



City of Broken Arrow

Minutes City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice-Mayor Scott Eudey
Council Member Mike Lester
Council Member Johnnie Parks
Council Member Debra Wimpee

Tuesday, August 7, 2018

Time 6:30 p.m.

Council Chambers

1. Call to Order

Vice Mayor Scott Eudey called the meeting to order at approximately 6:30 p.m.

2. Invocation

No Invocation was done.

3. Roll Call

Present: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

Absent: 1 - Craig Thurmond

4. Pledge of Allegiance to the Flag

Council Member Debra Wimpee led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Vice Mayor Eudey asked if there were any items to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- A. 18 891 Approval of City Council Meeting Minutes of July 17, 2018**
- B. 18 946 Ratification of Workers' Compensation Court Order for Tony C. McGill, Fire Department Employee**
- C. 18 890 Approval of travel expenses for Mayor Craig Thurmond to attend the White House Conference and Tour in Washington, D.C. with Oklahoma local and county leaders**
- D. 18 924 Approval of and authorization to execute Resolution No. 1115, a Resolution authorizing acceptance of a General Warranty Deed and Temporary Construction Easement for Parcel 18, which consists of 0.01 acres of permanent Right of Way and 0.01 acres of Temporary Construction Easement for Florence Street Improvements, Olive to Aspen, located in the Northeast Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the Greyoaks Home Owners Association (Project No. ST1410)**
- E. 18 929 Approval of and authorization to execute Resolution No. 1117, a Resolution authorizing the acceptance of a General Warranty Deed and Temporary Construction Easement for Parcel 2, which consists of 0.42 acres of permanent Right of Way and 0.11 acres of Temporary Construction Easement for Florence Street Improvements, Olive to Aspen, in the Southwest Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from David Bendel, President of Siegfried Companies, Inc., the owner (Project No. ST1410)**
- F. 18 928 Approval of and authorization to execute Resolution No. 1118, a Resolution authorizing the acceptance of a General Warranty Deed and two (2) Temporary Construction Easements for Parcel 9, which consists of 1.01 acres of permanent Right of Way and 0.16 acres of Temporary Construction Easements for Florence Street Improvements, Olive to Aspen, located in the Northwest Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from David Bendel, President of Siegfried Companies, Inc., the owner (Project No. ST1410)**
- G. 18 926 Approval of and authorization to execute Resolution No. 1119, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 7, which consists of 0.10 acres of permanent Right of Way for Florence Street Improvements, Olive to Aspen, in Southeast Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Hedgehog Investments, LLC., and authorization of payment in the amount of \$4,170.00 for the Florence Street Improvements: Olive to Aspen (Project No. ST1410)**

- H. 18 885 Approval of and authorization to execute Resolution No. 1120, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances**
- I. 18 930 Approval of and authorization to execute Resolution No. 1121, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 6, which consists of 0.10 acres of permanent Right of Way for Florence Street Improvements, Olive to Aspen, located in the Southeast Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Jimmy Staires and authorization of payment in the amount of \$4,370.00 for the Florence Street Improvements: Olive to Aspen (Project No. ST1410)**
- J. 18 925 Approval of and authorization to execute Resolution No. 1122, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 7, which consists of 0.03 acres of permanent Right of Way for Washington Street Improvements, Garnett to Olive, in the Southwest Quarter of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Lisa M. Winham, authorizing payment in the amount of \$4,720.00 for the Washington Street Improvements: Garnett to Olive, Parcel 7 (Project No. ST1616)**
- K. 18 922 Approval of and authorization to execute Resolution No. 1123, a Resolution authorizing the acceptance of a Special Warranty Deed for Parcel 1A, which consists of 0.42 acres of permanent Right of Way for 37th Street Improvements, Houston to Albany, located in the Southeast Quarter of Section 6, Township 18 North, Range 15 East, Wagoner County, State Of Oklahoma, The Betty Ann Mockley 1992 Revocable Trust Dated October 20, 1992 and Robert E. Mockley II (Project No. ST1413)**
- L. 18 936 Approval of and authorization to execute Resolution No. 1124, a Resolution authorizing acceptance of a General Warranty Deed and Temporary Construction Easement for Parcel 6, which consists of 0.07 acres of permanent Right of Way and 0.0095 acres of Temporary Construction Easement for Washington Street Improvements, Garnett to Olive, located at 11903 E 91st Street in SE/4 of the SE/4 of the SW/4 of Section 17, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Jesse and Marilyn Matthews (Project No. ST1616)**
- M. 18 903 Approval of and authorization to execute Resolution No. 1125, a Resolution of the City Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine One One (911) Emergency Telephone Fee for Calendar Year 2019 at Five Percent (5%) pursuant to State Statute and Ordinance**
- N. 18 894 Approval of and authorization to execute a Professional Services Agreement with Baer & Timberlake, P.C. for providing counsel and legal advice regarding right of way acquisitions, title opinions and property law**
- O. 18 897 Approval of and authorization to execute an Interlocal Agreement between the County of Wagoner, Oklahoma and the City of Broken Arrow, Oklahoma concerning County Road and Bridge Maintenance and Repair**
- P. 18 939 Notification of Professional Services Contracts with value of less than \$25,000 (Contract No. SURV 19 01)**
- Q. 18 812 Approval of and authorization to execute a Professional Services Agreement between the City of Broken Arrow and Hall Estill, Attorneys at Law for providing counsel and legal advice regarding water related issues**
- R. 18 900 Approval of and authorization to execute the First Amendment to the Pharmacy Benefit Management Services Agreement with Navitus Health Solutions, LLC to continue to provide pharmacy benefit manager services for the employee health plan**
- S. 18 933 Approval of and authorization to execute the Professional Consultant Agreement with The Schemmer Associates, Inc. for providing CADD (Computer Aided Drafting Design) and Related Technical Support Services (Contract No. CADD 19 01)**
- T. 18 943 Approval of and authorization to execute a contract with SpyGlass for auditing the City's telecommunication services to include, but not limited to, local and long distance, voice billing, internet and data line billing, including T1's and wireless billing**
- U. 18 901 Approval of and authorization to execute renewal from Unum to provide long term disability insurance to City employees**
- V. 18 850 Approval of and authorization to execute a Services Contract between the City of Broken Arrow and ArtsOK the Regional Arts Alliance of Broken Arrow, to assist with the development and programming of the Creative Arts Center**
- W. 18 841 Approval of and authorization to purchase ADAMS digital evidence software from Foray Technologies at General Service Administration (GSA) pricing**
- X. 18 906 Approval of and authorization to purchase one (1) 3/4 Ton crew cab pickup from Bob Howard Dodge, pursuant to the Oklahoma Statewide Vehicle contract, for the Parks and Recreation Department**

- Y. 18 865** Approval of and authorization to purchase three (3) 2019 Ford Taurus full sized automobiles from England Ford, pursuant to the Oklahoma Statewide Vehicle Contract, for the Police Department
- Z. 18 934** Approval of and authorization to purchase one (1) 2019 Dodge Durango with options 1 through 3 from John Vance Motors pursuant to the Oklahoma Statewide Vehicle Contract, for the Engineering and Construction Department
- AA. 18 875** Approval of and authorization to purchase of one (1) ¾ Ton Crew cab pickup truck from Vance Country Ford, pursuant to the Oklahoma Statewide vehicle contract, for the Police Department
- AB. 18 887** Approval of and authorization to execute the purchase of two (2) LifePak 15 Cardiac monitors from Physio Control, Inc. pursuant to the Oklahoma Statewide Contract, and authorize to surplus and authorize to trade in as a credit two (2) LifePak 12 monitors for the Fire Department
- AC. 18 902** Approval of and authorization to purchase Police practice ammunition from Precision Delta Corporation, the second lowest bid pursuant to the Oklahoma Statewide Ammunition Contract due to health and shipping concerns, for the Police Department Training Division
- AD. 18 877** Approval of and authorization for the sole source purchase of an upgraded version of Tactics Central Management Software and approve and authorize execution of a Yearly Maintenance Agreement from Gades Sales Company, Inc. for the Traffic Signals Maintenance Division of the Street and Stormwater Division
- AE. 18 839** Approval of and authorization to execute the purchase of Taser CEW's with accessories from Axon, formally Taser International, a sole source vendor
- AF. 18 931** Award the lowest responsible bid to H&G Contractors, Inc, and approve and authorize execution of a construction contract for Schedule A Base Bid and Schedule A Add Alternate 1 for the Old Town Streets Rehabilitation of Ash Avenue from El Paso Street to Detroit Street as well as El Paso Street and College Street from Ash Avenue to Main Street (Project No. ST1711)
- AG 18 932** Award the lowest responsible bid to Direct Traffic Control, Inc., and approve and authorize execution of a construction contract for the City Wide Striping Plan (Project No. ST1813)
- AH. 18 873** Approval of BAZ 2006, Jackson Square, 0.32 acres, R 3 to DM, one eighth mile south of Houston Street, one half mile east of Elm Place at 119 East Jackson Street
- AI. 18 847** Approval of PUD (Planned Unit Development) 271A and Abrogation of a portion of BAZ 1994, Bill Knight Collision, 2.74 acres, PUD 271/CH and IL to PUD 271A/CH and IL, north of Kenosha Street, west of 9th Street
- AJ. 18 874** Acceptance of a Utility Easement from Hillside Development LLC, on property located north of the Broken Arrow Expressway, a quarter mile west of 9th Street, Tracts B 1, Lot 4, Block 2, Hillside Crossings, Tulsa County, State of Oklahoma (Section 2, T18N, R14E)
- AK. 18 889** Approve and authorize execution of an Encroachment Agreement and Release of Liability from the City of Broken Arrow for a portion of a structure to be built into city right of way located south of Lot 12, Block 18, Original Town of Broken Arrow, Tulsa County, Oklahoma (S15 T18N R14E)(Milestone)
- AL. 18 831** Acceptance of a Utility Easement conveyed to the City of Broken Arrow, Oklahoma, a Municipal Corporation, from the Broken Arrow Economic Development Authority, Lots 13, 14, 21 & 22, Block 18, Original Town of Broken Arrow, on property located one third mile south of Kenosha Street, one half mile east of Elm Place, Tulsa County, State of Oklahoma (Section 11, T18N, R14E) (Milestone)
- AM 18 826** Acceptance of a Mutual Access Easement conveyed to the City of Broken Arrow, Oklahoma, a Municipal Corporation, from the Broken Arrow Economic Development Authority, Lots 13, 14, 21 & 22, Block 18, Original Town of Broken Arrow, on property located one third mile south of Kenosha Street, one half mile east of Elm Place, Tulsa County, State of Oklahoma (Section 11, T18N, R14E) (Milestone)
- AN. 18 935** Acceptance of a Temporary Construction Easement from for Parcel 14A, which consists of 0.05 acres of Temporary Construction Easement for Washington Street Improvements, Garnett to Olive, located at 12300 E 91st Street in SE/4 Section 20, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the Roman Catholic Diocese of Tulsa (Project No. ST1616)
- AO. 18 923** Acceptance of two Temporary Construction Easements from the Georgeanna Brown homas Revocable Trust, on property located at 305 W. Kenosha Street, a tract of land in part of Lots 10, 11, and 12, Block 2, North Side Addition in Section 11, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Kenosha Street Improvements, Date to Main, Parcel 10 (Project No. ST1409)

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| AP. 18 938 | Acceptance of a three (3) Temporary Construction Easements from Independent School District No. 3 of Tulsa County, Oklahoma, a.k.a. Broken Arrow Public Schools, on property located at 2800 W Florence Street, a tract of land in part of the Southeast Quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Florence Street Improvements, Olive to Aspen, Parcel 5 (Project No. ST1410) |
| AQ. 18 752 | Acceptance of a Sanitary Sewer Line Easement Dedication from Public Service Company of Oklahoma, on property located north and east of the northeast corner of Tucson Street and 9th Street, Tulsa County, State of Oklahoma (Section 36, T18N, R14E) |
| AR. 18 751 | Acceptance of a Sanitary Sewer Line Easement Dedication from Brighton Village, LLC, on property located north and east of the northeast corner of Tucson Street and 9th Street, Tulsa County, State of Oklahoma (Section 36, T18N, R14E) |
| AS. 18 46 | Approval of the Broken Arrow City Council Claims List for August 07, 2018 |

6. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda. No action was required or taken.

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

- A. 18 884 **Consideration, discussion, and possible approval of and authorization to execute a Proclamation declaring August 7, 2018, as Purple Heart Day in the City of Broken Arrow, Oklahoma**
- Community Relations Liaison, Jennifer Hooks, reported on 08/01/2017 City Council approved a Proclamation declaring the City of Broken Arrow a Purple Heart City. She stated the city wanted to take this one step further by naming August 7th Purple Heart Day in the City of Broken Arrow.

Vice Mayor Eudey read the Proclamation which expressed the City of Broken Arrow's appreciation of the United States Armed Forces and named August 7th 2018 as Purple Heart Day.

Mr. Mitch Reed of the Purple Heart Association stated he was honored to accept the Proclamation and thanked the city. Council Member Lester asked how many cities had been named Purple Heart Cities by way of his efforts. Mr. Reed responded 8 cities in Eastern Oklahoma.

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

Move to approve the Proclamation declaring August 7th, 2018, as Purple Heart Day

The motion carried by the following vote:

- Aye:** 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- B. 18 910 Consideration, discussion, and possible approval of and authorization to execute a Proclamation declaring August 11, 2018, as the 73rd Anniversary Celebration of VJ Day in Broken Arrow, Oklahoma**

Ms. Jennifer Hooks reported VJ Day, otherwise known as Victory over Japan Day and Victory in the Pacific Day, was a day that commemorated Japan's surrender during WWII thereby bringing an end to the War. She stated the celebration of VJ Day encouraged a reflection on the past and a renewal of patriotism. She stated the Proclamation declared Saturday August 11th, 2018 as the 73rd Anniversary Celebration of VJ Day in Broken Arrow and a ceremony would take place Saturday morning in Veteran's Park. Dr. Clarence Oliver was present to accept the proclamation.

Vice Mayor Eudey read the Proclamation which explained the history of VJ Day, the ending of WWII, the importance of celebrating VJ Day, the endorsement of the City of Broken Arrow of the Event, and declaration of Saturday, August 11th, 2018 as the 73rd Anniversary Celebration of VJ Day in Broken Arrow, Oklahoma.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to approve the VJ Day Proclamation and authorize its execution

The motion carried by the following vote:

- Aye:** 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

Council Member Johnnie Parks left the Council Chambers at approximately 6:39 p.m.

- C. 18 872 Public hearing, consideration, and possible action regarding PUD 278 (Planned Unit Development) and BAZ 2008 (Rezoning), Parks Property, 4.69 acres, CH and A 1 to CH and RE/PUD 278, located one half mile north of New Orleans Street, east of 1st Place at 2303 South 1st Place**
- Plan Development Manager, Mr. Larry Curtis, reported the applicant requested zoning of the indicated property be changed from A1 and CH to PUD 278/CH and RE zoning. He stated the applicant desired to construct a residential home on the property which currently held a

bail bondsman business. Mr. Curtis reported the property had been annexed into the city limits of Broken Arrow on March 15th, 1971 with Ordinance No. 383. He stated the RE zoning requested with BAZ 2008 was in compliance with the Comprehensive Plan in Level 1. He reported the Planning Commission recommended approval by a vote of 4 to 0 for PUD 278 and BAZ 2008 per staff recommendation. He stated no one spoke to this item during the Planning Commission Meeting. He stated he recommended approval of PUD 278 and BAZ 2008 per Planning Commission and Staff recommendations.

Citizen Jeff Ivers stated his address was 2121 South 1st Place. He stated he went to the city to obtain information regarding this parcel and had requested a diagram which showed what construction was intended. He stated he was unable to obtain a diagram, but was shown a map which showed the land divided into two parcels, one with the bonds company on it. He stated it was his understanding the bonds company desired to build a house behind it. He reported years ago when he purchased his own property in the area he was told he could not build a second home without a second and separate driveway for access. He explained there was no way to construct a second separate driveway on the parcel in question; there simply was no room for a second driveway on either side without going through the bondsman's driveway. Therefore, he stated, he felt there was no possible way of building a home behind the bondsman while remaining in compliance with current city requirements. He stated he wanted to be certain all city requirements were being met prior to approval.

Council Member Lester stated this was just a request for a PUD which would allow the property owner to submit plans and permits which would then require city approval. He stated city approval would only be received if the plans met construction regulations. He stated the current use was agricultural and the PUD would rezone it to multiuse.

Mr. Larry Curtis stated the property was located in Tulsa County years before being annexed into the City of Broken Arrow. He stated when the property was annexed in 1971 the bail bondsman building was in place and was used as a plumbing shop. He stated in 1998 it was confirmed that the structure was in compliance with the Comprehensive Plan at Level 4 and the remainder of the property was Level 1. He stated Mr. Ivers was correct; there were regulations in place regarding separation of lots of land. He stated this PUD would not allow the splitting of lots, but it was hoped this would be a template for future development of similar long and narrow lot types in the area.

Council Member Lester asked how the driveway issue would be addressed. Mr. Curtis responded the proposed driveway would be along the south side of the property and would be a shared driveway access point for the existing building and the proposed residential home. Mr. Ivers stated he worried allowing a shared access point driveway for multiple buildings on a lot would inhibit the sale of the properties in the future. Council Member Lester stated the PUD was designed to enable construction of homes on these deep, but narrow, parcels of land. He explained the PUD would not apply solely to the applicant, but would create opportunities for other property owners to better utilize the deep lots. Mr. Ivers reiterated he had not been allowed to construct a home on his property (when requested in 1989) due to the driveway restrictions. Mr. Curtis explained the PUD would create new regulations which would allow a single shared access point driveway if utilities were on site and the owner dedicated right of way. Vice Mayor Eudey asked if any future applicant on any property similarly situated in the area would have the same opportunity to construct a second home. Mr. Curtis responded in the affirmative; this PUD could be used as a template for any other property owners to utilize in a similar manner. Vice Mayor Eudey stated this option was not available when Mr. Ivers had requested to build a second home on his property in 1989, but it would be a possibility for Mr. Ivers, as well as any property owner with a similar lot, if the PUD was approved. Mr. Curtis concurred. Mr. Ivers asked what would happen when the home behind the bail bondsman business was sold. Mr. Curtis responded the PUD did not allow a split of the lot, only construction of a second building; the business and home must be owned by a single entity.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.
Move to approve PUD 278 and BAZ 2008 per Planning Commission and Staff recommendation

Aye: 3 - Debra Wimpee, Mike Lester, Scott Eudey
Recused: 1 - Johnnie Parks

Council Member Parks returned to the room at approximately 6:52 p.m.

D. 18 920 Presentation and discussion of newly enacted State Statutes and Oklahoma Department of Health rules governing the sale and regulation of medical marijuana following passage of State Question 788

Acting City Attorney Dennis reported in June of 2018 Oklahoma passed State Question 788 which legalized medical marijuana within the State of Oklahoma. He reported as a result the Oklahoma Department of Health was required to draft regulations. He stated the first regulations were adopted in July, were deemed too strict, were revised, and on August 1st, 2018 a mere 20 pages of regulations were adopted by the Health Commission and were

signed by the Governor on August 6th, 2018. He stated the Department of Health would accept applications for medical marijuana users and caregivers, dispensaries, commercial growers, and processors. He stated the application deadline was August 25th, 2018 and licenses would be issued beginning September 8th, 2018. He stated State Question 788 required Broken Arrow to allow medical marijuana dispensaries in the city. He stated on August 30th, 2018 a Special Planning Commission Meeting was scheduled to review Development Services' zoning recommendations and possible locations of medical marijuana dispensaries. He stated on August 21st, 2018 City Council would review a preview ordinance which would govern the permit process for medical marijuana dispensaries, growers and processors within the city. He stated on September 4th, 2018 Council would review, for final adoption, the permit process and consider the Planning Commissions recommendations on locations for the dispensaries, and potentially processors and growers.

Acting City Attorney Dennis directed Council's attention to a slide which briefly explained how much marijuana a licensed medical marijuana user could possess. He stated marijuana was still illegal under Federal Law; however, Broken Arrow was not impeding Federal Law, it was creating Ordinances in compliance with State Question 788. He stated the State had changed the law to reflect if an individual possessed 1.5 ounces of marijuana and could claim a medical condition, but did not have a medical marijuana license, it was considered a misdemeanor, and would only be fined \$400 dollars. He stated it was still considered a Class A Misdemeanor Offense if an individual (without a medical marijuana license) was in possession of 1.5 ounces of marijuana and could not claim a medical condition. He stated the paraphernalia laws had been rewritten and marijuana paraphernalia was no longer illegal.

Acting City Attorney Dennis briefly described the State permitting process. He reviewed the Physician Recommendation Form. He explained marijuana could not be prescribed; it could only be recommended by physicians for use. He stated the application process was fully online and required a \$100 dollar application fee. He stated dispensary applicants were required to pay a \$2,500 dollar application fee. He stated the State had two weeks to approve or deny an application.

Acting City Attorney Dennis reported medical marijuana licensees could obtain marijuana two ways; through dispensaries or by growing marijuana plants at home (a maximum of six plants and six seedlings were allowed).

Acting City Attorney Dennis stated the only State restriction on dispensaries was the entrance to a dispensary could not be located within 1,000 feet of a public or private school. He stated State law did not allow dispensaries to grow medical marijuana; it had to be purchased from licensed commercial growers. He stated the Department of Health had several pages of regulations regarding how the growers could operate. He stated there was no restriction on the amount of marijuana a commercial grower could produce. He stated there was also no limit on the number of commercial growers or dispensaries which could be located in the State. He stated he expected this to be a rapidly growing and evolving area of law with further regulations instituted in the future. He stated State Question 788 indicated municipalities could not unduly restrict the locations of medical marijuana dispensaries; however, there was no similar language for commercial growers and processors. He explained, as such, City Council and Planning Commission could decide if, and/or, how many commercial growers and/or processors were to be allowed within city limits.

Acting City Attorney Dennis stated taxation was also in need of address. He stated the State Spokesperson had indicated: as there was no specific statute which exempted medical marijuana from sales tax, the sales tax would be collected. He explained there would be 7% excise tax (similar to that collected by liquor stores) which would go to the State Health Department and in addition the local sales tax would be collected. He stated there was a wholesale tax question for which he would look to the Tax Commission for guidance. He asked if there were any questions.

Council Member Lester stated he had a number of concerns. He reported Oregon was producing five times as much marijuana as was being consumed and he worried what would happen with the excess. He asked if City Council could limit the location and zoning for the dispensaries, for example allowing dispensaries in industrial areas only. He stated he knew two property owners who were approached by commercial growers and he had cautioned them against investment. He stated he worried about police regulation.

Acting City Attorney Dennis responded he understood Council Member Lester's concern regarding Oregon, as he understood much of the excess marijuana from Oregon was flooding to the black market. He stated he believed the State would perform inspections and audits to account for the amount of marijuana grown. Council Member Lester asked if the City of Broken Arrow could require City Licensing for growers. Acting City Attorney Dennis responded Broken Arrow had no control over the licensing at the State level; however, Broken Arrow could issue permits for dispensaries, growers and processors, and could enforce zoning laws. He stated Broken Arrow was permitted to have "reasonable and due restrictions" on where dispensaries were located, but zoning laws which banned dispensaries were not allowed. He stated he did believe Broken Arrow would have the right to create

zoning laws which prohibited growers and dispensaries. Vice Mayor Eudey asked if, since dispensaries were essentially retail establishments, zoning could limit dispensaries to retail areas. Acting City Attorney Dennis responded in the affirmative. He stated, in response to the police regulation, the State Health Department would be issuing a permit card of some type for presentation to police.

Acting City Attorney Dennis stated a Special Session had been called to appropriate guidance regarding the regulation of dispensaries, growers and processors. Council Member Parks stated he understood this was going back before Legislation and changes could be made regarding everything which had been discussed. Acting City Attorney Dennis concurred. He stated this was a rapidly evolving area of law and had not been fully regulated at the State level as of yet.

Vice Mayor Eudey stated he was concerned about how police would test for marijuana intoxication; he wondered what type of training police officers would require to deal with the special situation and how much money would the city need to spend as a result of the legalization of medical marijuana. Discussion ensued regarding possible methods for testing for THC levels, citizen's rights, warrants, police having the ability to determine if a resident was intoxicated through observation, and the challenges police would encounter.

Discussion ensued regarding Federal Law and Title Insurance, banks being unable to accept deposits from marijuana related businesses, cash only businesses, armed robbery risks, potential litigation threat to the city for allowing sale of a federally illegal substance, and types of zoning ordinance language which would protect the city from such litigation.

Vice Mayor Eudey asked if the city would still have the right to regulate smoking marijuana in public for health reasons. He stated he worried about children receiving "contact highs." Acting City Attorney Dennis responded the provisions which were in place for tobacco would apply to marijuana smoking as well; however, there was no ban on the use of tobacco in parks or public streets and he did not see a State Law which would prohibit the use of medical marijuana in public. He stated this did not mean it would be permitted, but it was an area which the State needed further guidance in.

City Council thanked Acting City Attorney Dennis for his presentation.

E. 18 937 Presentation and discussion regarding recent training presentation given to Planning Commission

Assistant City Planner, Mr. Brent Murphy, reported he made a presentation to the Planning Commission last month regarding the roles and responsibilities of the Planning Commission and he would make the same presentation to City Council. He reviewed a brief history of the origin of zoning laws and the rights of cities to create and enforce zoning regulations. He stated the Planning Commission was in place to prepare and maintain a general plan. He reported four Comprehensive Plans had been adopted in Broken Arrow thus far and the Planning Commission was currently developing a fifth Comprehensive Plan. He stated the Planning Commission was in place to help guide future development in the city. He explained the Comprehensive Plan, how it served as a guide for future developments and how it created goals, objectives, and policies regarding future developments, how it established future road networks and future utility networks and lines. He directed City Council's attention to a map which delineated the seven levels of land use and zoning classifications, and he briefly reviewed each level and color coding. He stated implementation tools of the Comprehensive Plan included zoning ordinances, subdivision regulations, as well as the Engineering and Design Criteria Manual. He stated zoning was divided into five districts: agricultural, residential, office, commercial and industrial, each with sub classifications and uses allowed. He stated zoning ordinances included parking regulations, landscaping requirements, lighting standards, sign regulations, access controls for streets, design requirements pertaining to commercial and industrial developments, nonconformance use requirements, subdivision regulations and he gave brief examples of each. He stated zoning maps were available for viewing online. He described the differing zone application processes, including types of applications, release of legal notices, mailings, signage, and public hearings. He stated the Planning Commission was required to hold public hearings for proposed zoning ordinance changes, as well as proposed property zoning changes, and then to bring recommendations before City Council. He stated the Planning Commission needed to avoid any conversations regarding rezoning outside of public meetings. He stated at the public meetings the Planning Commission would make a presentation and applicants would have an opportunity to speak; following this the Chairman opened the public hearing and closed it once discussion was complete. He stated he felt the Planning Commission did an excellent job controlling the public hearings and considering all information presented prior to making a recommendation.

Mr. Murphy stated the Planning Commission used subdivision regulations to implement zoning requirements. He stated the platting process established land records which simplified the lot naming and description. He briefly explained the platting process including: 1) the application, 2) preliminary conceptual plat reviewed by the Technical Advisory Committee and reviewed by Planning Commission, 3) conditional final plat reviewed by the TAC, the

Planning Commission and City Council, 4) the final plat must meet all conditions required by Planning Commission and City Council, be approved by utility companies, fees must be paid, bonds posted and the plat must be recorded. Council Member Parks complimented Mr. Murphy, the Planning Commission and Staff for a job well done.

F. 18 952 Presentation regarding update on the City Street Maintenance Program funded through Street Sales Tax

Director of Streets and Stormwater, Rocky Henkel, reviewed what would be included in his presentation: Contract Work Projects, City Resource Work Projects, Identifying Street Segments vs Subdivisions and PMI-Pavement Condition.

Mr. Henkel reviewed the Contract Work projects which included: 1) Wolf Creek-Bid August 20th which was a concrete panel replacement project with a budgeted amount of \$1,652,100 dollars, 2) Central Park Estates/Plaza Streets which was a concrete panel replacement project with a budgeted amount of \$350,000 dollars, 3) Concrete Package #1 which was a concrete panel replacement project with a budgeted amount of \$484,000 dollars consisting of Vandever 6th, Aspen Pond, Forest Ridge, Millicent Pond, South Brook and Stacey Lynn VI subdivisions, 4) Wedgewood 2nd Addition concrete panel replacement project with a budgeted amount of \$394,000 dollars, 5) 23rd Street-Kenosha to Albany which was a preventative maintenance (micro surfacing) project with a budgeted amount of \$195,000 dollars, 6) City Wide Striping with a budgeted amount of \$290,000 dollars, 7) Arrow Springs subdivision asphalt rehabilitation (mill/overlay) with handicap ramps budgeted at \$945,000 dollars, and 8) Hidden Springs addition asphalt rehabilitation budgeted at \$400,000 dollars.

Mr. Henkel stated the projects utilizing city resources included: 1) Indian Springs subdivision asphalt rehabilitation, scheduled to begin this week, budgeted at \$300,000 dollars, 2) Angus Acres asphalt rehabilitation scheduled to begin the week of August 27th budgeted at \$155,000 dollars, 3) New Tulsa Estates asphalt rehabilitation scheduled to begin the week of August 27th budgeted at \$200,300 dollars, 4) Kenwood Hills asphalt rehabilitation scheduled to begin the week of August 27th budgeted at \$145,000 dollars, 5) Foster Lewis asphalt rehabilitation scheduled to begin the week of August 27th budgeted at \$125,000 dollars, 6) Carriage Crossing, a concrete panel replacement project budgeted at \$50,000 dollars, 7) Cedar Springs concrete panel replacement project budgeted at \$50,000 dollars, 8) 6100 Center concrete panel replacement project budgeted at \$15,000 dollars, 9) Annual Street Maintenance consisting of various projects, budgeted at \$100,000 dollars, 10) Crack Sealing preventative maintenance at various locations budgeted at \$138,000 dollars, and 11) Annual Sidewalk Maintenance consisting of various projects budgeted at \$75,000 dollars. He stated the total Contract Work projects equaled \$4,710,100 dollars which was approximately 78% of the budgeted amount and the City Resources projects equaled \$1,353,300 dollars which was approximately 22% of the budgeted amount.

Mr. Henkel explained the differences between subdivisions and street segments; street segments were more specific and allowed greater understanding of the project. He stated he had identified every subdivision and every street segment for every project which would allow greater coordination between work teams, the City and Utilities. He stated the street segments which needed maintenance were identified by a consultant who drove throughout the city and created a Pavement Management Index report which was compiled using a Pavement Condition Index, Roughness Index and Surface Distress Index.

Vice Mayor Eudey asked what the current PMI was for the city. Mr. Henkel responded around 70. Council Member Lester asked how much the city saved using City work crews as opposed to contract labor. Mr. Henkel responded the city saved approximately 15% to 20%. City Manager Michael Spurgeon asked Mr. Henkel to discuss PMI levels, maintenance versus reconstruction. Mr. Henkel explained roads with a PMI below 55 were too damaged for maintenance and were identified as reconstruction projects; projects with a PMI of 55 or above were identified as maintenance projects. Council Member Parks requested a copy of the streets that were identified as needing this maintenance, Mr. Henkel stated a copy could be provided. City Manager Spurgeon stated the first couple of years of Bond issuance would focus on road widening and intersection improvements and then focus would turn to neighborhood subdivision work. Mr. Henkel stated if the Bond Package passed it would accelerate the overall index. Vice Mayor Eudey stated he understood a PMI of 70 was good, but to keep the PMI at 70 or better it was important to be strategic in which roads were replaced and fixed and how this was scheduled. Mr. Henkel concurred. Council Member Parks stated he wanted to be certain the roads which were in the worst condition were being given priority. City Manager Spurgeon stated the Sales Tax (approximately \$3.6 million dollars) was being applied to road work construction alone; none was going to salaries or other purposes. He stated \$2.6 million would be spent on road construction work; the rest was to be used on striping and concrete work (curbs and sidewalks).

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)

Vice Mayor Eudey stated no citizen had signed up to address the Council.

9. General Council Business

A. 18 899 **Consideration, discussion, and possible approval of and authorization to execute the Fiscal Year 2018 19 Labor Agreement with the Fraternal Order of Police Lodge #170**

Director of Human Resources, Janette McCormick, reported the city's negotiation team had begun negotiations in March of 2018 with Fraternal Order of Police Lodge #170 and on July 19th the Lodge Membership ratified a proposed agreement. She stated the proposed agreement provided for administrative provisions to the educational, compensation and tattoo policy articles, clarification to the existing Management Rights Article language, an increase in the monthly compensation for Master's Degree, and an increase in the working out of classification incentive pay, a 2.5% base wage increase for all bargaining unit members effective July 1st, 2018, and an additional 2.5% wage increase for all bargaining unit members effective January 1st, 2019. Staff recommends that Council approve the Labor Agreement for fiscal year 2018-2019 and authorize its execution.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to approve the Labor Agreement with the Fraternal Order of Police Lodge #170 for Fiscal Year 2018-2019

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

B. 18 844 **Consideration, discussion, and possible approval of BAZ 2007, RDS Business Park, 19.70 acres, A 1 to CN, one quarter mile north of Kenosha Street, east of 23rd Street**

Mr. Larry Curtis reported BAZ 2007 was a request to change the zoning designation on a 19.70 acres parcel from A1 (agricultural) to CN (commercial neighborhood). He stated the property which was vacant and unplatted was located one quarter mile north of Kenosha Street, east of 23rd Street. He stated the property had been annexed into the City of Broken Arrow February 4th, 1980 with Ordinance No. 817. He reported the property was presently designated as Level 4 by the Comprehensive Plan and the CN zoning requested with the BAZ 2007 was considered in compliance with the Comprehensive Plan in Level 4. He stated according to the FEMA flood maps none of the property was located within the 100 year flood plain. He reported the Planning Commission, in the July 12th, 2018 meeting, concurred with staff and recommended approval by a vote of 4 to 0 for BAZ 2007, subject to the property being platted. He stated three residents spoke regarding this item and expressed interest in the future road layout and were concerned about any road being extended through the Camino Villa neighborhood to the east. He stated Staff recommended that BAZ 2007 be approved per Planning Commission and Staff's recommendation.

Council Member Parks asked if, in the city's long range plan, Hillside Drive continued all the way through the east side of this property. Mr. Curtis responded he did not recall if this was still intended. He stated he understood the city had backed off from this project. Council Member Parks stated Hillside Drive had been planned for years, and he wanted to know if it was still a possibility. Council Member Lester stated the proposed development had a cul-de-sac on the east end which could possibly allow for a sub street to go through in the future. Mr. Curtis concurred.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to approve BAZ 2007 as recommended by the Planning Commission and Staff

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

C. 18 941 **Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1113, a Resolution of the Broken Arrow City Council declaring approximately 5.2225 acres of city owned property identified as tracts 1A, 1B and 2B combined of Lot 2, Block 1, Tiger Hill Plaza, a platted subdivision within the City of Broken Arrow, Tulsa County, State of Oklahoma, and generally located on the Southwest corner of Lynn Lane (9th Street) and Kenosha street (71st Street) surplus and authorizing transfer to the Broken Arrow Economic Development Authority, an Oklahoma Public Trust of which the City of Broken Arrow is the sole beneficiary for good and valuable consideration and specifically for the public purpose of furthering the City's economic development goals; and approving and authorizing the execution of certain documents necessary to accomplish the declaration of surplus and transfer of title, including a General Warranty Deed; repealing Resolution no. 866 of the City of Broken Arrow declaring approximately 6.84 acres of city owned property located on the Southwest corner of Lynn Lane (9th Street) and Kenosha Street (71st Street) surplus and authorizing transfer to the Broken Arrow Economic Development Authority; and containing other provisions relating thereto**

Economic Development Coordinator, Norm Stephens, reported in 2015 he was approached by representatives of Tiger Hill Plaza, LLC, Brian Hendershot and Steve Walman, who were interested in purchasing developable property on the north side of Broken Arrow. He stated following the offer to purchase, city staff recommended to Council construction of a modified soldier wall in front of the original retaining wall, and after working with the buyers and due diligence, it was discovered that the ingress and egress to Tiger Hill would be difficult to develop due to the existing elevations. He stated over the course of months negotiations were continued and a consensus was reached regarding the amount of drop on the site. He reported the city had 75 days to design and go out to bid for the soldier wall, and \$1.8 million dollars had been allocated for the soldier wall construction. He stated if the city failed to meet the 75 day deadline, the buyer would have 120

days to do due diligence and was required to place \$100,000 in escrow for the property. He stated project construction was to begin within 10 days after the 120 days. He explained the property had been empty for too many years and the timeline was set to encourage quick development.

Director of Engineering and Construction, Mr. Alex Mills, stated he anticipated receiving the 90% construction plans of the modified soldier wall next week, Council authorized an amendment to the original agreement on July 3rd, the consultant was working diligently, and the plans should be ready for final review next week. He stated he anticipated construction to start towards the end of the month or the beginning of September.

Council Member Lester asked if the \$1.8 million dollars allocated to the soldier wall accounted for the lowering of the elevation. Mr. Mills responded in the affirmative; that was the hope. Council Member Lester asked how long the wall would take to construct. Mr. Mills responded approximately 90 to 120 days, but ultimately depended upon the weather. Council Member Lester asked if a soldier wall was a cast and place type wall. Mr. Mills responded the wall consisted of concrete piers drilled down to bedrock with concrete panels placed between the piers. Vice Mayor Eudey asked if the wall would dovetail the current wall. Mr. Mills responded the aesthetics would be similar to the texture of the existing wall.

Mr. Steve Walman thanked City Council for its time and consideration. He directed Council's attention to a 3D video rendering of the proposed Tiger Hill Plaza. He reported a considerable amount of time had been spent ensuring the project fit with Broken Arrow's vision. He stated he was ready to begin construction as soon as everything was in place. He explained the project consisted of two buildings with a quiet area in between for patios and gathering places, which would give the shopping center an upscale inviting feel. He displayed the site plan and a series of illustrations of what the shopping center would look like, including where restaurants and retail shops would be located, as well as which sites had leasing LOIs (letters of intent). He explained the project was intended to be highly aesthetic and attractive.

Council Member Lester asked what the expected timeframe was from start to finish of the project. Mr. Walman responded he believed the project would take approximately 10 months to complete.

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

Move to approve and authorize execution of Resolution No. 1113

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

D. 18 913 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1116, a Resolution of the Broken Arrow City Council authorizing the City Legal Department to file an action in District Court to obtain a Decree ordering the abatement of a public nuisance regarding the property located at 2701 E. Norman Pl., Broken Arrow, Oklahoma 74014

Acting City Attorney Dennis stated this issue was brought before City Council two meetings ago with an appeal by the property owner which was denied. He stated the Resolution before Council authorized the Legal Department to go forward with a District Court Action and he requested Council approve Resolution No. 1116 and authorize its execution.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move to approve Resolution No. 1116 and authorize its execution

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

E. 18 904 Consideration, discussion, and possible approval regarding PUD 279 (Planned Unit Development), Sound Mind, 14.16 acres, A 1 to CG (BAZ 1848) to CG/PUD 279, located one half mile north of Tucson Street, west of Aspen Avenue, north of the Creek Turnpike

Mr. Larry Curtis stated PUD 279 involved a 14.16 acres parcel located one half mile north of Tucson Street, west of Aspen Avenue, north of the Creek Turnpike. He stated the property was currently unplatted and undeveloped. He reported BAZ 1848 was a request to change the zoning from A1 (agricultural) to CG (commercial general) had been approved on this property and the adjacent property by City Council on July 20th, 2010. He stated BAZ 1848 was approved subject to the property being platted with the exception of the area platted as Aspen Creek Town Center 1 to the northeast while the remainder of the property remained unplatted. He stated Sound Mind was a proposed health care facility and commercial development, and as part of the development of the property West Norfolk Drive would be extended to the edge of the Sound Mind development. He explained the remaining right of way for the western portion of Norfolk Drive would be dedicated during the platting process. He reported the first phase of development would be the Sound Mind Behavioral Health Hospital with the commercial developments to the east to begin at a later date. He stated the property was shown in the Comprehensive Plan as Level 6 and the development proposed with PUD 279 was considered to be in compliance with the Comprehensive Plan in Level 6. He stated at the July 26th, 2018 Meeting, the Planning Commission recommended approval subject to the property being platted with a vote of 4 to 0 for PUD 279 per Staff recommendation. He stated three citizens spoke at the Meeting with questions regarding the compliance of the Sound Mind Behavioral Health Hospital with State Certification, the future extension of Norfolk Drive and protection of the flood plain. He stated Staff recommended PUD

279 be approved. He stated the applicant was in attendance to answer questions.

Vice Mayor Eudey asked if the applicant desired to speak. The applicant replied he would be happy to answer any questions. Vice Mayor Eudey asked if the applicant agreed with the recommendation by city staff. The applicant responded in the affirmative and stated he had enjoyed working with city staff and was excited about proceeding with the project.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to approve PUD 279 per Planning Commission and Staff recommendation

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

10. Preview Ordinances

- A. 18 833 Consideration, discussion, and possible preview of an Ordinance closing an alleyway on property located one third mile south of Kenosha Street, one half mile east of Elm Place, Tulsa County, State of Oklahoma (Section 11, T18N, R14E)(Milestone)**
Acting City Attorney Dennis stated Item 10A sought to close 0.20 acres of an alley in Block 18 of Old Town of Broken Arrow. He stated the applicant intended to close the alley to construct a new mixed use structure. He reported development services had reviewed the request and recommended Council preview the Ordinance and set it for adoption.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- B. 18 907 Consideration, discussion and possible preview of an Ordinance repealing Chapter 4 of the Broken Arrow Code, Article V, Low Point Beverages, Section 4 85, Definitions; Section 4 86 Transporting low point beer in open containers; possession in public places; Section 4 87. Retail dealer's license; Section 4 88, Sale on Sunday and during certain hours; Section 4 89, Gambling, disorderly conduct, etc., on sales premises; Section 4 90, General regulations with respect to minors; Section 4 91, Sale or delivery to minors; Section 4 92, Minors not to misrepresent age for purpose of buying; Section 4 93, Possession by minors; Section 4 94, Sale or delivery to intoxicated, insane or mentally deficient persons; Section 4 95 Permitting intoxicated persons on sales premises; Section 4 96, Suspension or revocation of license; specifically repealing all ordinances regulating low point to become in compliance with SQ 792, repealing all ordinances to the contract; and declaring an effective date of October 1, 2018**
Acting City Attorney Dennis reported this was the start of implementation of the provisions of State Question 792. He explained this particular Ordinance repealed the ordinances related to low point beer, as low point beer no longer existed under Oklahoma law; low point beer was now referred to as alcoholic beverages. He stated alcoholic beverages would be addressed in the next Item (10C). He stated Staff recommended Council preview the Ordinance and set it for adoption.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- C. 18 921 Consideration, discussion and possible preview of an Ordinance amending Chapter 4, ALCOHOLIC BEVERAGES, Article I, GENERAL PROVISIONS, Section 4 1, Definitions; Section 4 13, Transporting alcoholic beverages in opened containers; possession in public places; Section 4 22, Employment of minors selling or handling; and Section 4 25, Operation of retailers prohibited during certain hours and on certain days; Section 4 33, Occupation tax Levied; amount; of the Broken Arrow Code; specifically amending to be in compliance with SQ 792; repealing all ordinances to the contrary; and declaring an effective date of October 1, 2018**
Acting City Attorney Dennis stated this was a companion preview Ordinance to 10B. He stated the Ordinance regulated alcohol use and sale in the City of Broken Arrow in accordance with State Question 792 which would go into effect in October 2018. He stated this amended Chapter 4, offenses by members of the public, to reflect "spirits in public" and also repealed the rest of the outdated language. He stated it also updated the offenses by licensees or employees of the ABLE Commission and changed the age of an individual a retailer could employ, as well as updated the hours and days of allowed business operations. He stated the County may have a vote to allow sale of alcohol on Sundays, and the Ordinance recognized if this happened then businesses could be open on Sunday. He stated this also updated the taxes and enforcement of licensing provisions, with fees reflected in the Manual of Fees. He stated Staff recommended Council preview the Ordinance and set it for adoption.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- D. 18 918 **Consideration, discussion and possible preview of an Ordinance amending Chapter 16 Offenses Miscellaneous, Article I, In General, Section 28, Possession of Marijuana and Controlled Dangerous Substances; Section 28.1, Prohibiting Possession, Delivery or Manufacture of Drug Paraphernalia; Exception; Penalty; of the Broken Arrow Code; repealing all ordinances to the contrary; and declaring an emergency**
Acting City Attorney Dennis stated this preview Ordinance brought Broken Arrow in compliance with State Question 788, allowed consumption of medical marijuana and changed the law to reflect if an individual was in possession of 1.5 ounces without a medical marijuana card said individual could only be fined \$400. He stated Staff recommended Council preview the Ordinance and set it for adoption.

MOTION: A motion was made by Debra Wimpee, seconded by Mike Lester.

Move to preview the Ordinance and set it for adoption

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

11. Ordinances

- A. 18 845 **Consideration, discussion, and possible adoption of Ordinance No. 3534, an ordinance for a Temporary Turnaround Easement Closure from David and Misty Yonce, on property located one quarter mile south of Jasper Street, one quarter mile east of Olive Avenue, Tulsa County, State of Oklahoma (Section 09, T17N, R14E); repealing all ordinances to the contrary; and declaring an emergency**
Acting City Attorney Dennis reported this was a utility easement closure submitted by David and Misty Yonce which provided a Temporary Turnaround for the south stub of Indian Wood Avenue in the Bentley Village subdivision. He stated City Ordinances were updated, specifically the subdivision regulations, on February 9th, 2018, and no longer required the turnaround. He stated Development Services had reviewed the documents and recommended acceptance of the utility easement closure, and as such Staff recommended adoption of Ordinance No 3534 and approval of the emergency clause.

MOTION: A motion was made by Mike Lester, seconded by Debra Wimpee.

Move to adopt Ordinance No. 3534

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

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

Move for the emergency clause

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

- B. 18 895 **Consideration, discussion, and possible adoption of Ordinance No. 3535, an ordinance amending Chapter 10, Fire Prevention and Protection, Article I, In General, Section 10 3, Manufacture, Sale, Use, Etc., of firework, created, of the Broken Arrow Code of Ordinances; specifically referencing the Manual of Fees, repealing all ordinances to the contrary; and declaring an emergency**
Acting City Attorney Dennis reported this Ordinance updated the Manual of Fees, specifically the fireworks permit fee. He explained it removed the fee from the ordinance and sent it to the Manual of Fees, as well as updated the fee itself. He stated Staff recommended adoption of Ordinance No. 3535 and approval of the emergency clause.

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

Move to adopt Ordinance No. 3535

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.

Move for the emergency clause

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

12. Remarks and Inquiries by Governing Body Members

Vice Mayor Eudey thanked the members of the Veteran Community who attended the City Council Meeting. He stated Mayor Thurmond wished to attend, but was serving on the National League of Cities Committee.

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

City Manager Michael Spurgeon reported City Council had approved a second amendment in the Consent Agenda to provide funding for Mark Fry to continue to raise funds for the operations of the proposed Creative Arts Center. He reported Mr. Fry indicated he would be prepared to come before Council in November with his successes at which time Council would make a decision regarding pursuit of the Creative Arts Center. City Manager Spurgeon stated

he felt it was important for the City of Broken Arrow to have a program for the striping of the streets. He briefly reviewed a few street projects he felt were important and which the city would be moving forward with shortly. City Manager Spurgeon thanked the Veterans for attending the City Council Meeting and he thanked City Council for recognizing VJ Day and Purple Heart Day. City Manager Spurgeon stated it was approximately 20 days until the General Obligation Bond Package vote. He stated Staff continued with Public Education efforts in this regard. Krista Flasch reported a 24 page GO Bond Voter Information Guide would be mailed to all Broken Arrow residents this week. She reported it was an easy to read document which detailed the projects in the six propositions, and included map illustrating project locations.

At approximately 8:31 p.m. Vice Mayor Eudey stated he would entertain a motion for a brief recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move for a brief recess to meet for Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority

The motion carried by the following vote:
Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

At approximately 8:33 p.m. Vice Mayor Eudey reconvened the regular session of the City Council Meeting. He stated there was an Executive Session and he would entertain a motion for a brief recess to clear the room for the Executive Session.

MOTION: A motion was made by Johnnie Parks, seconded by Mike Lester.
Move for a brief recess to clear the room for the Executive Session

The motion carried by the following vote:
Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to enter into the Executive Session

The motion carried by the following vote:
Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

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

- 1. Litigation, including potential resolution involving litigation in the matter of City of Broken Arrow v. Nikel Investment, LLC., et. al, Tulsa County District Court Case Number CJ-2017-1470, under 25 O.S. §307(B) (4); and**
- 2. Litigation, including potential resolution involving litigation in the matter of John Franklin Loerch, Jr. v. City of Broken Arrow, Tulsa County District Court Case Number CJ-2017-2627, under 25 O.S. §307(B)(4); and**

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the pending claims, litigation and possible litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

At approximately 8:33 p.m. Vice Mayor Eudey reconvened the regular session of the City Council Meeting

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to authorize the City Attorney to settle the matter of Loerch v. the City of Broken Arrow as directed in Executive Session

The motion carried by the following vote:
Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

15. Adjournment

The meeting adjourned at approximately 8:58 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: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey

Attest:

s/Scott Eudey_____
Vice Mayor

s/Curtis Green_____
City Clerk