



**City of Broken Arrow**

**Minutes  
City Council**

City Hall  
220 S 1st Street  
Broken Arrow OK  
74012

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

**Tuesday, February 21, 2017**

**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**

Reverend Dan Haas delivered the invocation.

**3. Roll Call**

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

**4. Pledge of Allegiance to the Flag**

Boy Scout Troop #903 led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

Mayor Thurmond stated that City Attorney Beth Anne Childs wished to address an item on the Consent Agenda. Ms. Childs specified that attachments relating to item Y had inadvertently been attributed to the wrong item. The documents in the attachments had been submitted to the Clerk. The agenda's description regarding item Y was correct and there was no need to remove the item.

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

**Move to approve the Consent Agenda**

The motion carried by the following vote:

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

- A. 17-1655** Approval of City Council Meeting Minutes of February 7, 2017
- B. 17-1855** Approval and authorization to execute the Oklahoma Municipal Retirement Fund Authorized Agent Notification Form designating Amber Moreno as the City's Authorized Agent
- C. 17-1871** Approval and adoption of the City of Broken Arrow Traffic Control Manual
- D. 17-1870** Approval and authorization to execute Resolution No. 987, a Resolution of the Broken Arrow City Council approving and authorizing the City's Traffic Control Committee to serve as an Advisory Committee to the City Manager on the implementation of the guidelines contained within the City's Traffic Control Manual; and approving and authorizing the appointment of a representative of the Legal Department to the City's Traffic Control Committee and appointment of the Assistant City Manager of Operations to serve as the Chairperson of the Committee
- E. 17-1840** Approval and authorization to accept Liberty Mutual Insurance Company's offer to settle a claim for vehicle loss, declaring the vehicle surplus and releasing it to Liberty Mutual Insurance Company
- F. 17-1827** Approval and authorization to execute a Professional Consultant Agreement with Olsson Associates for Concept Design of an Industrial Collector Street Roadway and Waterline in the vicinity of 9th Street between Houston Street and Washington Street
- G. 17-1841** Approval of bids received, award of the lowest responsible bid to Traffic and Lighting Systems, Inc., and approval and authorization to execute a construction contract for Kenosha and 33rd Street Signal (Project No. 175135)
- H. 17-1830** Approval of bids received, awarding of the lowest responsible bid to Magnum Construction, Inc., and authorization to execute a construction contract for Arrowhead Park Softball Shade Structures (Project No. 166014)
- I. 17-1838** Approval of bids received and awarding of the lowest responsible bid to England Ford for the purchase of one (1) replacement dump truck for the Parks Department

- J. 17-1856 Approval of bids received and awarding of the lowest responsible bid to OCT Equipment for a tandem roller with dual drums for the Streets and Stormwater Department
- K. 17-1858 Approval and authorization to purchase two (2) stainless steel sand/salt spreaders with options from Caseco for the Streets and Stormwater Department pursuant to the State of Oklahoma Contract SW500
- L. 17-1852 Approval and authorization to purchase three (3) snow plows with hitches from Southwest Trailer for the Streets and Stormwater Department pursuant to the State of Oklahoma Contract SW500
- M. 17-1836 Approval and authorization to purchase fifteen (15) Dell Latitude 14 Rugged Extreme Laptops from Dell, Inc. pursuant to the Oklahoma statewide contract for the Fire Department
- N. 17-1777 Notification of Change Orders with a value of less than \$25,000 on Public Contracts
- O. 17-1754 Approval and authorization of Final Acceptance for the public improvements at Ferguson Subaru located at 1501 North Elm Place
- P. 17-1826 Approval and authorization of Final Acceptance for the public improvements at Villas at Bricktown located at 1251 North Olive Avenue
- Q. 17-1839 Acceptance of a Deed of Dedication from Margaret Ogle Campbell, Trustee of The Margaret Ogle Campbell Trust Dated July 8, 1987, for the property located one-quarter mile south of New Orleans Street, east of 9th Street, Tulsa County, State of Oklahoma (Section 25, T18N, R14E) (Campbell Lot Split)
- R. 17-1842 Acceptance of a Utility Easement Dedication from Margaret Ogle Campbell, Trustee of The Margaret Ogle Campbell Trust Dated July 8, 1987, for the property located one-quarter mile south of New Orleans Street, east of 9th Street, Tulsa County, State of Oklahoma (Section 25, T18N, R14E) (Campbell Lot Split)
- S. 17-1817 Acceptance of a Deed of Dedication from SRI Real Estate Properties LLC, for the property located west of Elm Place, north of the northwest corner of New Orleans Street and Elm Place (Section 22, T18N, R14E) (Sonic)
- T. 17-1821 Acceptance of a Utility Easement from SRI Real Estate Properties LLC, for the property located west of Elm Place, north of the northwest corner of New Orleans Street and Elm Place (Section 22, T18N, R14E) (Sonic)
- U. 17-1843 Acceptance of a Utility Easement conveyed to the City of Broken Arrow for a tract of land located in part of the NW ¼ of Section 8, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 209th Street Lift Station and Force Main Improvements (Project No. S.1608)
- V. 17-1844 Acceptance of a Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in part of the NW ¼ of Section 8, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 209th Street Lift Station and Force Main Improvements (Project No. S.1608)
- W. 17-1868 Acceptance of a Utility Easement and Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in part of the NW ¼ of Section 7, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 209th Street Lift Station and Force Main Improvements (Project No. S.1608)
- X. 17-1846 Acceptance of a Utility Easement and Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in part of the NW ¼ of Section 8, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 209th Street Lift Station and Force Main Improvements (Project No. S.1608)
- Y. 17-1848 Acceptance of a Utility Easement and Temporary Construction Easement conveyed to the City of Broken Arrow a tract of land located in part of the NW ¼ of Section 8, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma for the 209th Street Lift Station and Force Main Improvements (Project No. S.1608)
- Z. 16-1540 Approval of the Broken Arrow City Council Claims List for February 21, 2017

**6. Consideration of Items Removed from Consent Agenda**

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

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

- A. 17-1833 Presentation by representatives of Stoney Creek Hospitality Corporation to provide an update of the Stoney Creek Hotel and Conference Center  
Jim Thompson, Founder, CEO, and Chairman of Stoney Creek Hospitality Corporation, provided an update on the status of construction at the Stoney Creek Hotel and Conference Center. Mr. Thompson presented an aerial drone video showing progress on the project. The

sole structure remaining to start work on was the pool building, for which ground preparation of footings was visible, and which would make a stunning impact to complete the whole. Mr. Thompson commented that the video, although recent, showed an earlier stage of the project, and that the lower parking area's curb, gutter and islands had been installed. They were, in fact, at the point of applying the base coat to the lower parking lot while, as seen in the video, the upper parking area had been completed. Mr. Thompson reported that in any case, they were about four weeks behind their schedule. They were hopeful they could make up much of the ground they had lost. He explained that all four of the buildings were in various stages of completion. They were finishing the framing on the four-story building and work on the Conference Center interior finishes would begin in about three weeks. Insulation and drywall was being put in place at the center building, designated as "Building B," while "Building A" was in various phases of mechanical rough-ins, with finishes on the framing left to do. Framing on the final building that would house the pool would commence in approximately a month's time.

In reply to a question by Councilman Lester, Mr. Thompson specified that they would be phasing in the interior-finish projects, with the building containing most of the public space to be finished first, as a priority. Reiterating that he the hoped to make up for lost time, Mr. Thompson added that they were still aiming for a September soft opening and a December 1<sup>st</sup> grand opening celebration, to which the entire community would be invited. It would be exciting to see completion of a project for which planning had begun in 2004, and to see the reaction to pleasing aesthetic features like the seven different textures incorporated into the exterior. Mr. Thompson informed the Council that the next day he and his team would be meeting with the Chamber of Commerce, the Economic Development Corporation (EDC), to organize and develop an aggressive pre-marketing plan and strategy. City Manager Michael Spurgeon interjected that he and Economic Development Director Norm Stephens would be meeting with Mr. Thompson, his team, and the Chamber also, to discuss schedules and activities aimed at ramping up promotion of the facility.

**B. 17-1873**

**Presentation and discussion of the OpenGov digital platform**

Assistant City Manager of Administration Russell Gale recalled that one of Mr. Spurgeon's initial goals as City Manager was to enhance the City's financial transparency. As a result, Broken Arrow was joining thousands of other governmental entities in implementing a new digital platform powered by OpenGov. That digital platform software was currently on the Broken Arrow website, available for access by the public. Mr. Gale stated that a demonstration of OpenGov would be given by Sierra Lennon, OpenGov Project Manager from the Finance Department.

Mayor Thurmond noted that Broken Arrow was the only city in Oklahoma to have OpenGov at the present time. Mr. Spurgeon related that he encountered the program through a vendor at the National League of Cities Conference and expressed his appreciation to Mr. Gale.

Ms. Lennon demonstrated how to access the program on the brokenarrow.gov website. Proceeding to "Public Information," with the eyeball icon, and clicking on "Budget" on the left hand side of the page, you were led to a link to the "Financial Transparency Portal." Alternatively, you could go directly to OpenGov by typing in the URL brokenarrowok.opengov.com, which brought to the basic landing page. Ms. Lennon pointed to the icons on the right that you could click on to access information. Alternatively, you could click on a section of the pie chart to obtain the same information. To the left of the pie charts were preset views providing a list of links to data from financial reports that would be of interest to the inquiring public. For example, you could view a chart of the FY 2017 sales tax breakdown or FY 2017 special revenue funds, presented in the form of pie chart. Data could also be obtained by utilizing the "Filters" feature again, on the left. Scrolling down to the bottom, below the pie chart, you could view the numbers for a particular subject category, or make note of the totals displayed to the immediate right and left of each pie chart. To refresh the page and conduct a new search, you simply clicked "Reset," in the upper left hand corner of the page. The chart could also be shared on social media or downloaded in the form of an image, table or spreadsheet by clicking on the respective links in the upper right hand corner. Ms. Lennon displayed results you got by clicking on "Current Year Budget v. Actuals," for expenses. The breakdown was given in the form of a bar chart, with diagonally lined bars providing the budget and solid bars without lines showing the actual numbers. By hovering over any colored section in a particular month, you could access a particular category, such as public safety for example, which was broken down by what was spent for the month, the percentage of change or deviation, plus or minus, from what had been budgeted, and the total amount budgeted for the fiscal year. The public safety category could be further broken down to Police Department expenses, and broken down further, if the viewer wished, by expense type within that Department, which provided figures for salaries and wages.

Councilman Lester asked if a tutorial would be provided for citizens who wished to learn how to navigate the digital platform that OpenGov provided. Ms. Lennon replied that they were videotaping her presentation that day and there was a questions and answers (FAQ) on the landing page. Also, you could click on "101" to be given a walk-through of the program.

Mayor Thurmond commented that he and Councilman Eudey had been introduced to OpenGov at the National League of Cities Conference and were instantly impressed, realizing what an amazing tool it could be for Broken Arrow. He was proud that Broken Arrow was the first city in the State to use such a unique, state-of-the-art tool that would enhance their policy of greater transparency.

Mr. Gale stated that the data, available for use by entire staff, would be updated by the 15<sup>th</sup> of each month. He indicated that there were a couple more exciting programs on which the staff was working, in their infancy. Ms. Lennon would be presenting one such program, showing mapping with regard to bond issue projects.

Ms. Lennon displayed a page highlighting 2014 General Obligation Bond data solely for Streets. A street map containing colored circles in relation to specific streets was shown. Clicking on any circle provided you with the street name/location, the specific project name, and the dollar amount voted on by citizens originally, toward that project. Councilman Eudey commented that immediately upon encountering the program Ms. Lennon was describing, he had been excited by the possibility to foster greater understanding on the part of citizens.

Mr. Spurgeon commended Finance Director Tom Caldwell and his staff for embracing OpenGov, mastering the technology, and inputting the data. Their work afforded the public the opportunity to avail themselves of a high level of detail with regard to up-to-date information of a financial nature.

**C. 17-1857**

**Presentation by Development Services Director Michael Skates on observations and objectives of Development Services Department and related discussion**

Director of Development Services Michael Skates said he would provide an overview of his Department. He stated that Broken Arrow was a Character Counts! city, focusing on the six pillars devised by the Josephson Institute of Ethics, in performance of their daily tasks and conducting of business. He displayed an organizational chart of his Department, reporting that they currently had 31 employees. Throughout the past year, they were involved in stretching their Planned Development Section, moving things around and creating a new division, Special Projects. City Planner Farhad Daroga was shifted over to that Division as its Manager, in order to focus on several key, special projects, including primarily, the Comprehensive Plan, the Downtown Overlay, and a number of other projects in the works. With that in mind, another Manager in Plan Development was hired, as well. Mr. Skates pointed out that a future Planner II position was included under heading of Plan Development. In collaboration with Assistant City Manager of Operations Ken Schwab, they were able to reconfigure some of the Department's money, which enabled them to move forward with hiring a new Project Engineer, who facilitate the City becoming more self-reliant and efficient in the conducting of timely reviews.

Mr. Skates explained that the Development Services' purpose was to provide "cradle to grave" support for processes involving residential and commercial development within the City. He listed and described the functions of the Department's four Divisions: One-Stop, Building Inspection, Plan Development and Special Projects. Using OpenGov, with the assistance of Ms. Lennon, he was able to generate a pie chart representing the Development Services Department's personnel, broken down by a 6-month budget and projected year-end budget for each Division, with the exception of Special Projects. The total in personnel costs was approximately \$2.4 million, he noted. Going on to describe the Department's environment, he pointed out that its primary goal was to be of service, helping people. In finding ways to help citizens the Department emphasized "streamlined thinking," as an efficient and effective approach. They followed a strategic vision put forth by City Management, training staff and assuring back-up staff was in place to fill in when needed. They were mindful of creating a vibrant culture within the Department and avoiding stagnation too. Other main goals pertained to maintaining a clean and orderly "vision" workplace and empowering employees to function as representatives of the Department, as well as answering citizens' questions and assisting them.

Mr. Skates went over some advantages of developing in Broken Arrow. The first advantage developers had at their disposal was plentiful low cost, undeveloped land. Secondly, the City boasted excellent infrastructure with low utility rates. Thirdly, Broken Arrow had viable demographics with expendable income, as well as a supportive municipal government and good internal department relationships. The strong school system was another attraction for developers, along with the City's strong partnership with the Chamber of Commerce, the EDC and schools. They had created a vibrant presence in the Downtown area through their revitalization and they were reaping the rewards. Finally, Broken Arrow was statistically, the safest city in Oklahoma and was rated a top place to live, raise a family, and retire.

Referencing a map, he had handed out prior to the start of the meeting, Mr. Skates presented a supplementary map, providing a snapshot of the City's ongoing development projects. He reported that there were 27 commercial projects under construction in the City, along with 24 residential subdivisions under development, and five public school projects forthcoming, or already underway. Mr. Skates turned to map delineating residential development in the

southwest part of the City. There remained a lot of commercial land available for development along the Creek Turnpike. They had seen over the past two years or so, nearly 15 subdivisions under construction and moving through his Department. He pointed out that as they could see from the map, around the Warren Theater and within a two-mile radius, there were over 1,800 homes or lots. Currently, they were about 29% built out, with the City having issued over 500 permits. If the economy stayed strong over the next year to two years, he anticipated a great upswing in residential development on the scale of what they witnessed in 2006 and 2007. Residential development would, in turn, help drive commercial development. Mr. Skates pulled up a slide giving a graphic representation of building permits in the form of a bar graph. The chart provided a snapshot of where the City stood with respect to residential, commercial, and multi-family building permits over the three-year period from 2014 through 2016. He explained that they had many tools in their toolbox, including Planned Unit Developments (PUDs), to facilitate development.

Mr. Skates stated that Development Services was focused on special projects relating to the Comprehensive Plan and zoning maps. They were updating the zoning maps and would upload them to the government website upon completion. They were working on Vision 2040, which was the Comprehensive Plan, with revised zoning ordinance and subdivision maps codes to follow updated zoning maps. In conclusion, Mr. Skates stated that it was a great time to be in Broken Arrow. It held great potential for development and exciting times were ahead for the City.

Councilman Parks commended Mr. Skates on this presentation. He went on to say that he had been disappointed by the slowness of development in the area along Creek Turnpike, given the presence of the Turnpike and burgeoning residential development. Mr. Skates agreed, stating that there were reasons for the lack of development in the area, but they were doing everything they could to encourage and facilitate it, working diligently to try to convince developers to invest. He added that things were starting to pick up in the surrounding area and that he hoped that when some of the apartments under construction were completed, by June or July, retail and commercial offices would open, as well.

Mr. Spurgeon requested that Mr. Skates take a moment to talk about the importance of the creation of the new City Planner position. He recalled also that Mr. Schwab and Mr. Skates had been talking about separating the City's Capital Projects from the type of development they had been discussing, allowing Mr. Skates to focus on the development aspect for the benefit of potential investors. Mr. Skates explained they intended to expand the Division by inserting some positions with the aim of creating a kind of secession plan with regard to long term growth. He explained further that when Development Services received plans to review regarding engineering, they were not only reviewed internally, but they enlisted the support of Engineering Services, primarily the Stormwater Division, as well. They also relied on the Utility Department to review water and sewer systems. Often, if a development project included interior commercial roadways, they might also receive assistance from the Engineering Director and his staff to examine the streets and their profiles, vertical and horizontal curvature, and so forth. In short, not only did Engineering have over 140 projects, but Development Services itself, had 54 projects in the works, with many more coming down the pike. Therefore, it was to everyone's advantage for Development Services to examine how they could free up the support from Stormwater so that it could focus more on its own projects and so Development could be a little more independent in its reviews, also. With the support of Mr. Schwab in reviewing their budget, Development was able to move forward with hiring of a new Engineer. They had already hired a new Project Engineer, so that the applicant they would hire did not necessarily, have to be a Professional Engineer (PE), but could be Intern Engineer (IE) instead. With that also, Development was also looking at hiring an additional, much-needed Planner.

Mr. Spurgeon took the opportunity to introduce the new Planning Development Manager, Larry Curtis, who was in attendance, and welcomed him onboard. Mr. Spurgeon also noted that Farhad Daroga would serve as the new Special Projects Manager, adding that Mr. Daroga was the epitome of a great public servant. Mr. Spurgeon thanked him for all he had done for the City and for his leadership. As City Manager, he would be keeping Mr. Daroga very busy. Mr. Daroga received a round of applause for his service.

Mayor Thurmond wanted to also address Councilman Parks comments about development in the south. Referring to the map, he brought attention to the areas that show lots, but no houses built yet, so when talking to national developers they want rooftops, they want density, but it is getting to a point where they will start seeing some development in the next few months that will be announced.

## **8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services**

No citizens signed up to speak.

## **9. General Council Business**

- A. 17-1835 Consideration, discussion, and possible approval and authorization to execute Resolution No. 979, a Resolution of the Broken Arrow City Council approving,**

**authorizing and accepting a contract for sale of real estate for real property located at 845 East Elgin Place, in Broken Arrow, Oklahoma and more particularly described as beginning in the Northeast corner of Block Two (2), Mound View Addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, thence west fifty (50) feet; thence south one hundred forty (140) feet; thence east fifty (50) feet; thence north one hundred forty (140) feet to the point of beginning; approving and authorizing purchase of real estate pursuant to the Contract for Sale of Real Estate; and authorizing the City of Broken Arrow's expenditure of the sum of \$76,900.00 to effect such purchase, as well as reasonable and necessary costs; designating representatives of the City of Broken Arrow, Oklahoma, for purposes of granting certain approvals and executing certain instruments as required under and in connection with said Contract for Sale of Real Estate; and containing other provisions relating thereto (9th Street Widening Project - Elgin to El Paso)**

City Attorney Beth Anne Childs stated that the item was back for the Council's consideration as a result of a transfer made by the owners of the property. As the Legal Department was completing its due diligence, the Title Opinion Attorney discovered a discrepancy. Therefore, in order to move to closure, it was necessary for the Council to approve the Resolution.

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

**Move to approve Resolution No. 979 and authorize its execution**

The motion carried by the following vote:

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

**B. 17-1845** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 980, a Resolution of Necessity to condemn property located at 800 E Dallas Street, Broken Arrow, Tulsa County, State of Oklahoma**

Director of Engineering/Construction Alex Mills explained that the Resolution was in connection with the 9<sup>th</sup> Street street-widening project and right of way, utility easements and temporary construction easements. The City had negotiated with the property owners for about a year to no avail, with regard to procuring signatures on the documents. With Engineering/Construction needing to start utility relocations in April, Council's approval to condemn the property was necessary for the project move forward.

In reply to a question by Councilman Parks, Mr. Mills affirmed that the intersection would have a signal, as the Council had wished. He confirmed to Vice-Mayor Carter that there would be a turn lane with a signal as well, adding that their project design had impacted the adjacent parking lot very little, the lot losing only two parking spaces.

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

**Move to approve Resolution No. 980 and authorize its execution**

The motion carried by the following vote:

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

**C. 17-1847** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 982, a Resolution of Necessity to condemn property located at 825 East Dallas Street, Broken Arrow, Tulsa County, State of Oklahoma**

Mr. Mills stated that similar to the previous item, the Resolution before the Council pertained to the 9<sup>th</sup> Street project, however, it concerned private property on the other side of Dallas Street. The property owners were approached initially with regard to the need for a right of way and a temporary construction easement. Subsequently, the project was redesigned to include a traffic signal and it became clear that the City needed to acquire more property. Since it would adversely affect the property in question, the City made an offer to take the entire property. As the City and the property owners had not been able to come to an agreement on the price, he was asking that the Council approve the Resolution condemning the property.

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

**Move to approve Resolution No. 982 and authorize its execution**

The motion carried by the following vote:

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

**D. 17-1849** **Consideration, discussion, and possible approval and authorization to execute Resolution No. 984, a Resolution of Necessity to condemn property located at 310 South 9th Street, Broken Arrow, Tulsa County, State of Oklahoma**

Mr. Mills stated that, as with the previous two items, the item under consideration regarded right of way and utility and construction easements, in connection with the 9<sup>th</sup> Street project. An offer of \$8,100 was made to the property owners which they flatly declined, with no negotiation available. Mr. Mills noted that the fact sheet contained a typographical error down below, beneath the text, incorrectly giving \$81,000 as the amount offered. The Council's approval to condemn the property was requested, as specified in the Resolution.

MOTION: A motion was made by Mike Lester, seconded by Richard Carter.

**Move to approve Resolution No. 984 and authorize its execution**

The motion carried by the following vote:

**Aye: 5 -**

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

**E. 17-1853**

**Consideration, discussion, and possible approval and authorization to execute Resolution No. 985, a Resolution of Necessity to condemn property located at 312 North 9th Street, Broken Arrow, Tulsa County, State of Oklahoma**

Ms. Childs stated that the final two items, E and F, did not require action on the part of the Council because the Department of Engineering/Construction had actually been able to reach resolution.

**F. 17-1854**

**Consideration, discussion, and possible approval and authorization to execute Resolution No. 986, a Resolution of Necessity to condemn property located at 310 North 9th Street, Broken Arrow, Tulsa County, State of Oklahoma**

As stated by Ms. Childs in discussion of the previous item, no action was necessary on item F.

**10. Preview Ordinances**

No preview ordinances were considered. No action was required or taken.

**11. Ordinances**

There were no ordinances for consideration. No action was required or taken.

**12. Remarks and Inquiries by Governing Body Members**

Mayor Thurmond said he had asked the City Manager to respond to a question about a drainage easement and he asked Ms. Childs to explain the concept behind condemnation of property, as well. Mr. Spurgeon stated that he would touch on the drainage easement with the aid of Mr. Schwab, after Ms. Childs had shed some light on the condemnation process.

Ms. Childs reported that typically, Engineering/Construction and the right-of-way acquisition agent would reach out to individual property owners as it began to move forward with a project. Normally, the project in such case was large scale in nature, demanding such actions as expanding a right of way, relocating utilities and upsizing sanitary sewer or storm water lines. There were also circumstances where, for example, they needed to acquire land for a sanitary sewer lift station, or they were responding to a call from a particular neighborhood to address a drainage issue. Ms. Childs observed that even when there was no land to acquire, the agent did a very good job of informing and updating residents in the vicinity of the City's plans. They would typically, communicate with them in person and in writing and request a donation. They would generally make the request, first of all, because the individuals would most often be entitled to a tax write-off if they complied. Secondly, there were only so much funds available in the General Obligation Bond and they tried to be very vigilant in their programming in terms of capturing how much it would cost the City to acquire the land and to complete the project. Inevitably however, depending on the petroleum industry and various other costs, they sometimes missed the projections due to factors beyond their control. In requesting donations, they were trying to be good stewards of taxpayer dollars. If they were unable to secure a donation, they would obtain an appraisal. Ms. Childs noted that it was important for people to understand that the appraisal was heavily dependent upon the type of acquisition the City was seeking. For example, if they were seeking merely an easement, generally the value would be less than fee-simple acquisition as when you bought a house. The appraiser would also take into consideration the impact a project had on the remainder of the property. A copy of the appraisal would be provided to the property owners with the inquiry of whether they were willing to accept the appraised value. If it was accepted and the amount exceeded \$25,000, or if the owners went ahead and executed, it would be placed on the City Council meeting agenda where Council would be asked to accept the easement or the dedication. In the event that they were unable to reach an agreement on the value of the property, Engineering/Construction would forward the file to the Legal Department which would, in advance of condemnation, reach out to the landowner one final time, asking if they were interested in trying to reach resolution. The Legal Department would place a Resolution of Necessity on the Council agenda, as they had on the agenda of that night's meeting, which would provide the authorization needed to move forward with condemnation action. Ms. Childs clarified that condemnation was actually eminent domain, "condemnation" being the colloquial term commonly used in Oklahoma. They would then proceed to file the action in Tulsa County District Court or Wagoner County District Court, depending upon where the property was situated. The City attorneys would reach out to the landowner or, if they were represented by counsel, the attorney would be contacted directly. The Court would set a hearing to appoint three Commissioners, otherwise known as Freeholders in the statute, all three of whom had to own property in the county and be experienced in property valuation. The Commissioners would get together to review the documentation, land records, the treasurer's reports, and

would meet with the landowner. Typically, the City's legal team would go out to the site with them and an inspection would be conducted. The Commissioners would then complete a report, which would be filed in District Court and considered the value of the land, as far as the Court was concerned. Fortunately for the landowner, that was not necessarily the end of it. The City would pay the amount listed in the report into Court and once that was done, the City had the ability to move forward with the public project. However, the landowner was able to go ahead and withdraw the money. Within a certain statutory timeframe also, both the City and the landowner had the right to request a jury trial. If the owner of the property were dissatisfied with the amount of the Commissioners' award, they could file a demand for jury trial or, if the landowner didn't believe the acquisition was for public purpose, they had grounds to appeal since in Oklahoma, property could not be condemned for purposes of economic development. The property could only be condemned for a public purpose, such as a roadway, utilities, and so forth. For this reason, the City scrutinized such matters very carefully. If the landowner believed there was some irregularity in the process, they could object to the Commissioners' report, citing certain valid technical considerations they objected to. If the property owner elected for a jury trial and the jury came back with a valuation over 10% in excess of the Commissioners' award, then the City would be required to pay all the property owners' costs in attorney's fees. Nevertheless, Ms. Childs stated, very few properties ended up in condemnation, in fact. The legal team worked very hard to balance being a good steward of taxpayer dollars and trying to treat landowners reasonably and fairly.

Mr. Schwab said he would give some background on the north side of town and the specific project that was on the Agenda in January. Pointing to Highway 51/Broken Arrow Expressway, in the aerial view on the screen, he recalled that the Expressway opened in 1965, and north of that was open pasture/grassland. Mr. Schwab explained that two drainage structures were constructed under the Expressway, on the east and west, which finally came together at one location. As the Oklahoma Department of Transportation (ODOT) designed Highway 51/Broken Arrow Expressway, they were only required by their rules and regulations, to design the drainage structures to a 50-year storm event and 2% chance. Pointing to the area on the right hand side in the vicinity of the First Baptist Church, Mr. Schwab specified that it all drained to the north side of the Highway, and then south into Haikey Creek Basin. With the passage of time and development of the land, the City found itself having to come up with a plan to address the drainage in the area. In April 2014, a consultant was hired to address the drainage area in question. They came up with a plan including a couple of different phases. Phase 1 was to build a storm sewer system that would drain to the west, into detention ponds in Battle Creek. The design of Phase 1 was complete, the project was ready to go to bid, and in January, the Council approved condemnation and easement across the property, City staff having dealt with the property owner over the course of nearly two years, without being able to secure a deal

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

Councilman Eudey commented that he was saddened to learn a day earlier, of the Broken Arrow Ledger's imminent closing. The Ledger, referencing the City's identity, represented part of what made Broken Arrow special, and he wished to make note of the passing of a true Broken Arrow tradition. He thanked Mr. Ferguson for his attendance, his tolerance, and for his faithful and fair coverage of City Council meetings.

Mr. Spurgeon thanked Mr. Skates for his outstanding, informative presentation. He welcomed Larry Curtis onboard, wishing him luck and saying he was looking forward to working with him, as well as with Mr. Daroga in his new capacity.

Mr. Spurgeon reported that the week before he was in Washington, D.C., discussing several matters of importance with their federal delegation. They had a very productive meeting in which the focus was on half a dozen, or so, items. Firstly, they spoke about what used to be termed "e-fairness," with the goal of making sure that there was a level playing field for bricks and mortar commercial and retail businesses. He was encouraged to find that a majority of legislators in their State did support the endeavor to come up with language that helped such businesses. They also discussed resubmission of the City's Transportation Investment Generating Economic Recovery, or TIGER Discretionary Grant, for the County Line project, which included the road widening and bridge replacement, constituting a \$14 million undertaking. They were trying to make up for a small gap in funding and winning the Grant would enable to move forward with the project, which was so important due to the traffic volume on that road and increasing commercial development in the area. Secondly, they also talked about the Dodd-Frank Wall Street Reform and Consumer Protection Act, more commonly referred to as Dodd-Frank, and how it continued to hurt business. They were counting on repeal of some kind, which was expected. Mr. Spurgeon stated that they discussed a number of other items on behalf of the City, taking the opportunity to meet with their federal delegation periodically, independent of the NLC, to let them know, from a legislative and administrative



perspective, what was important to the City's interests. He was happy to report that they were very well received.

Mr. Spurgeon stated that he gave an update to the Chamber of Commerce earlier in the day, on the Rose District and Streetscape. He reported that they were nearing the end of construction on the southern portion and construction would head north shortly. He recalled to the Council that there were 114 active projects in the City, many of which had been approved for construction by the voters, worth about \$100 million. The amazing amount of reinvestment tied in with their discussions of the previous week on the next round of General Obligation Bonds. The matter would be brought before the Council for consideration later in the year. The Downtown Housing Initiative was going forward, as well. The answers to the questionnaire on what the public would like to see done were being compiled. A lot of great feedback from stakeholders in the area was received and he would be sharing the results with the Council soon.

Mr. Spurgeon concluded his update and remarks by commenting that the coming month, March, would be a very busy one, with bidding for some important public projects taking place.

#### **14. Executive Session**

There was no Executive Session.

#### **15. Adjournment**

The meeting adjourned at approximately 7:48 p.m.

MOTION: A motion was made by Richard Carter, seconded by Scott Eudey.

#### **Move to adjourn**

The motion carried by the following vote:

**Aye: 5 -**

Scott Eudey, Johnnie Parks, Mike Lester, Richard Carter, Craig Thurmond

Attest:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk