed and the suggested individuals could then comment on the ordinance. He stated he believed forming this committee could extend the process out longer than necessary. He stated he would prefer to see the Legal and Planning Department put together an ordinance and then if necessary, a committee could be formed to acquire additional input.

Mayor Thurmond agreed. He stated he was not worried about a 4-year-old child buying medical marijuana; he was more worried about illegal substances being sold to children and

parents using drugs and alcohol in front of children and setting a bad example. He stated he felt Staff could create an ordinance for consideration. He stated he believed an ordinance needed to be immediately created regarding the 1,000-foot requirement between facilities, as well as the drive through facility regulation. He noted there were too many medical marijuana businesses too close together and this was something Broken Arrow needed to bring under control. He stated it was important not to create a law which would not stand up in court.

Council Member Gillespie agreed. She stated she thought and prayed about the situation and she was most concerned about the possibility of medical marijuana advertisements being directed towards children. She stated she felt the 1,000-foot requirement would solve a lot of the difficulties Broken Arrow was experiencing currently. She suggested considering reviewing the signage ordinance to determine what was appropriate for business signage. She noted she did not have difficulty with the drive through medical marijuana dispensary; pharmacies had drive through windows, but she would approve an ordinance against drive through windows if the remainder of the City Council wished. She noted it was possible to obtain medical marijuana as a minor.

Mayor Thurmond indicated you had to be 18 to purchase medical marijuana; minors could only use medical marijuana if purchase by an adult.

Council Member Gillespie stated she did not believe this was always enforced by dispensaries. Council Member Wimpee agreed and indicated this was part of the problem.

Council Member Gillespie stated it was unacceptable for a dispensary to be appealing to children; children should not be interested in medical marijuana signage and want to enter the premises. She noted there were no advertisements for Xanax or hydrocodone; there should not be advertisements for medical marijuana.

Council Member Wimpee agreed. She stated her main concern was the children, and the school system reported a great increase in the amount drugs on campus after the passing of State Question 788. She stated it would be wonderful if the City of Broken Arrow could do something to help the school districts control the problem.

Council Member Parks stated he agreed; the City Council did not want to do anything which would negatively impact the youth of Broken Arrow. He noted he believed the 60% of the population which approved medical marijuana (SQ 788) did not wish to negatively impact the youth. He stated he agreed Staff had the ability to develop an ordinance and develop the appropriate language regarding child-oriented businesses. He agreed the PUDs needed to be addressed as well. He agreed it was important to keep drugs out of schools and the City should assist if possible.

Mr. Curtis stated by State Statute the City was required to go through a notification and public hearing process to make changes to zoning ordinances. He briefly explained the process.

Council Member Wimpee stated she thought it had been decided to start this process during the last meeting. City Manager Spurgeon stated it was considered, but it was decided to bring this before City Council for clarification and further direction. He stated Staff would begin the process for the two new Ordinances (1,000-foot separation between businesses and no drive-through) immediately and within the next 90 days Staff should have something regarding child-oriented business language and the PUDs.

Council Member Parks asked if 1,000-feet was a far enough distance between medical marijuana businesses.

Mr. Curtis responded this was an excellent question; he, Staff, and Justin DeBruin (Sustainability Manager) discussed whether 1,000 feet was the best number and whether increasing this to 1,300 feet or 1,600 feet was more appropriate.

Council Member Parks stated he would like Staff to further explore the distance requirement to determine if it should be increased. Mr. Curtis agreed; he noted a Broken Arrow City block might be a good measurement. Discussion ensued regarding how the 1,000-foot measurement came about initially.

City Attorney Trevor Dennis thanked City Council for its confidence. He stated the ordinances regulating the distance between medical marijuana businesses and drive through facilities were straightforward. He indicated the confusion set in regarding dispensaries located near where children congregate. He discussed the difficulty in defining areas where children congregate; were these parks, shopping centers, toy stores, skating rinks, water features, swimming pools, dance studios, karate classes? He stated if there was no desire for a working group, additional presentations could be made to the City Council by schools, Epic

vendors, the Chamber, preschool representatives, etc. He indicated from Staff's perspective, Staff appreciated the City Council's confidence, but additional direction was needed.

Vice Mayor Eudey stated this raised the question "what do we define?" He stated he needed Staff to create a definition of where children congregate which would withstand a reasonable constitutional challenge. He noted in his opinion this required a lot of legal research and analysis to determine what could be defined as a gathering place. He stated he was not sure a working group would help in this matter as the definition needed to bear a reasonable resemblance to what was constitutionally acceptable.

City Attorney Dennis stated this was sensible. He indicated courts often took into consideration factual records which supported the decision of the governing body; therefore, some sort of factual record would need to be created. He noted he was not an expert on the law enforcement or education side, or what were the concerns for children being near a facility, and how far of a distance would allay these concerns. He stated this information would need to be gathered through a fact-finding process and he would need experts to build this record. He stated creating a factual record and then completing a legal analysis to overlay the factual record would enable the Legal Department to create an Ordinance which would withstand a reasonable constitutional challenge. He stated as such, a wider conversation was needed with the business community, school community, social services, etc., to build the factual record.

Council Member Wimpee asked if saying "learning environments" would help to narrow the definition. City Attorney Dennis indicated learning environments could include tutoring centers or therapy providers; the point was he did not know and needed to hold discussions with experts to determine the proper definition.

Vice Mayor Eudey stated he shared Council Member Gillespie's and Council Member Wimpee's concerns; however, the challenge was where to draw the line. He noted the Chamber would make recommendations which were best for the business community, public schools and private schools would have a different opinion, and medical marijuana businesses would want the ordinance as broad as possible, while youth services spent much time watching teens wrongfully using marijuana. He stated his concern was, after holding discussions with these groups, there would be a very wide range of answers as a result of this type of analysis which could take a year or two to obtain, and he was still not entirely certain exactly what the City was trying to address.

City Attorney Dennis stated he understood and shared Vice Mayor Eudey's concern. He stated in terms of the details, the City Council could decide who would serve on the Committee and set the parameters of what the Committee would work towards. He noted Staff would follow City Council directives.

City Manager Spurgeon stated he understood what City Attorney Dennis was saying, but to move this forward he would attempt to create a document. He stated he would work in two phases: 1) the 1,000-foot distance and drive through regulations; 2) PUD and child related regulations. He stated he would bring any concerns which were raised back to City Council.

Council Member Gillespie stated she had no idea how much the legislature of Oklahoma could affect a municipality until she became a City Councilor. She stated this one law demonstrated how important it was to be in contact with the legislators. She indicated she wanted to send the legislature copies of the Broken Arrow City Council minutes demonstrating how much time was spent as a municipality talking through this issue because the legislature did not do its job. She noted there were some things which could have been done better as of April. She stated she felt the legislature should realize the burden it placed on municipalities.

Council Member Wimpee agreed.

Mayor Thurmond indicated when SQ 788 was passed by the voters, Oklahoma was the only State in the United States which did not hold any discussion about this at the legislative level. He stated the new legislation which was being discussed would not improve the situation. Discussion ensued regarding the legislature, the legislature's activities, and the legislature's responsibilities. City Manager Spurgeon commented according to OML, out of the 150 State Legislators, there were less than 30 who had any type of municipal or county government experience. Vice Mayor Eudey stated it was difficult to govern well at the State level when you did not understand what it was to govern at the City level.

City Manager Spurgeon stated he had a good enough understanding to begin and bring something back to City Council this fall.

Council Member Parks noted the 1,000 feet regulation could be increased. Mayor Thurmond indicated if it was defensible, 1,500 feet or 1,600 feet should be the regulation.

10. Preview Ordinances

A. 20-1139 **Consideration, discussion, and possible preview of an ordinance repealing and re-enacting the Broken Arrow Code of Ordinances, Chapter 11 - Food and Food Establishments**

Mr. Justin DeBruin, Urbanism and Sustainability Manager, reported he served as the Permitting and Licensing Manager, and in this capacity, he had been working with the Tulsa City County Health Department on the food and food establishment license in Chapter 11. He indicated there were five key changes being presented in this preview ordinance: 1) Brand new referenced food code; 2) Fee split modification request from TCCHD; 3) Fee exempt establishments; 4) Additional TCCHD licenses; 5) Inclusion of the Tulsa Food Advisory Council as a primary means of appeals. He discussed the above changes noting: 1) The food code had not been updated since 1997; 2) TCCHD was requesting a higher portion of the fee split as TCCHD conducted all inspections regarding licensing; 3) Fee exempt establishments included schools, religious and charitable organizations, and nonprofit concession stands; 4) Additional TCCHD licenses would not be issued by the City and would include special event vendors, and food and ice vending machines; 5) Tulsa Food Advisory Council would assist in administrative appeals. He commented there had been zero appeals in the last three years.

Mayor Thurmond asked about the fee split percentages. Mr. DeBruin responded when a food establishment went to the City to apply, the application was processed and sent to TCCHD for inspections. He noted upon comparing the administrative work, Staff time, and inspections, TCCHD did more than 50% of the work; therefore, requested 70% of the fee to be remitted to TCCHD.

Discussion ensued regarding restaurants and special event vendors being required to apply to the City for licenses in order to operate in the City.

Council Member Wimpee noted City Staff did a large portion of the work for special event vendors administratively and with in-person special event setup and inspections, especially regarding electrical.

Mayor Thurmond stated he understood the 70% split for restaurants, but not for special events.

Mr. DeBruin stated this was specific for food vendors; retail vendors were not included.

Mr. Curtis commented the electrical work was a separate permit from the vendor permit. He noted the actual inspection of the food for health and safety was done by the Tulsa Health Department, not by the City. He explained this was what was being considered in terms of the 50%/50% fee split or 70%/30% fee split. He noted administratively, the City was only doing 30% of the work and 70% of the work was being done by the inspectors.

Vice Mayor Eudey agreed the fee should be split fairly; however, he was confused about who was doing what work.

Council Member Wimpee asked about the Fire Marshall's duties.

Mr. Curtis responded a food truck at a special event fell under the special event permit and the Fire Marshall duties were conducted on behalf of a special event permit, not under a vendor food application process.

Ms. Debrena Hilton, Food Program Manager at the Tulsa Health Department indicated two separate things were being discussed. She stated in respect to the special event temporary permit; the TCCHD did not seek a fee split. She explained there was a \$25 fee for the first day and \$5 for each subsequent day paid to TCCHD to inspect the food for special events. She stated the 70%/30% split would be for food establishment permits where the TCCHD went out reviewed setup and ensured the establishment was up to code, and compliant for license issuance. She explained TCCHD did the inspections, provided permitting, packeted the permitting, and sent the packet to the City of Broken Arrow for processing, and then issued the permit to the applicant.

Vice Mayor Eudey stated he understood.

Council Member Parks stated the Tulsa County Health Department was one of the most valuable assets to the State of Oklahoma. He stated the TCCHD was one of the toughest and best health departments in the State. He commended TCCHD.

MOTION: A motion was made by Scott Eudey, seconded by Christie 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. 20-1135

Consideration, discussion, and possible adoption of Ordinance No. 3652, an Ordinance of the City of Broken Arrow, a Municipal Corporation of the State of Oklahoma, creating the “Special Cares Act Fund”, with \$8,494,086 million of committed fund balance, in order to ensure fund availability for special designated purposes to be determined in the future and declaring an emergency

Finance Director Cindy Arnold reported the City applied for reimbursement from the CARES ACT Fund for COVID-19 expenses and the preview ordinance would allow the City to set up a Special Revenue Fund to receive the reimbursement. She explained the City would identify the Fund as the “Special Care Act Fund” and the allocation from the State was \$8,494,086.71 dollars. She stated once the reimbursement was received it would be placed in this fund as a Committed Fund Balance; Committed Fund balance by the Governmental Accounting Standards Boards contained funds which were constrained for a specific purpose, imposed by formal action of the governing body’s highest level of decision-making authority. She noted once the funds were received, the funds would only be spent for special designated purposes which required City Council approval.

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

Move to adopt Ordinance No. 3652

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 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

B. 20-1095

Consideration, discussion, and possible adoption of Ordinance No. 3643, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2027, generally located one-eighth mile east south of Jasper Street (131st Street), east of Olive Avenue (129th E. Avenue), granting a RD zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Mr. Larry Curtis indicated Staff requested action be taken on Items B through I in the same motion; these were all ordinance changes/map changes in reference to the zoning ordinance map. He explained these were all projects which had previously come before City Council for approval and were contingent upon either platting or other additional actions. He stated all these actions had been met and the Ordinances were before City Council for final approval to amend the map.

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

Move to adopt Ordinance No. 3643, 3644, 3645, 3646, 3647, 3648, 3649 and 3650

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 Debra Wimpee.

Move for the emergency clauses for Ordinance No. 3643, 3644, 3645, 3646, 3647, 3648, 3649 and 3650

The motion carried by the following vote:

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

C. 20-1096

Consideration, discussion, and possible adoption of Ordinance No. 3644, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2028, generally located on the northeast corner of Detroit Street and First Street, granting a ON zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Approved above; no further action required or taken.

D. 20-1097

Consideration, discussion, and possible adoption of Ordinance No. 3645, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2029, generally located one-third mile north of New Orleans Street (101st Street), one-quarter mile west of 23rd Street (193rd E. Avenue/County Line Road), granting a RE zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Approved above; no further action required or taken.

E. 20-1098

Consideration, discussion, and possible adoption of Ordinance No. 3646, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2030, generally located north of Jasper Street (131st Street) at 12932 South 152nd East Avenue, granting a R-2 zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Approved above; no further action required or taken.

- F. 20-1099** Consideration, discussion, and possible adoption of Ordinance No. 3647, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2031, generally located one-third mile west of 9th Street (Lynn Lane/177th E. Avenue), south of Jasper Street (131st Street), granting a R-2 zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
Approved above; no further action required or taken.
- G. 20-1100** Consideration, discussion, and possible adoption of Ordinance No. 3648, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2034, generally located at the southeast corner of Kenosha Street (71st Street) and 37th Street (209th E. Avenue), granting a CG zoning classification be placed upon the tract along with PUD-292, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
Approved above; no further action required or taken.
- H. 20-1101** Consideration, discussion, and possible adoption of Ordinance No. 3649, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2037, generally located north of Kenosha Street (71st Street), one-third mile east of Aspen Avenue (145th E. Avenue), granting an IL zoning classification be placed upon the tract along with PUD-295, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
Approved above; no further action required or taken.
- I. 20-1102** Consideration, discussion, and possible adoption of Ordinance No. 3650, an ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma, BAZ-2039, generally located east of the northeast corner of Detroit Street and First Street, granting a DROD AREA 5/ON zoning classification to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
Approved above; no further action required or taken.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond reported he had a phone call with the White House and Dr. Deborah Birx reported COVID cases were going down across the Country. He stated Dr. Birx encouraged municipalities to continue to follow CDC guidelines. He indicated the City Manager was speaking with FEMA regarding additional funding for Broken Arrow.

Council Member Parks asked for the COVID records for the City of Tulsa compared to the City of Broken Arrow to be presented to the City Council at future meetings. City Manager Spurgeon stated this information would be included in the Agenda Packet and presented at future meetings.

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

City Manager Spurgeon reported ten days ago he met with Rick Smith from Municipal Financial Services to talk about the next bond sale. He stated he and Mr. Smith were attempting to finalize a project menu for which there would be some additional projects for City Council consideration when presented. He stated Mr. Smith informed him with the COVID pandemic the assessed values in both Tulsa and Wagoner County could be affected. He indicated he asked Mr. Rick Smith to attend the October 6, 2020 City Council Meeting and discuss what he had learned. He noted Mr. Smith's presentation could affect what the City Council chose to sell. He discussed the bond sale and issuance timeline.

14. Executive Session

There was no Executive Session.

15. Adjournment

The meeting adjourned at approximately 9:11 p.m.

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

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