



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, September 18, 2018

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

Invocation was performed by Pastor Ray Mills.

3. Roll Call

Present: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

4. Pledge of Allegiance to the Flag

Council Member Mike Lester led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond reported Item K was to be removed from the Consent Agenda. He asked if there were any other items to be removed from the Consent Agenda. There were none.

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

Move to approve the Consent Agenda excluding Item K

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

- A. 18 1010 Approval of City Council Meeting Minutes of September 4, 2018**
- B. 18 1109 Approval of Special City Council Meeting Minutes of September 4, 2018**
- C. 18 1105 Approval of and authorization to execute a Consent to Assignment Agreement by and between City of Broken Arrow, a municipal corporation, operating a golf course known as the Battle Creek Golf Course and Greenway Golf Associates, Inc., a California corporation (“Assignor”) and Greenway Golf Partners, an Oklahoma limited liability corporation (“Assignee”)**
- D. 18 1081 Approval of and authorization to execute the Office of Attorney General 2018 Safe Oklahoma Grant Program Contract for Fiscal year 2018 2019**
- E. 18 1083 Approval of and authorization to accept a grant from the Oklahoma District Attorney’s Council for the City of Broken Arrow (Victims of Crime Act Grant) to provide a Victim Response Program for the City of Broken Arrow in Fiscal year 2018 2019**
- F. 18 998 Approval of and authorization to execute the Enterprise Enrollment Agreement and Program Selection Form with Microsoft Corporation for Microsoft software, products, and licenses**
- G. 18 1097 Approval of and authorization to execute renewal of a Nuisance Abatement Property Structure Securing Agreement between the City of Broken Arrow and Momentum Services, LLC**
- H. 18 1090 Approval of and authorization to purchase Cisco Smartnet Maintenance Services from Chickasaw Telecom, Inc. pursuant to the Oklahoma Statewide Contract**
- I. 18 1094 Approval of and authorization to purchase one (1) Toro 4700 D mower from Professional Turf pursuant to the Oklahoma Statewide Mowers and Handheld Equipment State Contract, for the Parks and Recreation Department**
- J. 18 1091 Approval of and authorization to purchase equipment for a Windows Server 2016 Hyper V cluster from the state contract pursuant to the Western States Contracting Alliance**
- K. 18 1107 Award the lowest responsible bid to Bright Lighting, Inc., dba BL Tower Construction and approve and authorize execution of a construction contract for Wolf Creek Subdivisions Rehabilitation (Project No. ST1806) including the Base Bid as well as Additive Alternate Number 1 and Additive Alternate Number 2**
- L. 18 1079 Approval of and authorization to reject the previously awarded Statewide Contract bid from England Ford for the purchase of three full sized automobiles and award the bid to Hudiburg Fleet on the Statewide Contract for the Broken Arrow Police Department**

- M. 18 1092 Notification of Change Orders or Work Orders with a value of less than \$25,000 on Public Contracts
- N. 18 1093 Approval of PT17 102, Conditional Final Plat, The Pines at the Preserve, 24.61 acres, RS 3, west of the southwest corner of 37th Street and Omaha Street
- O. 18 1066 Approval of PT18 106, Conditional Final Plat, Bill Knight Collision, 2 lots, 2.74 acres, PUD 271/CH and IL to PUD 271A/CH and IL, north of Kenosha Street, west of 9th Street
- P. 18 1077 Acceptance of a Deed of Dedication from Broken Arrow Public Schools, on property located north of Kenosha Street, one quarter mile west of 37th Street, Wagoner County, State of Oklahoma (Section 06, T18N, R15E)
- Q. 18 1017 Approval of the reappointment of Karen Chambless to the Broken Arrow Convention and Visitors' Bureau (CVB) Board with a term expiring September 30, 2020
- R. 18 1018 Approval of the nomination and appointment of Ben Buie to the Broken Arrow Convention and Visitors' Bureau (CVB) Board with a term expiring September 30, 2020
- S. 18 1019 Approval of the nomination and appointment of Jason Scarpa to the Broken Arrow Convention and Visitors' Bureau (CVB) Board with a term expiring September 30, 2020
- T. 18 55 Approval of the Broken Arrow City Council Claims List for September 18, 2018

6. Consideration of Items Removed from Consent Agenda

- K. 18 1107 **Award the lowest responsible bid to Bright Lighting, Inc., dba BL Tower Construction and approve and authorize execution of a construction contract for Wolf Creek Subdivisions Rehabilitation (Project No. ST1806) including the Base Bid as well as Additive Alternate Number 1 and Additive Alternate Number 2**
 Director of Engineering and Construction Alex Mills reviewed Item K from the Consent Agenda. He stated the Item before Council was the award of the lowest responsible bid for a Wolf Creek Subdivisions construction contract to Bright Lighting, Inc. He reported this was part of the 2014 GO Bond. He reported the Subdivision consisted predominantly of concrete streets; the project included concrete patching, curb and gutter, asphalt, and mill and overlay where appropriate. He reported the plans were completed in-house, the project was advertised on August 13th, 2018 and August 20th, 2018, and bids were received on September 11th, 2018. He reported there were two responsive bidders and the low bid was received from Bright Lighting, Inc. dba as BL Tower Construction. He indicated he was not familiar with Bright Lighting, Inc. personally, but Bright Lighting's references had been checked and approved, and a Broken Arrow Construction Administrator knew and highly recommended Bright Lighting. He requested City Council's approval of Item K.

MOTION: A motion was made by Mike Lester, seconded by Johnnie Parks.
Move to approve Item K

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

- A. 18 1089 **Consideration, appointment of and swearing in of the Youth City Council members for the 2018 2019 school year**

Community Relations Liaison Jennifer Hooks reported this was the 18th year of the Youth City Council Program which was started in 2001 by Mayor Wade McCaleb. She stated the new Youth City Council Members included eleven Juniors from various high schools around Broken Arrow and one new Senior Member. Ms. Hooks called the new members forward to commence the swearing in ceremony.

Acting City Attorney Trevor Dennis administered the Oath of Office for the new members of the Youth City Council. He congratulated the new members.

Council Member Parks encouraged the Youth Counselors to attend City Council Meetings occasionally and to introduce themselves to the City Council Members. He congratulated the new Youth City Council Members.

- B. 18 1113 **Presentation regarding the road closures for Evans Road Railroad Crossing in association with Union Pacific Railroad Rehabilitating the Crossing**

Director of Engineering and Construction Alex Mills reported he had been notified by Union Pacific Railroad that rehabilitation construction would be conducted on the railroad crossing south of Highway 51 on South 225th, Evans Road. He indicated the traffic control plans were included in the City Council information packet and this was a one day closure, from 8 a.m. until 5 p.m. He stated the City was not involved in the rehabilitation directly, but he felt it was important for City Council and the public to be aware of the activity. He asked if there were questions. There were none.

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 stated no citizen had signed up to address the Council.

9. General Council Business

A. 18 1080 Consideration, discussion, and possible approval of SP 289 (Specific Use Permit), Events Center, 21.05 acres, A 1, one quarter mile north of New Orleans Street, east of 1st Place

Plan Development Manager, Larry Curtis, reported the applicant proposed to develop the site in phases to include an Event Center with a wedding chapel, banquet facility, and site improvements. He stated other proposed features were a vineyard and greenhouse, a bridge across the creek on the property, a gazebo, large patio area, as well as a pond. He reported the conceptual site plan included two driveways along 1st Place, and the required platting would include dedication of right of way. He stated Broken Arrow Creek flowed north-south along the east side of the property and the applicant was required to seek a section 404 permit for site work and flood planning, including construction of the bridge and pond. He stated the City of Broken Arrow was planning to construct a segment of the Broken Arrow Creek Trail along the west side of 1st Place and would provide pedestrian and bicycle access to Arrowhead Park to the north and the Freshman Academy and Liberty Parkway Trail to the south. He stated Staff evaluated the specific use permit for noise, lighting, signs and traffic; the Event Center was subject to the City's noise ordinance and exterior lighting would be directed downward to prevent light from spilling over into adjacent properties. He reported that the applicant indicated signage would be in accordance with the City of Broken Arrow zoning ordinance, which was A1. He explained places of assembly were permitted in agricultural districts with a specific use permit by the zoning ordinance; therefore, SP 289 was in accordance with the Comprehensive Plan. He reported in the Planning Commission Meeting of August 23rd, 2018, approval was recommended by a vote of 3 to 0 for SP 289 per Staff recommendation with modification conditions of approval to include requirement for screening and for a Traffic Impact Analysis (TIA) to be completed to determine the traffic improvements warranted. He reported five citizens spoke on the Item with concerns about traffic, drainage, noise, lighting, screening, and property values. He reported one citizen spoke in favor of the proposal stating it would generate revenue for the community. He stated the Planning Commission recommended the applicant hold a meeting with the area residents prior to project presentation in the City Council Meeting. He stated the applicant did meet with a group of area residents regarding the concerns raised. He stated Staff recommended approval of SP 289 per Planning Commission and Staff recommendations with modifications.

Mayor Thurmond asked if the TIA had been completed. Mr. Curtis responded in the negative; the TIA would be a part of engineering and would be completed prior to platting. Council Member Lester asked if the event center would be allowed to operate until 2 a.m. Mr. Curtis responded in the affirmative. Council Member Lester asked if the City could legally restrict the hours of operation for events located out of doors. Mr. Curtis responded in the affirmative; however, the City of Broken Arrow's Noise Ordinance prohibited noise disturbances after 10 p.m. Sunday through Thursday, and after 11 p.m. Friday and Saturday. Council Member Lester asked if this included music and over-zealous revelers. Mr. Curtis responded in the affirmative. Vice Mayor Eudey asked if the Noise Ordinance was enforceable by the proper authorities if violated. Mr. Curtis responded in the affirmative. Council Member Lester asked how many years the specific use permit was applicable. Mr. Curtis responded there was no time limit; however, Council did have the ability to apply a timeline. Council Member Lester asked how parking requirements were determined. Mr. Curtis responded parking was delegated by square footage and seats; zoning ordinance indicated for every four seats in the assembly location 1 parking space was required to be provided at a minimum, or a maximum of 125% of the requirement. He explained specifically, due to the 250 intended seats, the Event Center was required to provide a minimum of 78 parking spaces, but could provide up to 87 parking spaces maximum. He stated parking allotment was also determined by square footage to provide for staff parking as well. Council Member Lester stated he was concerned about Event Center parking bleeding into resident's yards or along the roadside. He stated this permit was for the entire project, not just the first phase; therefore, if parking requirements were not made at this stage the parking could become quite onerous and the City would not have any avenue of recourse. Mr. Curtis indicated this could be addressed through subsection C of the parking requirement which stated "if it is deemed that the nature of the development is over and is needing additional parking beyond what is capable of the facility," then the director could review the need and determine if the 125% could be exceeded; however, the need was required to be proven. He explained the cap on the number of allowed parking spaces was created in 1998 to avoid unused eyesore parking lots. Council Member Lester stated additional seats could be added following parking lot development and he asked if there was an avenue of recourse in this situation. Mr. Curtis responded in the affirmative; a limitation could be placed on the number of seats the Event Center was allowed to install. Council Member Lester stated it was not his intention to create a hardship for the Event Center he just wanted to be certain the City had the ability to fix any unforeseen problems.

Council Member Parks stated he felt there were quite a few broad generalized terms in this specific use permit and he wanted to be certain nothing was overlooked. He stated he understood why this specific use permit fit within the Comprehensive Plan and Zoning Ordinance; however, usually with a specific use permit the Council understood exactly what was being constructed, as well as

intended use. He stated the intended uses included in this specific use permit were pretty vague: an Event Center with a wedding chapel, banquet facility, site improvements, and places of assembly. He asked if the places of assembly were for weddings, or if any type of assembly could be held at the Center. Mr. Curtis stated the Zoning Ordinance indicated in the strictest sense this SP permit was an application specifically for a place of assembly; however, the sub-definitions for place of assembly included wedding chapels, events facilities, etc., and he felt the applicant was simply trying to list any possible events which might take place at the Center. Council Member Parks asked if the events were primarily intended to be wedding oriented. Mr. Curtis responded in the negative; however, the applicant would be better able to answer the question. Mayor Thurmond invited the applicant to come forward.

Mr. Nick Dennison, with 1 Architecture, LLC, stated his address was 1735 S. Eerie Avenue, Tulsa, OK. Council Member Parks asked what types of events were intended to be held in this location. Mr. Dennison responded while the property was geared toward weddings, it could also host family reunions, or similar type events. He stated there was no anticipation of rock concerts or motor bike rally type events. He stated churches could rent out the space for a barbecue. He stated there would be an abundance of outdoor space and landscaping. He explained it was intended to fall under assembly in agricultural to fit the zoning, and while it was geared toward weddings, it would not be restricted to host only weddings. Council Member Wimpee commented the PAC (Performing Arts Center) planned to have Church on the Move Services on Sunday and could use the Event Center as another possible location. Mr. Dennison concurred. He stated the application for the specific use permit had been submitted to make certain the intended use was acceptable prior to completion of the exact floor plan and site layout. He stated he and his client had been following due diligence, had met with the City, had met with the neighboring residents, and was now before Council. Vice Mayor Eudey asked about the meeting with the neighboring residents. Mr. Dennison responded it went fair; most of the residents had voiced the issues at the Planning Commission Meeting and he did his best to alleviate the resident's concerns. He stated berming along the south edge of the property had been discussed and written in as a requirement for the project, which would help with sound transition and would be visually pleasing. Council Member Lester stated he was concerned about noise pollution in the area, as this was a residential area and high school reunions could get quite boisterous, and berms would not eliminate that type of noise. He inquired how the Event Center would control such events. Mr. Dennison responded the facility would be a multimillion dollar facility with excellent sound proofing within the buildings which would prevent incoming, as well as outgoing noise. He stated there would be on site staffing in place to monitor all events indoors and outdoors. Vice Mayor Eudey asked if the rental agreements would include a requirement to abide by all Noise and Nuisance Ordinances. Mr. Dennison responded it could be included quite easily. He explained the on-site staff would monitor noise levels and parking to prevent parking in undesired locations. He stated after listening to City Council's concerns regarding parking he would speak with his clients regarding the possibility of overflow parking on site.

Citizen Marc Vessells stated his address was 116 East Laredo Place, Broken Arrow. He stated his greatest concern was traffic flow. He reported 1st Place was beginning to buckle from the sheer amount of traffic including maintenance trucks, fire engines, etc., and would require serious reconstruction very soon. He stated he was also concerned about over flow traffic. He explained he, as well as his neighbors, parked roadside and he was concerned traffic would flow through his neighborhood and drunk drivers would damage the vehicles. He stated he was also concerned that parking would overflow into his neighborhood. He stated children from the Freshman Academy often walked in the street in the area (there were no sidewalks) and he was concerned the children would be injured by drivers unfamiliar with the area. He stated he appreciated the new roadway which had been constructed to prevent school buses from using his neighborhood as a main thoroughfare. He stated he was extremely worried the Event Center would negatively affect his property value.

Vice Mayor Eudey asked if there were any improvements slated for the area in the near future which might address the road problems. City Manager Spurgeon replied the City received a grant to install a sidewalk which would run from the south to the north in the area, and if there was a need for road maintenance then it would certainly be scheduled as part of the street maintenance program.

Citizen Bruce Maxey stated his address was 2108 S. 1st Place, Broken Arrow. He stated 1st Place was a narrow two lane road with deep ditches and an excessive amount of traffic. He stated he felt the City should not approve this permit until the infrastructure was able to support it. He stated he also questioned the need for another event center, as there were six event centers in Broken Arrow currently. He stated he was concerned about a large commercial business being developed in a residential area, especially as he moved to Broken Arrow from Midtown in Tulsa to get away from commercial business areas. He stated he did not feel progress should be defined as building in every empty space.

Citizen Nate Lovelle stated his address was 10000 S. Lynn Lane, Broken Arrow. He reported he was the only land owner to the east of the Event Center property. He stated his family owned the land from the east border of the Event Center property to Lynn Lane. He stated he requested City

Council deny the petition. He stated his largest concern was this area was deemed level 1 rural residential and as such, per law, “should generally be kept free of significant vehicular traffic generators and noise or polluting uses.” He stated according to the information sent to him by Vice Mayor Eudey the property would include 182 parking spaces, up to 700 people, with “amplified sound expected to be used on the proposed patio area to the rear of the building” and “the applicant anticipates that some of the event spaces will be open until 2 a.m.” He stated the only type of venue typically open until 2 a.m. was a bar venue; therefore, he felt this event center would be in direct opposition to the rural residential location, free of noisy uses or significant vehicular traffic generators. He stated a full venue of 700 people occupying 182 parking spaces leaving the property at 2 a.m. at different levels of intoxication was a grave concern of his. He stated he felt it directly conflicted with the Master Plan. As a side note, he stated he had worked with Mr. Brent Murphy from the Planning Commission in the past and Mr. Murphy was a good person whom he appreciated.

Citizen G. Stephen Foerster stated his address was 2305 South 1st Place, Broken Arrow. He thanked City Council for the opportunity to speak. He stated he and Mr. Oscar Nips witnessed a terrible accident approximately four years ago in front of the Jehovah Witness Church. He displayed several photos of several accidents which occurred on South 1st Place. He stated the road was too narrow and too dangerous. He reported seven different types of emergency vehicles, including police, fire, ambulance, jail, street and stormwater, and Oklahoma Natural Gas used South 1st Place which had no shoulder and no sidewalk. He reported there was a gas pump for city vehicles located on South 1st Place. He displayed photos of the various vehicles which utilize South 1st Place and the City gas pump. He stated South 1st Place was a very narrow road with creeks, bridges, walls, and an event center would be an extremely poor, even dangerous, fit for the location. He stated South 1st Place was also the proposed location of a new fire station which would also increase traffic flow. He suggested several solutions to the problems along South 1st Place: access lanes from Lynn Lane or 101st Street, widening of the road and adding sidewalks, and finding a new location for the Event Center. He displayed a signed petition with 72 signatures taken from the surrounding area against the Event Center being located on South 1st Place. He displayed a petition in favor of the Event Center which had no signatures. He reported there were over 180 event centers in the Broken Arrow area within a 25 mile radius. He asked City Council to deny SP 289.

Citizen David Center stated his address was 208 East New Orleans, Broken Arrow. He reported he was the property owner on the south side of the proposed location. He stated he was hesitantly in favor of the project. He stated he felt something would be built in this location eventually, either an apartment complex or single family homes. He stated of the three possibilities of development he preferred the Event Complex, as he felt it would be an attractive addition to the location with the extensive landscaping, berming and screening. He stated his three biggest concerns were noise, lighting, and drainage, which had been addressed in the Planning Commission Meeting. He stated the only remaining issue would be traffic along 1st Place, which did not affect him personally, but he understood it was a problem. He explained he preferred to see the Event Complex in this location as opposed to an apartment complex or small single family homes.

Council Member Lester stated his biggest concern was the potential noise pollution. He stated he would feel more inclined to approve this if the Legal Department added a clause which restricted the outdoor venue hours of operation to be mindful of the neighbors. He stated he understood there were many event centers within Broken Arrow; however, event centers were driven by the economy and the applicant would not spend millions of dollars on this project if there was not a demand for this type of venue. He stated he was concerned about parking bleeding into the community, but this could be dealt with by the police department.

Vice Mayor Eudey stated he was concerned about noise and traffic. He stated Council Member Lester had a good solution for the noise pollution possibility. He commented parking could be addressed, and he hoped the Director would use his discretion in expanding the parking if necessary. He stated there were two churches, a New Leaf and a school nearby which created activity in the area; therefore, the area was accustomed to this type of activity; on the other hand, the event center could increase the traffic. He stated he felt it would be nice to do a traffic study in the location to determine traffic volume. He stated if Broken Arrow was using South 1st Place for its emergency vehicles it was a potential problem. He asked Police Chief Brandon Berryhill to speak in this regard.

Police Chief Brandon Berryhill stated the police facility at South 1st Place had been vacated in 2014. He reported there was a City gas pump in this location and a jail facility; however, he reported several years ago a program had been initiated which enabled City vehicles to obtain gas from any vendor in Broken Arrow. He stated this was not an operation staging area and no squad meetings were held in this location; therefore, you did not see many emergency vehicles responding away from the area. He stated dropping off prisoners and going to court were all non-emergency events; therefore, for the Police Department the traffic was not an issue. He reported police traffic in the area had significantly decreased since the Police Department relocated in 2014. Council Member Lester asked if the accident involving the youth was caused by inattention or by a drunk driver. Police Chief Berryhill replied the accident was caused by inattention and he briefly discussed the accident.

Mayor Thurmond asked if traffic counts for South 1st Place had been done recently. Mr. Alex Mills responded he had traffic counts from 2016; however, the 2018 traffic counts were not available as of yet. He stated he would have the 2018 traffic counts shortly and a comparison could be done to determine how traffic in the area had changed. Mayor Thurmond asked what kind of traffic a two lane arterial road sustained. Mr. Kenny Schwab, Assistant Director of Operations responded arterial roads typically sustained 12,000 to 13,000 vehicles per day. He speculated South 1st Place would be closer to 6,000 or 7,000 vehicles per day. Mr. Mills reported as a part of the new Trail Project, which was about to go to construction, a new signal would be installed at New Orleans and 1st Place. He stated while this would not address the road width issues, it would help control traffic on the south end.

Council Member Parks asked the Fire Chief to discuss the new fire station projected to be constructed along 1st Place. Fire Chief Jeremy Moore reported funds were included in the next GO Bond to develop a fire station on City owned property on the southeast corner of 1st Place and Washington. He explained Fire Department would primarily utilize Lynn Lane and Elm Place, unless something was occurring along 1st Place. He stated the Fire Department responded to the jail frequently, approximately 150 times in 2017. Council Member Wimpee asked when Chief Moore expected the new Fire Station to be completed. Chief Moore responded he was unsure, but the Fire Station would front 91st (Washington) and would exit onto 91st and go down to Lynn Lane or to Elm, unless called into the area of 1st Place.

Council Member Parks stated he felt the “places of assembly” in the specific use permit needed to be clearly identified. He asked if this could be done. Mr. Curtis responded in the negative; it was difficult to try to restrict which types of assembly could meet in a location; however, zoning ordinance did specifically state what a major event facility was (anything that draws 1,000 or more individuals). He explained there was no specific definition of small venue indoor event locations such as this, which was why it was classified as “places of assembly.” He stated zoning ordinance indicated that major events could not be held at the location, and outdoor events that might draw more than 1,000 attendees were restricted as well. Council Member Parks asked if a time constraint could be put in place. Mr. Curtis responded in the affirmative; an expiration time on the permit, as well as hours of operation of the facility could be written as a requirement into the specific use permit.

Vice Mayor Eudey asked if this item could be tabled and brought back after the amendments were made and traffic information was received. Acting City Attorney Dennis responded in the affirmative. Vice Mayor Eudey stated he would like to have more information regarding traffic in the area prior to a vote; therefore, he would like to table the item until he had the necessary information. Council Member Lester agreed. Council Member Parks stated tabling the item would also give city staff the opportunity to meet with the applicant to discuss the time constraint amendments.

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

Move to table Item A until the meeting following receipt of the 2018 traffic counts

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

B. 18 1100 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1133, a Resolution approving the Fiscal Year 2019 Manual of Fees, establishing fees costs charged by the City of Broken Arrow: authorizing the periodic adjustment and waiver of fees by the City Manager; providing an effective date of October 1, 2018

Director of Finance Cindy Arnold reported on 09/04/2018 a work session regarding the Manual Fees was conducted. She reported staff had incorporated all the changes requested by City Council into the Manual of Fees. She indicated the Cemetery Fees had been increased by 2.1% (CPI per cemetery sector); medical marijuana and alcohol fees had also been added. She stated Staff recommended approval of Resolution No. 1133 to adopt the Manual of Fees with an effective date of October 1st, 2018, she also added that the water rate increase won't be seen until the November bills. City Manager Spurgeon additionally commented that the large water line to be installed mentioned by Council Member Lester was also added to reflect cost plus 10%.

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

Move to approve Resolution No. 1133 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Mayor Thurmond recused himself from Item 9C. He left the room at approximately 7:25 p.m.

C. 18 1064 Consideration, discussion, and possible approval of and authorization to execute a Service Agreement for Disaster Recovery Services between the Institute for Building Technology and Safety (IBTS) and the City of Broken Arrow, Oklahoma and an Agreement with the Oklahoma Municipal League for Disaster Recovery Services as a membership benefit

City Manager Spurgeon reported at the previous Council Meeting brief discussion was held

regarding entering into an agreement with IBTS (Institute for Building Technology and Safety) to possibly provide pre-emergency planning, as well as operation assistance for emergency management. He stated the item had been tabled to allow Council time to review the agreement. He stated the Oklahoma Municipal League working through the Oklahoma Municipal Services Corporation entered into an agreement with IBTS to provide members of OML with a pre-event contract for pre-disaster and recovery services. He stated while Broken Arrow was well prepared, and Mr. Jamie Ott did an excellent job with emergency preparedness, it was never a bad idea to have another agency available to assist in the event of an emergency. He stated if the contract was never used, no money would be expended. He explained if City Council approved this item he and Mr. Ott would meet with IBTS to determine if there was a way IBTS could be of service to Broken Arrow.

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

Move to approve and authorize execution of Service Agreement for Disaster Recovery Services between the Institute for Building Technology and Safety (IBTS) and the City of Broken Arrow, Oklahoma and an Agreement with the Oklahoma Municipal League for Disaster Recovery Services as a membership benefit

The motion carried by the following vote:

Aye: 4 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey
Recused: 1 - Craig Thurmond

Mayor Thurmond returned at approximately 7:29 p.m.

D. 18 1098 Consideration, discussion, and possible approval of and authorization to execute Resolution No.1131, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the matter of Mike W. Rugg and Jana L. Rugg v. City of Broken Arrow, et al., Tulsa County District Court Case No. CV 2018 01068, authorizing the foreclosure and vacation of street right of way generally located on North Date Avenue

Acting City Attorney Dennis reported in 2006 City Council passed Ordinance No. 2774 which closed three feet of right of way on Date Avenue for this matter. He stated since that time the applicant had moved forward with filing a District Court Action to foreclose the right of the City to reopen that three feet of right of way. He reported there were no utilities there, it would not affect any of the citizens or adjacent land owners, and it was not required for public purposes; as such Staff recommended City Council approve Resolution No. 1131 authorizing the City Attorney to enter into a Final Journal Entry of Judgment in this matter.

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

Move to approve Resolution No. 1133 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

E. 18 1085 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1132, a Resolution authorizing the City Attorney to enter into a proposed Joint Application for Approval of Settlement and a Journal Entry of Judgment in regard to the matter of John F. Loerch, Jr. v. City of Broken Arrow, et al. Case No. CJ 2017 2627 in the District court for Tulsa County, State of Oklahoma and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry of Judgment for the Court's approval, pursuant to 51 O.S. § 158

Acting City Attorney Dennis stated this matter involved an accident between a lawn mower and Mr. Loerch who was riding a bicycle on Liberty Trail. He reported Mr. Loerch sustained fractures to his spine, specifically L1, L2, and L3, and a broken clavicle. He stated through settlement discussions parties reached an agreement of \$85,000 dollars which Council previously authorized. He stated Staff recommended approval of Resolution No. 1132 authorizing the City Attorney to enter into a Journal Entry of Judgment settling this matter.

MOTION: A motion was made by Mike Lester, seconded by Scott Eudey.

Move to approve Resolution No. 1132 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

F. 18 1108 Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1134, a Resolution 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 1617 South Pine Avenue, Broken Arrow, Oklahoma 74012

Acting City Attorney Dennis reported on May 10th, 2018, Staff inspected this property, determined it was not in good repair, and it was a menace to health and public safety; notices were properly sent to the land owner, and the property owner, and there was subsequently a public hearing held on August 2nd, 2018. He stated the property remained unabated and as such Staff recommended Council authorize and approve Resolution No. 1134 and authorize its execution.

Council Member Lester asked if the Legal Department notified the mortgage company. Acting City Attorney Dennis responded in the affirmative.

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

Move to approve Resolution No. 1134 and authorize its execution

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

G. 18 1086 Consideration, discussion, and possible approval to reschedule the November 6, 2018, Broken Arrow City Council meeting from Tuesday, November 6, 2018, to Monday, November 5, 2018, due to Council members attending the National League of Cities Annual Conference in Los Angeles, CA

City Clerk Curtis Green asked for City Council's approval to reschedule the November 6, 2018, Broken Arrow City Council Meeting from Tuesday, November 6, 2018, to Monday, November 5, 2018 due to City Council's travel plans.

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

Move to approve rescheduling the City Council Meeting from November 6th, 2018 to November 5th, 2018 at the same time

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

A. 18 1104 Consideration, discussion, and possible adoption of Ordinance No. 3540, an ordinance amending Section 3.1.F (Table 3.1 1) Table of Allowed Uses; and Section 5.4 (Table 4.4.1) Off Street Parking Schedule A; and Section 10.3.D.1 Definitions of General Use Categories and Specific Use Types; and Section 10.3.D.9 Definitions of General Use Categories and Specific Use Types of the Broken Arrow Zoning Ordinance; and declaring an emergency

Plan Development Manager, Larry Curtis, reported this Ordinance had been previewed at the last Council Meeting and had not been changed since. He reported since that time Development Services had prepared applications for Medical Marijuana Commercial Growers, Manufacturing, and Dispensaries which would be readily available should City Council approve Ordinance No. 3540. He asked if there were any questions.

Mayor Thurmond asked if the Ordinance mirrored State Statutes. Mr. Curtis responded in the affirmative. Council Member Wimpee asked if there were changes going forward would City Council have the ability to change the Ordinance. Mr. Curtis responded in the affirmative; marijuana laws were in a growth period and would be changed periodically. Council Member Parks asked if he was correct in stating to meet state law Broken Arrow needed to have an ordinance in place and this was the best possible ordinance at this time. Acting City Attorney Dennis responded in the affirmative. He summarized the brief history which brought City Council to this point. He indicated marijuana laws were very fluid at this time and would most likely be adjusted in the future as State Laws were adjusted. He stated he felt this Ordinance was the culmination of the Legal Department's best efforts to match the State Question language at this time.

Citizen Ronald Durbin stated his address was 2401 West Aspen Street, Broken Arrow. He stated he did not feel Ordinance No. 3540 complied with State Question 788. He stated it clearly did not comply with Question 788 and he felt it did not comply with the guidance given by the Attorney General to the Board of Health. He stated some of the areas Broken Arrow was attempting to restrict and zone were expressly addressed by the Attorney General who outlined an overreach of authority. He stated there was nothing in Question 788 which gave the City of Broken Arrow authority to institute this Ordinance. He stated State Question 788 indicated cities could not change zoning with the express purpose of restricting access to people who have a medical cannabis license, processors, growers, or dispensaries. He stated he felt that was what Broken Arrow was attempting to do with the ordinances in question. He stated Broken Arrow had no right to restrict growers to growing indoors. He stated he knew his statements were true as he had filed litigation against the Department of Health regarding these issues. He stated he urged Broken Arrow to not be his test case in court. He stated he lived in Broken Arrow and it would be easy for him file litigation against the City. He stated Broken Arrow was overstepping its authority and he felt there was no reason to do this currently. He stated if Broken Arrow passed this Ordinance today it would set Broken Arrow up to be a test case for litigation.

Acting City Attorney Dennis stated Broken Arrow was not the Department of Health and as such had inherent plenary police powers to regulate the businesses in the City of Broken Arrow, including business locations. He stated specifically, State Question 788, when it talked about not restricting medical marijuana dispensaries, did not give a carte blanche right to medical marijuana dispensaries to be located anywhere within the City. He stated the actual language read cities may not "unduly restrict" dispensaries. He stated the proposal with the zoning ordinance allowed dispensaries throughout the City, and the City had the

right, under inherent police powers, to regulate and to indicate where it made sense to permit dispensary locations within the community. He stated he did not believe there was anything in the Attorney General's letter to the Department of Health which specifically prohibited the City of Broken Arrow from exercising its inherent police powers. He intimated obviously there would be a risk of litigation regardless of what Broken Arrow approved.

Acting City Attorney Dennis stated he understood applicants had already been approved by the Department of Health. He stated he wished the State would give more guidance regarding these issues; however, without additional State guidance, if an applicant came to Broken Arrow with a license issued by the Department of Medical Marijuana, and the business was registered with the Oklahoma Bureau of Narcotics and met State requirements, Broken Arrow needed to have a process in place to process applications and to determine where the business locations should be placed in a manner which made sense for the community of Broken Arrow.

Mayor Thurmond stated the zoning was not being changed; the ordinance determined where the businesses would be allowed. Mr. Curtis responded there was a change to the zoning ordinance to update and define exactly where the businesses were permissible, but it did not put undue restrictions beyond the State's requirements. Vice Mayor Eudey stated he understood this was not disparate from restricting locations of liquor stores or pharmacies. Mr. Curtis concurred. Vice Mayor Eudey stated he relied upon Acting City Attorney Dennis to ensure State regulations were met, and if in the future State regulations were amended then Broken Arrow would amend its ordinances as needed. He stated he agreed with Mayor Thurmond; he did not believe the ordinance changed zoning law, it simply determined where within the Comprehensive Plan of the City it made sense to place a certain type of business, just as zoning ordinances did with all businesses.

Acting City Attorney Dennis stated marijuana was still illegal under Federal Law; therefore, any licenses or use of medicinal marijuana was allowed only strictly under state law.

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

Move to adopt Ordinance No. 3540

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

B. 18 1110 Consideration, discussion, and possible adoption of Ordinance No. 3541, an ordinance amending Chapter 26, Emergency Medical Services, of the City of Broken Arrow Code of Ordinances, Section 26 8 Insurance Provision, Subrogation and Assignment; specifically providing the percentage of an emergency medical services bill to be paid by the subscriber to the City's Medical Service Program who is uninsured; repealing all ordinances to the contrary; and declaring an emergency

Acting City Attorney Dennis stated this Ordinance clarified the differences in the industry standards regarding medical services and updated the fee structure to reflect if an uninsured individual used emergency services, said individual would be liable for 60% of the total emergency services bill. He stated Staff recommended City Council adopt Ordinance No. 3541 and approve the emergency clause.

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

Move to adopt Ordinance No. 3541

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

C. 18 1112 Consideration, discussion, and possible adoption of Ordinance No. 3542, an Ordinance of the City of Broken Arrow amending the City of Broken code of ordinances chapter 7, adding Article XV Medical Marijuana, Business Regulations and Licensing, Establishing Regulations for Retail Medical Marijuana Establishments, Commercial Marijuana growing facilities, Wholesale Marijuana Facilities, Marijuana Storage Facilities; and repealing all ordinances to the contrary and declaring an emergency

Acting City Attorney Dennis reported this was the sister ordinance to Ordinance No. 3540. He stated the City of Broken Arrow was not banning any of the legal medical marijuana activities under State law in the City of Broken Arrow, it simply ensured businesses were built in locations which made sense in the community, ensured the city could be certain businesses were conducted in a safe manner, and ensured businesses that entered into Broken

Arrow complied with State laws under the Department of Health and the Oklahoma Bureau of Narcotics. He explained when the Legal Department drafted this Ordinance it had looked very closely at the surrounding communities in Oklahoma who had undertaken an attempt to institute this ordinance, as well as other states' regulatory schemes. He explained it was within the city's inherent police power to license, and regulate, medical marijuana businesses, as well as any other business in the City of Broken Arrow.

Acting City Attorney Dennis reported since the preview of this Ordinance on September 4, 2018, two language changes had been made for clarity purposes, but the meaning had not changed. He stated Staff recommended City Council adopt Ordinance No. 3542 and approve the emergency clause.

Council Member Lester asked if the Ordinance now clearly indicated a medical marijuana business had to have written approval of the property owner. Acting City Attorney Dennis responded in the affirmative. Council Member Lester asked if the written permission was required to be notarized. Acting City Attorney Dennis responded in the affirmative.

Citizen Ronald Durbin stated he lived on 106th and Aspen. He stated he would be filing suit this week against the City of Broken Arrow. He stated Acting City Attorney Dennis was giving City Council terrible advice. He stated he understood the City of Broken Arrow had police powers, but there were limits to police powers. He stated the City Attorney was setting the city up for a law suit. He stated he only asked restraint and careful consideration prior to approving ordinances. He stated he had testified before the Joint Committee twice and had revised many of the proposed joint statutes that the legislative committee was considering. He stated while the legislative committee had not obtained enough signatures, he had written State Question 796 and Stated Question 797 which were out for signature for recreational medical marijuana. He stated he felt the ordinances City Council proposed far overstepped its authority. He directed City Councils attention to section 7-369a4 of the Ordinance which stated a description and plan of all equipment and methods employed to stop any impact to adjacent uses was required. He stated he felt this was impossible; any business would have an impact on adjacent uses. He stated he felt it was unreasonable to allow 90 to 120 days for application approval. He stated he felt this was designed to restrict licensing in the city. He stated he felt it was unfair to define marijuana businesses as a liquor store type businesses and was clearly a zoning change.

Council Member Wimpee stated there were several City Council Members that had wanted to restrict marijuana business much further, but that was not done. She explained a large amount of time had been spent considering the best ordinance for the city with respect to all the citizens of Broken Arrow. Mr. Durbin stated he felt Broken Arrow was overstepping what was allowed under State Question 788.

Citizen Randall Franklin stated his address was 3001 West Edgewater Street, Broken Arrow. He stated the Ordinance currently indicated that a PUD for a marijuana grower would not be recognized. He asked if a PUD IL would be allowed as a possible location for a growing facility. Mr. Larry Curtis responded Staff had determined that as the PUD was in place prior to the date of this zoning ordinance that the zoning ordinance which was in place when the PUD was approved regulated what could or could not go into the district. He stated a PUD was an overlay which locked in the zoning at the time; therefore, if there was zoning in place for an IL district with a PUD overlay, the PUD would be required to be amended in order for the use to be permissible. Mr. Franklin asked if, with an amendment, it would be possible to consider a location. Mayor Thurmond responded in the affirmative if the underlying zoning was IL. Mr. Franklin stated in order to obtain a State License a business was required to have an address and he was uncertain how to procure an address in the city without first having a State License. Council Member Lester asked if Mr. Franklin intended to lease a facility. Mr. Franklin answered in the affirmative. Council Member Lester stated a lease could be made subject to obtaining licensing, which was his recommendation. He explained this would protect Mr. Franklin. Vice Mayor Eudey stated he understood this was all very confusing at the moment, and the State of Oklahoma was not helping the situation. Mr. Franklin stated he understood, and he was patiently trying to determine what the rules were before moving forward.

Citizen Bryan Howard stated his address was 512 West Detroit, Broken Arrow. He read through the proposed medical marijuana laws which he felt would be passed in February if no special session was held before February. He stated what the City of Broken Arrow proposed in its ordinances was in direct conflict with the new law. He asked if the \$2,500 dollar application fee reflected the actual cost to the city. He stated he would like to see information which dictated how the city incurred \$2,500 dollars in cost for application approval. He suggested a tiered cost for multiple applications. He asked the city to consider allowing growing and processing in agricultural zoning, as opposed to only industrial. He stated he understood the concern was growers and processors being near residential homes and he felt permitting business establishments in agricultural zoning would allow better separation. He stated many industrial facilities prohibited growers and processors due to Federal lease regulations. He asked City Council to consider a medical marijuana citizen

committee to advise City Council.

Citizen Paul Tay stated his address was 4004 South Toledo, Tulsa. He asked City Council what it was afraid of; no individual had died of a cannabis overdose. He stated more people died of peanuts and lightning than marijuana. He stated despite the propaganda, cannabis was a perfectly safe plant. He stated he used to have the same opinion as City Council, but it was not 1989 anymore, the war on drugs had failed and he felt City Council was continuing the failed war on drugs. He stated City Council was restricting, through zoning, the free trade and free flow of cannabis. He stated there were patients, vets, and PTSD (Post Traumatic Stress Disorder) cases in Broken Arrow waiting for cannabis legalization. He stated this was a conflict of law and Broken Arrow should not codify its law before the State codified its law. He stated he felt the State was doing due diligence in acquiring information and opinions of others. He stated the city did not need to take immediate action. He stated Broken Arrow should consider the opinion of Mr. Durbin as he had experience in medical marijuana law. He stated he felt Acting City Attorney Dennis had no experience in medical marijuana law. He asked City Council to consider its decisions as Mr. Durbin had indicated he planned to file suit against Broken Arrow. He stated he looked forward to watching the case. He stated City Council should wait for the State's direction as he felt there was no public safety issue at stake.

Acting City Attorney Dennis reported, at this time, the State had not passed any statutes signed by the Governor other than State Question 788, which he felt the Ordinance was in compliance with. He stated, to be clear, the setback requirements were only 1,000 feet from entrances from private and public schools; there were no setback requirements for churches, day cares, or parks. He stated if you read State Question 788 it did not include specific empowering statutes for any city; however, the only real restriction it included was: cities were not allowed to unduly restrict zoning for dispensaries. He stated under the proposed Ordinance medical marijuana dispensaries were allowed at multiple locations at main intersections; medical marijuana dispensaries were analogized similar to liquor stores and he felt Mr. Curtis did an excellent job creating a map which displayed the various locations available with the 1,000 foot setback requirements. He stated it did also allow medical growers and processors within the City of Broken Arrow which was not required by the State Question and many cities had completely outlawed growers and processors. He stated there were common sense restrictions for licensing to ensure these activities, which were illegal under Federal Law, were in compliance with State Law. He stated obviously this was an evolving area of law which would change as it evolved. He stated he understood there would be law suits, but this was Broken Arrow's best effort to regulate this new business in the City of Broken Arrow. He stated Staff had spent a remarkable amount of time developing this Ordinance. He stated he was surprised by the lack of feedback from citizens until just this evening. He stated the ordinance development has not been done in the dark; it had been ongoing, in public, and publicized since August 7, 2018. He stated he could not remember any ordinance being previewed three times. He commended city staff and Development Services for going above and beyond in attempting to navigate this very difficult issue, to ensure individuals who qualified would have access to medical marijuana, and that growers and processors had the opportunity to do business in Broken Arrow, but in a way that made sense for the community. He stated Staff requested City Council adopt Ordinance No. 3542 and approve the emergency clause.

Vice Mayor Eudey stated Mr. Howard visited with him regarding this issue and a very positive and thoughtful discussion was held. He stated the concept of developing a committee of citizens was discussed and he felt this was viable proposal. He commended the Legal Department, Planning Department and Staff for its efforts. He stated this ordinance had been previewed three times which had never been done before to his knowledge, there were some who wished restrictions to be more stringent, but his thought was the Ordinance before Council this evening followed the law. He stated he appreciated the Citizen's input.

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

Move to adopt Ordinance No. 3542

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move for the emergency clause

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

12. Remarks and Inquiries by Governing Body Members

Council Member Lester stated he felt it was important to pray for North Carolina as it was being hit by Hurricane Florence.

Vice Mayor Eudey thanked and commended the Police Chief, and Fire Chief, and all in attendance, who had answered questions on a moment's notice.

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

City Manager Michael Spurgeon stated he felt Broken Arrow hosted a successful Scotfest last week. He stated he received great feedback and it seemed the festival attendees enjoyed the festivities.

He reported last week was the Oklahoma Municipal League Conference and Broken Arrow was well represented by sixteen city officials. He stated Broken Arrow was asked by the OML Staff to present; Krista Flasch presented regarding communications, Jennifer Hook presented regarding Youth City Council, and Farhad Daroga presented regarding economic land development.

City Manager Spurgeon asked Mr. Kenny Schwab to introduce the new Utilities Director. Mr. Schwab introduced Charles Vokes as the new Utilities Director. He reported there were numerous qualified candidates, but Mr. Vokes quickly rose to the top of the list. He stated Mr. Vokes came highly recommended and was very well qualified. He briefly reviewed Mr. Vokes' work history and qualifications. He stated he was very excited to have Mr. Vokes on board in Broken Arrow. Mr. Charles Vokes stated he was pleased to be a part of the Broken Arrow team and thanked City Council.

City Manager Spurgeon stated Mr. Norm Stephens title had been deservedly changed from Assistant to the City Manager to Economic Development Manager. He congratulated Mr. Stephens.

At approximately 8:17 p.m. Mayor Thurmond 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 Scott Eudey, seconded by Mike Lester.

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: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

At approximately 8:19 p.m. Mayor Thurmond 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 Mike Lester, seconded by Scott Eudey.

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

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

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

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

14. Executive Session

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

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to protect the confidentiality of the employee evaluation as allowed by the Open Meeting Act. 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 8:39 p.m. Mayor Thurmond reconvened the regular session of the City Council Meeting.

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to amend the employment contract of the City Manager as directed by City Council

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Mike Lester.

Move to find that the Executive Session was necessary

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 8:40 p.m.

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

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

/s/Craig Thurmond _____
Mayor

/s/Curtis Green _____
City Clerk