



City of Broken Arrow

Minutes City Council

Special Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Richard Carter
Councilor Mike Lester
Councilor Johnnie Parks
Councilor Scott Eudey

Tuesday, August 2, 2016

Time 5:30 p.m.

**City Hall
Main Conference Room**

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 5:30 p.m.

2. Roll Call

Present: 5 - Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

3. General Council Business

A. 16-913

Presentation, consideration, discussion and possible action on the proposed Fiscal Year 2017 Manual of Fees

City Manager Michael Spurgeon, thanked the City Council on behalf of himself, the directors and senior staff, for taking extra time to consider the proposals he was presenting. In the event that the governing body made final determination on an increase in fees, he would be giving a short presentation on it at an upcoming City Council meeting, for the sake of transparency. He stated that all the directors who had recommended increases were present. He planned to proceed through the Fiscal Year 2017 Manual of Fees page by page. City Attorney Beth Anne Wilkening and the Legal Department would bring it before the Council for approval, at a later date.

Beginning with Development fees on the first page of the Manual, Mr. Spurgeon pointed out that the first two items were in reference to the application process. He said that the infrastructure inspection fees had come up the previous year, however, he wished to hold off on implementation until the present opportunity arose. Starting at the top of the first page and going down, Mr. Spurgeon asked if there were any questions.

Mayor Thurmond inquired about the cost of second and third submittals accruing to be a lot, at \$50 per submittal. Michael Skates, Director of Development Services, replied that the fee applied only to revised pages and they avoided revisions by addressing everything upfront, beforehand, and dealing with plans by consultants that were thorough and complete. He explained that the first box containing the Base Administration Fee was being deleted and the design fees were also reworked to be more streamlined, specific, and less confusing.

Mr. Spurgeon asked if the Mayor thought that the second submission should be covered along with the first, and then if there were third or fourth revisions, there should be charges. Mayor Thurmond responded that everyone would be getting a second submittal on something. He added that for a fourth submittal they should be charged at a higher rate to discourage engineers that didn't measure up. He did not want to diverge from other cities in pricing by charging more.

Councilman Lester asked what they were finding, on average, to be the number of submittals that came back, requiring a second submittal. Assistant City Manager of Operations Kenneth Schwab replied that it was somewhere around 90%.

Mr. Spurgeon suggested that as an incentive, they could say that if it were fewer than so many pages there would be no charge, and if it were over a certain number of pages then, there would be a charge. Mr. Schwab observed that the majority of the time, it would take two or three reviews and that he was fine with the second submittal being covered with the initial fee. He added that he thought that six sheets or more should be charged at a rate of \$50 per sheet, and it would serve as an incentive to get the job done, which was advantageous to the developer and City staff.

Councilman Eudey requested confirmation that they were doing away with one tier of the process. City Attorney Beth Anne Wilkening clarified that where it said "Plan Design Review Fee," they would replace it with, "Initial Review and Second Submittal."

Mayor Thurmond stated that under Infrastructure Bonds, it was very important that there be a payment bond on the public side, while on the private side, you didn't know if they were getting paid or not. The procedure of having a contractor pay for a bond to make

sure he gets paid, and the City's requirement of that bond, was something that had been eliminated in Tulsa.

Ms. Wilkening said that with regard to bonds, the genesis of the stipulation was the Ellsworth litigation, when the City had to deal with five different lawsuits because there was no payment bond. From a staff perspective, it sometimes got difficult to track. Mayor Thurmond commented that you were asking the contractor to get a payment bond, bonding that he would get paid when he had no control over it. The utility contractor or the road contractor held the performance maintenance payment bond and turned it in with their proposals in order to obtain the permit to start their project. The bonding company was saying that the City wanted them to bond the contractor and guaranteed that he would get paid. The Mayor remarked that he didn't know for a fact that the contractor was going to get paid. Also, since developers didn't usually obtain bonds, they didn't have a bond relationship or capacity with the bond companies, so they would go to the bank and have to pay from .5% to 1%, and some banks were not keen on lending the credit. He thought the issue should be addressed. Ms. Wilkening agreed. The Mayor said it was time to sit down with the bonding companies and bonding counsel and ask how they could get around it.

Mr. Spurgeon stated that infrastructure bonds were currently in the Manual, so they would leave it alone and schedule discussions for another time to amend it later.

Mr. Schwab observed that at the top, where you saw the base administration fee of \$400 non-refundable, it was the structure they had the previous year when they updated the Manual, but inadvertently, they didn't strike it out. They were charging the \$2,000 and \$3,000 design review fees but they were not charging the \$400 base administration fee already and needed to clean it up by editing the Manual, as they were there to do.

Mr. Spurgeon proceeded to Infrastructure Inspection Fees. He had spoken to Ms. Wilkening, Assistant City Manager of Administration Russell Gale, and Kenneth Schwab about it, and he wanted the Council to examine the concept. A portion of a City inspector's time was spent inspecting private property and whenever there was building in the community, sales tax on construction materials was generated. Once construction was completed, taxes were generated also. It could be argued that they were getting return on investment for the inspections or, on the other hand, that the fee for the builder should be reduced. Mr. Spurgeon said he had set the stage for a discussion and invited comment.

In reply to a question by Councilman Lester, Mr. Schwab said they didn't track the time inspectors spent per project, but from his research over a four-year period, he found that 20% to 25% of their time was spent on inspections of private projects, like subdivisions. The 2% fee was based upon an old estimation that 50% of their dealings had to do with bonded infrastructure (private) and 50% with public works.

Mayor Thurmond stated that they did want to cover their costs but they also had to look at the amount of sales tax they were generating from new construction. Mr. Schwab observed that paving was probably the biggest area requiring inspection. Mayor Thurmond added that paving also demanded, most likely, the highest percentage of material cost. Mr. Schwab said that that was correct.

Councilman Parks asked how it compared to what they were currently charging. Mr. Schwab replied that it was his understanding that there had been no charge in the past, except for special conditions like holidays, as stated in the Manual. Mr. Skates pointed out that certain elements of an inspection, like water, were public, but then a fire line or service line from a public line to a building, was private, and his inspectors inspected it at no charge. They did, of course, collect fees for building inspections. Councilman Eudey asked if they had surveyed other communities to see what they were doing. Mr. Spurgeon commented that in his previous experience, elsewhere, the developer put up escrow at a rate established by the city, and it was a very cumbersome process. He did think there was justification for having infrastructure inspection fees, but as had been made plain in their discussion, a lot needed to be taken into consideration. They would never be able to charge a reasonable fee that covered 100%, but if the Council wished for such a fee, it could be a lower one. More research, on the part of staff, would be required in order to come up with a revised fee.

Councilman Lester inquired that if buildings of a certain size and occupancy required a fire line and fire suppression, would they not incorporate those inspection fees into the building permit? Mr. Skates replied yes. Councilman Lester explained that they were trying to incorporate everything as concisely into a permit as possible, including all fees, so that they didn't fee everyone to death. Yet the City had to cover its costs, which should be considered. Mr. Schwab said that absolutely, they could include the building permit costs. He explained that while building inspections were under Development Services, utilities that served a building would probably fall under Engineering/Construction. They could combine the two inspections and charge one fee. Mr. Skates pointed out that the developer was not paying separate fees; the contractor put money in escrow for it. Mr. Skates said he thought they could incorporate a lot of what they did, but he couldn't speak for the Fire Department. Councilman Eudey stated that he was comfortable with the concept, he just didn't know what the right amount was or if they would not be better suited to incorporation into rates. He was all for the City recouping costs. Councilman Parks said he was for whatever was the easiest way for what needed to be done, and they needed to get that

information from staff. Councilman Carter agreed, saying they didn't want to make it more difficult for staff. It was decided that they would not decide on including infrastructure inspection fees in the revisions, pending further research.

Mr. Spurgeon stated that he went over the building permit fees and they were looking at a 3% to 4% increase if it were broken down, which was very reasonable and nominal. He asked if there were any question with regard to page 2, page 3, and page 4, which covered electrical and plumbing. Councilman Parks asked about the disapproved inspection fee proposed to be reduced from \$50 to \$26, and the underground fire line piping inspection to be increased to \$53 from \$26. Mr. Skates said they found errors in the types of inspection required, charging too much for one and too little for the other.

Mr. Spurgeon turned to page 5, stating it covered mechanical inspection fees and automatic fire-extinguishing system inspections fees. Page 6 covered automatic fire alarm inspection fees, National Fire Protection Association inspections, sign permits and miscellaneous permits. Page 7 pertained to easements, annexation fees, Comprehensive Plan fees, zoning application fees, specific use fees, and Planned Unit Development (PUD) application fees.

Councilman Lester asked if they weren't doing order change permits anymore. Mr. Skates replied that they did and it had been moved to the previous page, adding that next year they would be working to reorganize some of the engineering-type fees, etc., and regroup them into better categories. With regard to easements, vacations and rights-of-way, Councilman Eudey asked what the rationale was for the two different prices and what the rationale was for raising them. Mr. Skates said they just revised those, incorporating the fees a couple of years ago, and unless the Legal Department asked for it to be changed, he didn't think they could just change them. Addressing Councilman Eudey's question, Ms. Wilkening said that with regard to encroachments, typically a pool or a porch built over an easement, her hope, in raising the fee, was to send a message to the people doing the surveying and building the pools, porches, etc., that they were going to have to pay more to get it fixed by the City since there was a lot of work involved.

Mayor Thurmond had a question on annexation. They had a fee and in the past they used to be able to force annexation, while at present it was voluntary. They wanted a certain number of rooftops in Broken Arrow, so if neighbors came saying they wanted part of a neighborhood 75% of them wanted to annex, he guessed they could waive those fees because who was going to pay it? One neighbor was not going to pay it, although it was a small fee for the process. Citing the statement on the very last page, Ms. Wilkening said that the City Manager was authorized to waive any of the Manual fees. She'd worked with the language a bit but a resolution they were previewing would give him the authority to do that. She went on to say that annexations, as the Mayor knew, were very complex, so they didn't want to do away with fees in every circumstance.

Mayor Thurmond stated that there were no further revisions until page 10, which listed cemetery fees. Mr. Spurgeon pointed out the addition of cremation niche fees, as per Council's approval of cemetery space dedicated to columbaria and niches for cremains. Turning to page 11, listing license/registration fees, Mr. Spurgeon specified that Police Chief Boggs suggested licensing animals for multiple years. Chief Boggs said that it was his wife's idea that the City make the license valid for three or five years, and charge accordingly. Council members voiced their approval. Ms. Wilkening indicated that the exception was exotic animal licenses, owing to insurance requirements. With reference to some other fees listed on page 11, Mr. Skates reported that some of the fees were lowered by way of coordination with the Oklahoma Alcoholic Beverage Laws Enforcement Commission (ABLE). They discovered that the City was charging more on some fees than State law allowed. Councilman Parks said he appreciated their revisions in accordance with ABLE, in the interest of fairness.

With no questions or comments regarding page 12, Mr. Spurgeon drew the Council's attention to page 13, stating there were no changes in utility charges. There were no changes on page 14, as well. Councilman Lester asked why on pages 14 and 15, they didn't they keep the fees consistent regarding water and sanitary sewer. Mr. Spurgeon replied that they hadn't finalized their recommendations to the Council yet because they were working with the consultants Black & Veatch on it. Councilman Lester specified that he was looking at the difference between in-City rates and out-of-City rates: water was 11% higher for outside the City, whereas sanitary sewer was 8% higher. Councilman Lester said if persons lived outside the City they should pay 15%, or something higher than what the City was having to pay. Mr. Spurgeon said they would make the adjustment. There was general agreement among Council members and staff that it was a good idea.

Mr. Spurgeon stated that there were a couple of changes in storm water fees, on page 15. On page 16 there was no change in fees with regard to industrial pretreatment charges and fees and sanitation fees. With regard to parks and recreation fees and City facilities rentals on page 17, Councilman Lester commented that it was another case where the percentage

