



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, April 4, 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

Associate Pastor Teri Dietrich 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

Mayor Craig Thurmond led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked the Council if any items were to be removed from the Consent Agenda. There being none, he asked for a motion.

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

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. 17-1664

Approval of City Council Meeting Minutes of March 21, 2017

B. 17-2017

Approval of Workers' Compensation Court Order for Kevin Easterwood, Fire Department Employee

C. 17-2016

Approval of and authorization to execute Resolution No. 1006, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 4, which consists of 0.19 acres of permanent right-of-way for Olive Avenue waterline, Tucson to New Orleans, in the South half of the Southwest quarter of the Northwest quarter of Section 28, Township 18 North, Range 14 East, Tulsa County, from Joseph Daniel Marion and Mary J. Marion, and authorization of payment in the amount of \$7,940.00 to Joseph Daniel Marion and Mary J. Marion for the Olive Avenue Waterline, Tucson to New Orleans Project (Project No. WL1610)

D. 17-2020

Approval of and authorization to execute Resolution No. 1007, a Resolution authorizing acceptance of a General Warranty Deed, Perpetual Utility Easement and Temporary Construction Easement for Parcel 12, which consists of 0.015 acres of permanent right-of-way and 0.014 acres of Perpetual Utility Easement and Temporary Construction Easement for 9th Street Widening, Elgin to El Paso, in Lot 7, Block 2, Lemon Addition, Tulsa County, from John P. Black and authorization of payment in the amount of \$6,000.00 to John P. Black for the 9th Street Widening, Elgin to El Paso Project (Project No. ST1210)

E. 17-2021

Approval of and authorization to execute Resolution No. 1008, a Resolution authorizing acceptance of a General Warranty Deed and Temporary Construction Easement conveyed to the City of Broken Arrow on a tract of land located in the NW1/4 of Sec. 5, T18N, R15W, Wagoner County and authorize payment in the amount of \$3,420.00 for 37th Street: Houston to Albany Road Improvements (Project No. ST1413)

F. 17-2023

Approval of and authorization to execute Resolution No. 1009, a Resolution approving, authorizing and accepting a Contract for Sale of Real Estate for real property located at Lot 1, Block 6, amended plat of part of Angus Acres 2nd Addition, a subdivision of part of NW/4 of Section 7, Township 18 North, Range 15 East of the Indian Base and Meridian, Wagoner County, State of Oklahoma, including

structures and improvements; and authorizing the City of Broken Arrow's expenditure of the sum of \$175,635.00 to Charles F. Cameron Living Revocable Trust to effect such purchase, for owner relocation and owner moving expenses, 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 authorizing City Staff to apply to the Oklahoma Department of Transportation for reimbursement of eighty percent of the acquisition of this property for the 23rd Street Widening from Kenosha to Houston Project (Project No. ST0914)

- G. 17-2017 Approval of and authorization to provide \$50,000 in matching funds for a Technical Assistance Grant through the United States Economic Development Administration.
- H. 17-2001 Approval of and authorization to execute Engineering Contract Funding Agreement with Oklahoma Department of Transportation (ODOT) for engineering services involving Broken Arrow: Main Street Bicycle Facilities Project No. 166026
- I. 17-2000 Approval of and authorization to purchase sixty Dell Latitude Rugged laptops (mobile data system) and 51 matching Havis brand mobile docks and 38 Havis brand mounts from Dell pursuant to Oklahoma statewide contract for the Police Department
- J. 17-1998 Approval of and authorization to purchase seven (7), 2017 Ford Taurus vehicles from Bob Hurley Ford pursuant to the Oklahoma statewide contract for the Police Department
- K. 17-1997 Approval of and authorization to purchase nine (9) Police SUV Ford Explorer Interceptors from Bob Hurley Ford pursuant to the Oklahoma statewide vehicle contract for the Police Department
- L. 17-2022 Approval of and authorization to accept the most advantageous quote from Roses Inc. Green Country, for the purchase of roses, installation of roses, and maintenance of roses for the Downtown Streetscapes, Phase IV, and execute a Purchase Order.
- M. 17-2008 Approval of and authorization to accept the most advantageous bid from Chickasaw Telecom for the purchase of 125 Cisco phones
- N. 17-2004 Notification of Change Orders and Work Orders with a value of less than \$25,000 on public contracts
- O. 17-1995 Acceptance of a Deed of Dedication from J-E-R, LLC, on property located on the Southeast corner of Jasper Street and Olive Avenue, Tulsa County, State of Oklahoma, (Section 9, T17N, R14E)
- P. 17-1996 Acceptance of a Utility Easement from J-E-R, LLC, on property located on the Southeast corner of Jasper Street and Olive Avenue, Tulsa County, State of Oklahoma, (Section 9, T17N, R14E)
- Q. 17-2024 Acceptance of a Temporary Construction Easement conveyed to the City of Broken Arrow on a tract of land lying in the SE1/4 of Sec. 35, T18n, R14E, Tulsa County to the City of Broken Arrow for Liberty Park Retaining Wall (Project No. 161713)
- R. 17-2005 Approval of SP 278 (Specific Use Permit), R & M Music, 2.93 acres, CH, East of the Southeast corner of Washington Street and Elm Place between Atlanta Street and Washington Street
- S. 16-1549 Approval of the Broken Arrow City Council Claims List for April 04, 2017

6. Consideration of Items Removed from Consent Agenda

There were no items removed from the Consent Agenda.

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

There were no Public Hearings, Appeals, Presentations, Recognitions, or Awards.

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. 17-1999 Consideration, discussion, and possible approval of PUD-259 (Planned Unit Development) and BAZ-1975 (rezoning request), Muhich Tract, 71.94 acres, 7 Lots, A-1, one-half mile West of Evans Road, one-quarter mile South of Kenosha Street

Mayor Thurmond introduced Larry Curtis, the Director of Plan Development. Mr. Curtis stated he was present on behalf of Michael Skates, who was not able to attend. He stated PUD-259 and BAZ-1975 involved an unplatted and undeveloped area located one-half mile west of Evans Road and one-quarter mile South of Kenosha Street. He stated the applicant proposed to change the zoning on 44 acres of the property, from A-1 to I-L. The applicant included the entire area of the PUD, which was 71.94 acres. BAC-P159 submitted a request to change the comprehensive plan that designated the Southern 50.39 acres tract, located from Level 3 to Level 6, which was approved by the City Council on February 7, 2017. He stated the northern part of the property, located under 159, included the rezoning of CH, and BAC-1727, which was approved by City Council on September 5, 2006, subject to platting. The request to change the zoning from A-1 to I-L was considered to be in conformance of the comprehensive plan when completed in conjunction with the PUD. He stated a draft PUD was submitted with BAC-P159 in regards to the informal process.

Mr. Curtis explained that comments and input from the City Council and Staff had been incorporated into the formal PUD that was submitted with 259. The proposed area was previously used as a strip coal mining operation from the 1920s-1930s, and later in the 1960s. He stated that after the coal mining operation was terminated the property was utilized as a landfill by the City of Broken Arrow, which was closed in 1976. Mr. Curtis said, according to the applicant, the landfill area was capped with four to five feet of clay, some silty loam, with grass and gravel. The waste material deposited generally would be five to six feet in thickness. He stated the entire site was regulated by the Department of Environmental Quality (DEQ). DEQ required approval before development and activities could take place at the site.

Mr. Curtis commented that PUD-259, which consisted of 71.94 acres, would be divided into seven tracts, A – G. He stated that Tract A would be developed in accordance with the development regulations of the CH District. Tract C and F would be developed in accordance with the development regulations of the I-L District, apart from approval from the DEQ, for development prior to use of the property, and the permitted uses would be for mini storage, RV storage, storage yard, office warehouse, utility facilities, general industrial services and line assembly. He said Tracts D, E, and G would be developed in accordance with the development regulations of the I-L District, with the same limitations of Tracts C and H, in addition to a 30-foot-wide landscape buffer to be provided along the south and east boundaries of Tracts D and E. Mr. Curtis stated Tract B was regulated by the DEQ, and would require DEQ approval for any development activity on the property, and that the area would be left in its native state. He stated that fencing and signing requirements had been added to PUD-259 per City Council comments.

Mr. Curtis explained that Mr. Terral and Mr. Blackshare would comment on the environmental sensitivity of Tract B later in the meeting. He reported that the City residents requested a meeting to be held with the applicant, City staff, Representatives from Blackshare, and DEQ, which was held on March 7, 2017. He commented that questions and concerns presented by the residents and the City Council were discussed and incorporated into the design standards of PUD-259. He stated the applicant spoke to the concerns at the planning commission meeting on March 23, 2017. The planning commission reviewed and recommended approval by a vote of 4-0 for PUD-259 and BAZ-1975, subject to conditions recommended by Staff, that the property needed to be platted, and that additional conditions and requirements set forth by any local, state, or federal regulatory agency must be met. He noted that no one petitioned at the planning commission meeting. Mr. Curtis said that the applicant was present to answer any questions and was in agreement with the Staff's report.

Mayor Thurmond asked if the Council had any questions for Mr. Curtis or the applicant.

Councilor Mike Lester asked about Tract 2A fencing. He explained that currently an existing barbwire fence was outside the area in certain places, and asked about a secure fence installation. Mr. Curtis responded that the applicant would put a secure wooden fence around the entire portion of Tract 2A, or Tract B. The applicant would also be required to put signage on the fence to indicate the sensitive nature of the property. Councilor Scott Eudey referred to comments made at a prior meeting in regards to drainage, flooding, and nature of what was under the ground, and asked if anyone protested that change. Mr. Curtis responded that no one protested the change.

Mayor Thurmond asked the applicant to come forward to speak.

Tim Terral from Tulsa Engineering and Planning Associates, Inc. came forward and stated the firm was in agreement with Staff recommendations. He stated that Mr. Curtis did a great job explaining the details, and that he would be happy to answer any questions the Council members had related to the PUD. He said that Derek Blackshare, with Blackshare Environmental Solutions, was present at the meeting, as well as representatives from DEQ. Councilor Eudey stated the lots that could not be approved without DEQ approval would need DEQ approval before the applicant could proceed with any work. Mr. Terral agreed. He stated that Tract 2A and B would possibly not be platted. He stated his company had spoken with Michael Skates and the City about those tracts, which may be left off the table.

He reported Tulsa Engineering and Planning Associates would dedicate the necessary right-of-way for Kenosha by separate instrument, which would not be platted and left in its natural state within the fence boundaries.

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

Move to approve PUD-259 and BAZ-1975, subject to recommendations that the property would be platted, and in compliance with all requirements of local, state, and federal regulatory agencies.

The motion was carried by the following vote:

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

- B. 17-2018** **Consideration, discussion, and possible approval of Resolution No. 997, a Resolution of the Broken Arrow City Council approving, authorizing and accepting a contract for sale of real estate for real property located at 1001 Wesley Drive, Broken Arrow, Oklahoma, 74012, more particularly described as lot Thirteen (13), Block One (1), Lemon Addition to the town of Broken Arrow, County of Tulsa, State of Oklahoma, according to the recorded plat thereof; and authorizing the City of Broken Arrow's expenditure of the sum of \$115,000 to effect such purchase, as well as reasonable and necessary cost; 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, explained the resolution, which authorized the City to move forward with the acquisition of a tract, noted that it was one of the last remaining tracts that would be necessary for the City to move forward with construction on 9th Street. She stated the staff was in the process of making a recommendation to present to the Council in regards to the sum of \$115,000. Ms. Childs stated she felt that would fairly compensate the landowners, and that there had been considerable negotiations and discussions between the landowners and representatives of the City, and the City's right-of-way Acquisition Agent. She noted that the appraisal of the property indicated a value of \$72,500, but since it was a total take, the individuals that negotiated on the City's behalf and City Staff recognized the importance of paying relocation costs to the landowners. The Staff believed the difference between the fair market appraisal, obtained by the City's Appraiser, and the cost of relocation would bring it into compliance with something reasonable. If the City would move forward with condemnation, the costs would far exceed that, which would enable the City to move forward quickly with the project. Ms. Childs recommended that the City approve Resolution No. 997 and authorize to execution.

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

Move to approve Resolution No. 997 and authorize its execution

The motion was carried by the following vote:

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

- C. 17-2019** **Consideration, discussion, and possible approval of Resolution No. 998, a Resolution of Necessity to condemn property located at 131 North 9th Street, Broken Arrow, Tulsa County, State of Oklahoma (9th Street Widening Elgin Street to El Paso Street)**
- Mrs. Childs explained this item involved a tract that was also on 9th Street, which was one of two tracts left on 9th Street. She stated that Staff had negotiated with the landowners for some time, and were unable to reach an agreement. This Resolution would enable the City to move forward with condemnation. Ms. Childs stated the Council had previously authorized condemnation through a resolution of a necessity, but when the documents were prepared for condemnation a disparity was found in the legal description. She stated that the resolution would rectify the disparity. Ms. Childs requested the City Council to approve Resolution No. 998, and authorize its execution.

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

Move to approve Resolution No. 998 and authorize its execution.

The motion was carried by the following vote:

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

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

- A. 17-2012** **Consideration, discussion, and possible adoption of Ordinance No. 3479 closing a mutual access and utility easement on property located in the Southeast Quarter (SE/4) of Section Two(2), Township Eighteen (18) North, Range Fourteen (14) East, Lot 4, Block 2, Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located North of the Broken Arrow Expressway, a quarter mile West of 9th Street; repealing all ordinances to the contrary; and declaring an emergency (Hillside Crossings Lot 4, Block 2)**

Ms. Childs explained the first two ordinances pertained to the Hobby Lobby parcel. She stated when the platting process took place, often there were various easements that were already in place, and as the development moved forward, it would be necessary to relocate those easements. Closure of the mutual access and utility easement for A & B would facilitate further development. Ms. Childs noted the City would most likely see this again, since the foreclosure action would be moved forward in order to clear title. The Staff recommendation was for the City to adopt Ordinance No. 3479, and approve the emergency clause, and asked them to be handled separately.

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

Move to adopt Ordinance No. 3479

The motion was carried by the following vote:

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

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

Move to approve the emergency clause for Ordinance No. 3479

The motion was carried by the following vote:

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

- B. 17-2013** **Consideration, discussion, and possible adoption of Ordinance No. 3480 closing a mutual access and utility easement on property located in the Southeast Quarter (SE/4) of Section Two (2), Township Eighteen (18) North, Range Fourteen East, Lot 5, Block 2, Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located North of Broken Arrow Expressway, a quarter mile West of 9th Street; repealing all ordinances to the contrary; and declaring an emergency (Hillside Crossings Lot 5, Block 2)**

Ms. Childs referred to her explanation in Part A, and explained it was a mutual access easement. The Staff recommendation was that the City would adopt Ordinance No. 3480, and approve the emergency clause, and asked for them to be handled separately.

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

Move to adopt Ordinance No. 3480

The motion was carried by the following vote:

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

MOTION: A motion was made by Richard Carter, seconded by Johnnie Parks.

Move to approve the emergency clause for Ordinance No. 3480

The motion was carried by the following vote:

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

- C. 17-2014** **Consideration, discussion, and possible adoption of Ordinance No. 3481 closing a utility easement on property located in the Southwest Quarter (SW/4) of Section Six (6), Township Eighteen (18) North, Range Fifteen (15) East, Tiger Plaza, a subdivision in the city of Broken Arrow, Wagoner County, State of Oklahoma, generally located North and East of the Northeast corner of Kenosha Street and 23rd Street, repealing all ordinances to the contrary; and declaring an emergency (Tiger Plaza)**

Mrs. Childs explained this Ordinance was located in Tiger Plaza. She stated the request arose due to expansion in the eastern most tenant space. The plans had initially included the location of a fire hydrant; however, it was ultimately located within a 17.5-foot perimeter utility easement. She stated that as a result, the Staff recommended the City to close the easement. She said in order to clear title it would come back in the form of foreclosure. Ms. Childs stated that all utilities were in agreement with these ordinances. The Staff recommendation was that the City would adopt Ordinance No. 3481 and approve the emergency clause.

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

Move to adopt Ordinance No. 3481

The motion was carried by the following vote:

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

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

Move to approve the emergency clause for Ordinance No. 3481

The motion was carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond asked the Council if there were any remarks or inquiries. No remarks or inquiries were made.

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

City Manager, Mr. Michael. Spurgeon stated the City was in the process of preparing the 2018 fiscal year General Operations, Utility, BAMA, and Capital Improvement budgets. He stated the budgets would be available for the Council to review towards the end of May 2017, and was set tentatively for the second meeting in May. Mr. Spurgeon said that he preferred to give the budget adequate time, and said he may ask the Council for an earlier meeting before the Council Meeting to review.

Mr. Spurgeon thanked the City Council for Item G on the Consent Agenda, which gave the administration authorization to provide \$50,000 in matching funds for a technical assistance grant to the United States Economic Development Administration for creating an innovation district within the community. He stated they are seeking that technical grant. If the grant was won, the EDA would provide \$50,000 in which the City would hire a consultant that would begin the process to develop conceptual ideas on how to lay out the facility based on the vision that the City Council and the EDC Administration had about the innovation district. Mr. Spurgeon stated it was the beginning of an exciting endeavor to bring high tech manufacturing and supportive positions to the community, and it would also create a more qualified workforce. He further noted that it could create thousands of jobs, by bringing those types of companies to Broken Arrow's community, along with ancillary businesses that would come from that as well. He expressed his thanks to the City Council for committing those public resources to begin the process.

14. Executive Session

There was no an Executive Session. No action was required or taken.

15. Adjournment

The meeting was adjourned at approximately 6:49 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: 5 -

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

Attest:

Mayor

City Clerk