

The McAlester City Council met in a Special session on Tuesday, January 22, 2019, at 5:30 P.M. after proper notice and agenda was posted, January 18, 2019, at 3:30 P.M.

### **Call to Order**

Mayor Browne called the meeting to order.

### **Roll Call**

Council Roll Call was as follows:

Present: Weldon Smith, Cully Stevens, Travis Read, James Brown, Zach Prichard & John Browne  
Absent: None  
Presiding: John Browne, Mayor

Staff Present: Pete Stasiak, City Manager; Toni Ervin, Asst. City Manager; Jayme Clifton, Community Development Director; Kirk Ridenour, Economic Development Director; Dalton Carlton, Utility Maintenance Superintendent; William J. Ervin, City Attorney and Cora Middleton, City Clerk

### **Scheduled Business**

1. Discussion and possible action, to reconsider a Use Permit After Review in the Wade Watts Corridor for the use of the property at 1200 E Wade Watts Avenue, described as Lot 4, in Block 455, South McAlester, Pittsburg County, State of Oklahoma for a “pharmacy” and/or “any other small to medium sized commercial establishment consistent with Sec 62-272 subsection (e)(1) that provides shopping and service outlets for the convenience of the neighboring residential areas”. (*Travis Read, Councilman Ward Three*)

Executive Summary

Discussion and possible action to approve a Use Permit After Review in the Wade Watts Corridor.

Director Clifton addressed the Council explaining that the property was zoned R-1B (single family residential) and located in the Wade Watts Corridor Development overlay. She stated that the Oklahoma Medical Marijuana Authority (OMMA) was created in July 2018, with the lawful passage of State Question 788. She briefly reviewed the restrictions set out by the OMMA for dispensaries, the number of licensed dispensaries and growers in the City of McAlester, the Planning Commission’s discussion on this matter and how she decided that a pharmacy closely matched a dispensary, the number of commercial businesses in the Wade Watts Corridor and how most of those businesses having gone through the Use Permitted review. She added that even though it was in the Wade Watts Corridor it still had to meet the uses. She explained that there were a few residents that spoke against the application, but their concerns were more about increased traffic in the area.

Director Clifton explained that the Planning Commission met on December 18, 2018 and voted six (5) to one (1) to recommend the applicant’s Use Permitted After Review request be approved.

Mayor Browne explained that Councilman Read had asked that this item be brought back on the agenda and he asked if he would move to reconsider the item.

Councilman Read explained that since this was new to the City and the State if felt that it should be heard by all the Council and not just a few. He then moved to reconsider a Use Permit After Review in the Wade Watts Corridor for the use of the property at 1200 E Wade Watts Avenue, described as Lot 4, in Block 455, South McAlester, Pittsburg County, State of Oklahoma for a “pharmacy” and/or “any other small to medium sized commercial establishment consistent with Sec 62-272 subsection (e)(1) that provides shopping and service outlets for the convenience of

the neighboring residential areas". The motion was seconded by Mayor Browne and the vote was taken as follows:

AYE: Councilman Read, Smith, Brown, Prichard & Mayor Browne

NAY: None

ABSTAIN: Vice-Mayor Stevens

Mayor Browne declared the motion carried.

Councilman Read began the discussion commenting that there was still a lot of discussion that needed to be had regarding this topic and that the City should have addressed this when the State law was passed. He stated that it was a stretch to consider this business a pharmacy. He also commented that the letter was not completely transparent when the property owners were notified. There was further discussion concerning if dispensaries were regulated by the Oklahoma Bureau of Narcotics (OBN), if an OBN number was required, what other cities were doing, the challenges to the municipal regulations that have come up, who would be liable should someone have a wreck, if there would be a growing facility in the store, what this item was concerned with, the City updating the language in the Code, how the language in the State law was created, how there already were dispensaries in the City and the definition of a pharmacy.

Blake Lynch, 349 E. Washington addressed the Council stating that the OBN would have oversight of the businesses and if Walgreens and CVS were Oklahoma owned businesses they would be allowed to sell medical marijuana, he informed the Council that the City did not have a definition of pharmacy anywhere in the Code, so when no definition exists you consult a dictionary, he stated that no one would be allowed to smoke or eat any marijuana in the store and there were currently forty thousand (40,000) patients in Oklahoma with approved licenses. He stated that in the five (5) days that the store had been open it had served one hundred fifty customers with ninety (90) of those being residents of McAlester.

Mayor Browne stated that the Special meeting would need to be recessed to call the Regular Meeting to order.

A motion to recess the Special Meeting and call the Regular Meeting to order was made by Councilman Read. The motion was seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Stevens, Brown, Prichard & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the meeting was recessed at 5:58P.M.

### Reconvene Special Meeting

The Special Meeting was reconvened at 6:00 P.M.

Blake Lynch continued to address the Council regarding the applicants' protections under the law.

There was discussion concerning who was running the business and if the City was correct in the way the business was described.

Councilman Read asked Attorney Ervin for his opinion on how the City had addressed this matter, how it was described in the letter and if the City was following its' own ordinances.

Attorney Ervin stated that at this time State law allowed dispensaries and not pharmacies. He commented that the City may need to update its' Code and the Oklahoma Supreme Court could decide that cities do not have any regulating power over this matter but at this time no one knows what the law will be.

There was further discussion concerning the City's current law, why the City had the review, having citizens input, how the language in the letter was what was in the Code, and the names on the petition being mainly from tenants and not property owners.

Mayor Browne asked if anyone in the audience would like to speak in opposition of the application. He then asked if there was a motion on the floor. He then clarified that the motion would be to approve the "Use After Review".

Councilman Prichard moved to approve the "Use After Review" in the Wade Watts Corridor for the use of the property at 1200 E. Wade Watts Avenue , described as Lot 4, in Block 455, South McAlester, Pittsburg County, State of Oklahoma for a "pharmacy" and/or "any other small to medium sized commercial establishment consistent with Sec 62-272 subsection (e)(1) that provides shopping and service outlets for the convenience of the neighboring residential areas". The motion was seconded by Councilman Read. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Prichard, Read, Brown & Mayor Browne

NAY: Councilman Smith

ABSTAIN: Vice-Mayor Stevens (counted as a no vote)

Mayor Browne declared the motion carried.

### **Adjournment**

There being no further business to come before the Council, Councilman Read moved for the meeting to be adjourned. The motion was seconded by Councilman Smith.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Brown, Prichard, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 6:26 P.M.

ATTEST:

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John Browne, Mayor

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Cora Middleton, City Clerk