

City of Broken Arrow
Minutes
Special Joint Work Session
City Council and Planning Commission

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Scott Eudey
Council Member Johnnie Parks
Council Member Debra Wimpee
Council Member Christi Gillespie
Chairperson Ricky Jones
Vice Chairperson Lee Whelpley
Commissioner Fred Dorrell
Commissioner Mark Jones

Thursday, June 20, 2019

Time 5:00 p.m.

Council Chambers

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 5:00 p.m.

2. Roll Call

Present: 8 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond, Fred Dorrell, Lee Whelpley, Ricky Jones
Absent: 1 - Mark Jones

3. Pledge of Allegiance to the Flag

Mayor Thurmond led the Pledge of Allegiance to the Flag.

4. General Business

- A. 19-785 Discussion of a possible ordinance adding Section 5.10, Light Pole Banners and Decorations to the City of Broken Arrow Code of ordinances, Appendix A- Zoning Ordinance; specifically including rules and procedures for the City's acceptance of donation of decorative banners or other decorations designed to be placed on light poles; repealing all ordinances to the contrary; and declaring an emergency**
- City Attorney Trevor Dennis reported this Item was for consideration and discussion to determine a level of interest. He stated last year the City was approached by Thomas Mancino with a request for permission from the City to post up banners in the Rose District to honor City of Broken Arrow Veterans. He noted the size of the banners were approximately 20.25 inches wide by 45.75 inches tall (fairly large banners). He explained this request started a larger conversation within the Community, including Parks and Recreation, as well as the City Manager's Office, regarding whether Broken Arrow had a policy to govern City-owned streetlights and banner fixtures. He reported it was discovered there was no policy or procedure in place which governed City-owned streetlight banner fixtures. He explained this was a draft proposal which attempted to identify opportunities for use of banners in a legal manner. He noted the City did own the light poles and the fixtures on the light poles; therefore, the City had the right to control said fixtures. He stated if the City wished to only permit City designed and owned banners to be used, then the City would have the right to exclude any other groups or organization requests to display banners on the light fixtures. He stated this maintained maximum control. He explained if the City wished to permit others, such as the Military History Museum displaying Veteran's Day banners or celebratory holiday banners for the 4th of July (not designed by the City), the Supreme Court indicated this created a limited public forum for a specific type of speech, and once this was done the City could no longer discriminate based upon the content of any similar type genre activities. He stated Broken Arrow could utilize a policy which indicated poles were opened for use only to celebrate City recognized holidays which would allow others to post banners honoring City recognized holidays, but other holidays could be denied. He stated the difficulty lay in where to draw the line and what types of speech Broken Arrow was interested in allowing others to promote upon City property. He explained the proposed ordinance first outlined what the City would allow in terms of speech and recognized this was City property and City speech. He stated he recommended if the City were to allow others to hang banners, the banners should be donated to the City and the City should take ownership of the banners as this would maintain maximum control and ownership.

He stated the second consideration was what areas or types of speech should be allowed. He noted this was divided into three categories: category 1 indicated "the City may use light poles to display donated banners or any other City owned or controlled banners that promote or celebrate the City." He explained this could be something that honored a City employee, or a City event. Mayor Thurmond asked about Rooster Days, which was a Chamber Event (non-profit), and other events such as Shamrock. City Attorney Dennis responded these events

would fall into the final category he would discuss.

City Attorney Dennis stated category 2 was to “promote or celebrate the City and its civic institutions,” which included the City’s parks, libraries, cultural facilities, museums, City recognized holidays. He stated category 3 included events such as Rooster Days, Shamrock the Rose, and Chalk It Up. He reported the language used to accomplish this in category 3 was “public activities or events in the City of Broken Arrow that promote the corporate interests and welfare of the City of Broken Arrow.” He stated it provided that “no commercial banners or decorations would be accepted for display on the City light poles.” He noted when drawing these lines caution was key. He explained whereas the City approved of the events he mentioned, once the City designated a public forum for a certain type of activity and for speech, the City could not discriminate on the basis of the content of said speech. He explained this meant if there was a controversial group which was not embraced by the citizens in Broken Arrow, under this proposed policy the City would not be permitted to discriminate against the content of the controversial group’s speech.

Vice Mayor Eudey noted there was no definition for “civic institution.” City Attorney Dennis stated this could be added. Vice Mayor Eudey stated he felt this was important. He asked did civic institution include groups such as Rotary Club and Knights of Columbus, or just governmental organizations. City Attorney Dennis responded his recommendation for a definition would be City libraries, parks, and cultural facilities such as museums. He stated if the City wished to include other types of civic organizations the definition could be broadened.

Vice Mayor Eudey stated he worried anything permitted along these lines could open up the door for an organization like the Ku Klux Klan to get a permit and display white pride banners, for example. City Attorney Dennis agreed; it would be very difficult to limit this type of activity. He stated it was safer to stick to promoting the City, civic institutions and City recognized holidays (category 1 and category 2 only).

City Manager Spurgeon asked if there could be a category which included organizations which the City had use agreements or relationships with or were City funded. Discussion ensued regarding organizations the City had use agreements with, the possibility of “opening a can of worms” by allowing use-agreement organizations to hang banners, the safest course of action being to limit the use of City poles to City messages with banners owned and created by the City, banners adding character to large events such as Rooster Day or Veteran’s Day, Veteran’s Day being a recognized City holiday, large events promoting tourism, and the risks involved with permitting large event banners.

City Manager Spurgeon raised the possibility of donating funds to civic organizations such as the military museum by selling banners for military or veteran sponsored events. Council Member Wimpee explained the thought was individuals could purchase banners honoring specific veterans to be hung for Veteran’s Day, proceeds from these banners could be donated to the Military History Museum, and the banners could be reused annually. Council Member Wimpee noted she thought the Chamber of Commerce was responsible for the banners.

Council Member Parks stated he felt it was important to decorate the area in celebration of events, as well as holidays. He stated he understood this could potentially cause problems, but he did not feel all events should be denied for fear of one controversial group event; however, he understood it was important to establish controls. Vice Mayor Eudey stated if the most liberal portion of the ordinance were removed (category 3), the City would still be permitted to decorate for Veteran’s Day using banners honoring specific Veteran’s; the problem arose from trying to use banners for fund raising. He stated he believed it was very important to maintain control.

Council Member Wimpee asked if research had been done regarding how other cities have handled this situation including policies and problems. City Attorney Dennis responded in the affirmative; he had looked at other communities, such as Oklahoma City who went through a round of law suits related to this specific issue. Vice Mayor Eudey asked if the proposed Ordinance mirrored Oklahoma City policy. City Attorney Dennis responded the Ordinance mirrored the updated Oklahoma City policy which was instituted following litigation.

City Manager Spurgeon asked if the Military History Museum held a fund raiser, sold the honorary banners in a fund raising effort, and brought the banners to the City for display, would this be in compliance with policy. City Attorney Dennis responded in the affirmative. He explained the application process for banner approval and installation. Council Member Wimpee asked if the banners could be given back to the Museum rather than be disposed of. Vice Mayor Eudey responded the City could store the banners on behalf of the Museum, but once the City took ownership of the property said ownership needed to be maintained. City Attorney Dennis concurred. Council Member Parks asked if the Museum could purchase the banners back from the City. City Attorney Dennis responded in the affirmative. Discussion ensued regarding the City needing to maintain control, Parks and Recreation Staff hanging the banners, private crews installing banners, hanging banners being tricky, physical banner

requirements, and liability insurance coverage for banners especially if hung by a private company.

Chairperson Jones noted the possibility of an individual wishing to display a banner in honor of a Confederate Veteran should be considered. City Attorney Dennis stated this was an excellent example of the risks he was worried about. He explained this was why he recommended the conservative approach which permitted City events, City holidays, and civic institutions (category 1 and category 2). He noted there was no City recognized Confederate holiday which would effectively exclude any banner honoring a Confederate Veteran. He stated opening up the banners to include such things as Rooster Day events made an event to celebrate the Confederacy a possibility. Chairperson Jones asked if a Confederate Veteran would fall into the category of Veterans being honored on Veteran's Day. Discussion ensued regarding Confederate Veterans, Confederate Monuments being torn down, and there always being one individual who wished to be controversial.

City Attorney Dennis explained the City Manager would make the first decision regarding banner acceptance; if denied and the applicant was unhappy, the matter could possibly go before a "Traffic Committee" which consisted of police officers, development services, engineering, etc., (this provided insulation for the governing body from being required to make such decisions), and the next step would be an appeal to District Court.

Council Member Wimpee asked why Rooster Days would not be permitted to hang banners. She stated the Chamber of Commerce was partially funded by Rooster Days. City Attorney Dennis stated Rooster Days would be permitted to hang banners under category 3 with the broad reading, not the conservative approach. Vice Mayor Eudey stated he could not support the broad reading. He felt it was extremely risky. City Attorney Dennis stated it could be argued Rooster Days fell within the scope of the conservative approach as it might be considered an event which celebrated the City, or maybe it could be considered a civic institution as it had been happening for 87 years. Council Member Wimpee asked if Rotary Club was considered a civic institution. City Attorney Dennis responded it depended upon how civic institution was defined. Discussion ensued regarding the definition of civic institutions and City holidays.

Council Member Parks stated he believed if an event was being permitted in the Downtown Rose District, the event should be permitted to hang a banner in honor of the event. Discussion ensued regarding events being held for more than one day being permitted to hang banners and single day events being denied banner rights.

Vice Mayor Eudey stated he wished banners for events to be permitted as well, but it was impossible to control what banners were permitted once event banners were allowed. He noted permitting only specific events through policy would open the door to litigation which the City wished to avoid.

Larry Curtis noted the Ordinance would still go before Planning Commission for review prior to going before City Council for approval. City Attorney Dennis concurred.

Council Member Parks stated if Vice Mayor Eudey felt the City could be sued as a result of permitting events to hang banners then he was opposed as well. He stated if City Attorney Dennis and Vice Mayor Eudey were uncomfortable then he was uncomfortable as well, but he was disappointed.

Council Member Wimpee asked if there had been any issues to date regarding event banners in the City. City Attorney Dennis responded in the negative; not that he was aware of. He explained legal teams worked in the realm of probabilities and possibilities and it was important for City Council to be aware of said probabilities and possibilities.

City Manager Spurgeon noted the City was working on hanging permanent banners in the Rose District (the light poles could hang two banners each) celebrating the Christmas Season, fall season, etc. Vice Mayor Eudey recommended incorporating City traditions into the seasonal banner, for example the spring banner could include a Rooster Days logo. He stated he believed this would be a stronger case than permitting an event banner. He indicated he believed there were ways to incorporate such events and still keep the conservative ordinance wording. City Attorney Dennis agreed. He stated in keeping the conservative wording (category 1 and category 2 only), and keeping the banners City owned and/or created, the City had a right to hang Rooster Day banners it created with City funds.

Mayor Thurmond asked if there was any more discussion regarding Item A. There was none.

B. 19-803 Study session to review and discuss the Final Draft of the Broken Arrow NEXT COMPREHENSIVE PLAN, by the City Council, the Planning Commission, Halff and Associates (consultants) and Staff

Acting Development Services Director Larry Curtis reported the Comprehensive Plan had been an ongoing process for the past 17 months. He reported it covered many areas: Park Master Plan, Land Use Development, Transportation, Infrastructure, etc. He stated Jim Carillo and Kendal Howard with Halff and Associates would make the Comprehensive Plan presentation. He stated if there were no additional changes, the Comprehensive Plan would go before Planning Commission on July 25, 2019 and City Council on August 6, 2019.

Mr. Jim Carillo with Halff and Associates stated Broken Arrow NEXT was selected to name this plan, as this plan looked forward to where Broken Arrow would go NEXT. He stated the Comprehensive Plan served as a guide for the City and City decisions. He stated Halff and Associates considered public input in developing the plan through surveys, meetings, stakeholder interviews, committee meetings, as well as City Staff participation and he believed this strengthened the Comprehensive Plan. He noted the City Vision was to be “the premier place in the region to invest in, to live in, to raise a family, and to attract and grow business.” He stated each component of the plan had a guiding principle. He discussed the guiding principle associated with transportation. He reported Broken Arrow was set apart as a successful City due to its approach to improving certain areas of the City, such as the successful Rose District and now the New Orleans and Elm area, as well as the enhanced corridors, walkability promotion, diversity in housing choices, and sense of place. He noted annexation would continue. He indicated the future Land Use System (LUIS classification system) and map was continuing with some minor changes. He stated mixed use was being encouraged in certain areas. He noted the framework in place for transportation was excellent and the plan identified key areas to focus upon regarding creating enhanced corridors and walkability, as well as beautification. He stated most of the Comprehensive Plan was devoted to a series of very specific actions to guide the City. He noted there were also policies in place which provided background guidance for the City in regards to decision making. He briefly reviewed the actions, policies and goals of Land Use, Transportation and Mobility Implementation (goals of enhanced corridors and walkability), Community Infrastructure, Parks and Recreation (goals of new parks, open space preservation, and trail focus), Housing and Neighborhood Implementation (goals of mix of housing choices, and reinvesting in older neighborhoods), Economic Prosperity (goals of attracting quality retail development, higher institution research development and innovation), and Quality of Life.

Ms. Kendal Howard reported in conjunction with the Comprehensive Plan update the Park Master Plan update was completed. She stated the Park Master Plan provided a blueprint for the future of the Parks and Recreation system in Broken Arrow. She stated the last Park Master Plan was adopted in 2008; the new Park Master Plan would guide future budget and capital improvements. She reported a separate standalone Steering Committee had been engaged for the Park Master Plan and over the course of the past year three Committee Meetings were held to assist with the visioning process and recommendations. She stated the Park Master Plan had specific goals related to incorporating passive and active recreation activities to promote healthy living, equal access to parks and facilities, upholding high standards for efficient maintenance, integrating the natural environment into parks, maximizing funding, connected trail system development, and continued promotion of recreational tourism. She noted the first three chapters of the Plan looked at Broken Arrow today while chapters 4 and 5 went into more detail regarding recommendations and implementation. She reported the Park Master Plan included goals of continued connectivity, branding the parks system, generating excitement, beautification, streetscape enhancement, park trends, integration of open space into district areas, and long term opportunities for additional parks and trails along the riverfront. She stated there was a little less than 1,000 acres of developed parkland within Broken Arrow. She noted the Park Master Plan included a Needs Assessment and Map pinpointing park needs. She reviewed and discussed the Parks Map. She noted it was important to remember this was the plan for the next 20 plus years, a long term vision, and would take time to complete. She stated the short term action plan included policy actions, land acquisition, and additional studies. She stated each action plan included park development improvement recommendations and recommendations related to trails and bikeways. She stated the midterm action plan (years 6 through 10) included additional land acquisition, a vision plan for the Arkansas River Corridor, and additional park improvements. She reported the long term action plan covered years 11 through 25 and would likely be updated in 10 years.

Mr. Carillo noted the importance of feedback and comments. He discussed the Comprehensive Plan process and the work which had gone into developing the NEXT Comprehensive Plan. He commended Broken Arrow for its effort in developing the New Orleans and Elm corners and encouraged Broken Arrow to continue to develop other areas of Broken Arrow in a similar manner. He asked if there were any questions.

Council Member Gillespie asked about the Land Use System (LUIS) System. Mr. Carillo responded there were a variety of different systems employed regarding land use. He stated Broken Arrow’s system was excellent as it gaged both the intensity of what land was used for, as well as aesthetically what was desired, and provided flexibility in development. Mr. Carillo displayed and discussed the Future Land Use System map.

Council Member Parks stated he liked the Land Use System (LUI) map; however, he struggled with the public not having knowledge about the Comprehensive Plan and Land Use System (LUI) map. He indicated it was important to get the public involved and educated regarding the Comprehensive Plan; citizens needed to be aware of potential development throughout the City. Vice Mayor Eudey agreed; he felt it was important to develop a public education plan for the City. Mr. Carillo recommended a learning session during meetings with Home Owners Association (HOAs). Vice Mayor Eudey suggested using Take 5 for public education.

Chairperson Jones asked on a scale of 1 to 10, 1 being easy to use and 10 being impossible to use, how easy for the general public was the Comprehensive Plan to use. Mr. Carillo responded 4; it was not the easiest, but it was not too complicated. Discussion ensued regarding not being able to educate everyone, improving the Comprehensive Plan brochure with additional pictures, the color coding of the map simplifying understanding, some individuals being intentionally ignorant until directly affected, distributing the map to the public, how Broken Arrow's Comprehensive Plan compared with other cities Comprehensive Plans, and the importance of reviewing the Land Use System (LUI) map prior to purchasing a home.

Vice Mayor Eudey asked once the Comprehensive Plan was approved did it become public record. Mr. Curtis stated the Comprehensive Plan was an Ordinance, adopted by resolution, and as such did not become public record at the courthouse. He suggested Broken Arrow develop relationships with the realty associations within Broken Arrow and educating the realtors regarding the Comprehensive Plan which would help ensure the public was aware of potential future development.

Commissioner Lee Whelpley asked when the City should consider developing a new Comprehensive Plan. Mr. Carillo responded waiting 20 years was too long, and the City should consider reviewing the Comprehensive Plan every 5 years to make adjustments. He stated the rate of change had increased and 10 years was a little too long. He stated the review in 5 years did not have to be the extensive 17 month long Comprehensive Plan development process it was this time. City Manager Spurgeon agreed; 10 years was too long. Discussion ensued regarding the Comprehensive Plan, maintaining the Comprehensive Plan every 5 years, keeping the process simple, Indian Nations Council of Governments (INCOC) incorporating Broken Arrow Comprehensive Plan into its plans, HVA appreciating the Land Use System (LUI) system, public education regarding LUI and Comprehensive Plan intent, creating a series of educational videos for Broken Arrow governmental web sites, updating zoning code according to the Comprehensive Plan, and the ease of use of the Park Plan.

Mr. Curtis noted Brent Murphy was instrumental in the development of the Land Use System (LUI) system.

Mr. Farhad Daroga stated he felt this was an excellent Comprehensive Plan, and he agreed with the idea of updating the Comprehensive Plan every 5 years or so. He noted there many different policies in the Comprehensive Plan which applied to many different departments, not just Planning and Development. He stated the Youth City Council program was developed as part of the 1997 Comprehensive Plan and was a highly successful endeavor.

City Manager Spurgeon stated the Comprehensive Plan would continue along the indicated timeline and would be presented to the Planning Commission, followed by City Council.

5. Remarks and Inquiries by Governing Body Members

There were no Remarks and Inquiries by Governing Body Members.

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

City Manager Spurgeon thanked Trevor Dennis for organizing this work session.

7. Adjournment


The meeting adjourned at approximately 6:45 p.m.


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

Move to adjourn

The motion carried by the following vote:

- Aye:** 8 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond, Ricky Jones, Lee Whelpley, Fred Dorrell
- Absent:** 1 - Mark Jones


Mayor


City Clerk

