



City of Broken Arrow

Minutes City Council

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Scott Eudey
Council Member Mike Lester
Council Member Johnnie Parks
Council Member Debra Wimpee

Wednesday, January 2, 2019

Time 6:30 p.m.

Council Chambers

1. Call to Order

Mayor Craig Thurmond called the meeting to order at approximately 6:30 p.m.

2. Invocation

Invocation was performed by Pastor Daniel Chamberlin.

3. Roll Call

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

4. Pledge of Allegiance to the Flag

Council Member Debra Wimpee led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Mayor Thurmond asked if there were any items to be removed from the Consent Agenda. There were none.

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

Move to approve the Consent Agenda

The motion carried by the following vote:

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

- A. 19-1 Approval of the City Council Meeting Minutes of December 18, 2018**
- B. 19-102 Approval of and authorization to execute a Memorandum of Agreement between the City of Broken Arrow and Northeastern State University**
- C. 18-1502 Approval of and authorization to execute an Amendment to the Agreement for Professional Environmental Support Services with Cox McLAIN Environmental Consulting, Inc. for County Line Trunk Sewer Improvements for additional information on cultural conditions as requested by the Corps of Engineers for project permitting (Project No. S.1609)**
- D. 18-1501 Approval of and authorization to execute an Amendment to the Agreement for Professional Environmental Support Services with Eagle Environmental Consulting, Inc. for County Line Trunk Sewer Improvements for additional information on biological conditions as requested by the Corps of Engineers for project permitting (Project No. S.1609)**
- E. 18-1520 Approval of and authorization to execute Agreement for Professional Consultant Services with Wallace Engineering - Structural Consultants, Inc. for Fire Station No. 2 Foundation (Project No. 193509)**
- F. 19-93 Notification of City Manager's, Assistant City Manager's, and Department Director's execution of Professional Consultant Agreements with a value of less than \$25,000**
- G. 18-1490 Approval of and authorization to execute Resolution No. 1169, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 15, which consists of 0.14 acres of permanent Right-of-Way for Florence Street Improvements, Olive to Aspen, located in the Northeast Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the Joyce Irlene Brinkhous Estate and authorization of payment in the amount of \$9,210.00 for the Florence Street Improvements: Olive to Aspen, (Project No. ST1410)**
- H. 18-1523 Approval of and authorization to execute Resolution No. 1174, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 21, which consists of 0.0091 acres of Permanent Right-of-Way and 0.0328 acres of Temporary Construction Easement for Washington Street improvements, Olive to Garnett, located in the Northwest Quarter of Section 20, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Edward Burger and authorization of payment in the amount of \$520.00 for the Washington Street Improvements: Olive to Garnett, (Project No. ST1616)**

- I. 18-1524 Approval of and authorization to execute Resolution No. 1175, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 22, which consists of 0.0287 acres of Permanent Right-of-Way and 0.0727 acres of Temporary Construction Easement for Washington Street Improvements, Olive to Garnett, located in the Northwest Quarter of Section 20, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Edward Burger and authorization of payment in the amount of \$3,080.00 for the Washington Street Improvements: Olive to Garnett, (Project No. ST1616)
- J. 19-87 Approval of and authorization to execute Resolution No. 1176, a Resolution authorizing the acceptance of a General Warranty Deed for Parcel 14, which consists of 0.10 acres of permanent Right-of-Way for Florence Street Improvements, Olive to Aspen, located in the Northeast Quarter of Section 33, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from John B and James R. Causey and authorization of payment in the amount of \$6,900.00 for the Florence Street Improvements: Olive to Aspen, (Project No. ST1410)
- K. 18-1493 Acceptance of a Permanent Easement and Temporary Construction Easement for Parcel 15, 15.1, located in the Northeast Quarter of Section 36, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from the Ray G. Medlock Trust, authorizing payment in the amount of \$25,050.00 for the for the County Line Trunk Sewer Replacement (Project No. S.1609)
- L. 18-1508 Approval of BAZ-2016, Builder's Unlimited, Inc., 2.98 acres, IL and A-IL to IL, one-quarter mile north of New Orleans Street, one-quarter mile west of Evans Road
- M. 19-99 Approval of PT17-105, Conditional Final Plat, Aspen Crossing Patio Homes, 82 lots, 15.29 acres, A-1, R-2 and A-R-2 to RS-3, RD, and PUD-260, north and east of the northeast corner of Jasper Street and Aspen Avenue
- N. 19-100 Approval of PT17-105A, Conditional Final Plat, Aspen Crossing 1, 49 lots, 12.63 acres, A-1 to RS-3/PUD-260, north of the northeast corner of Jasper Street and Aspen Avenue
- O. 18-1407 Approval of the Broken Arrow City Council Claims List for January 02, 2019

6. Consideration of Items Removed from Consent Agenda

There were no Items removed from the Consent Agenda. No action was needed or taken.

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 action may be taken on matters under this item)

No Citizen requested to address the Council on General Topics Related to City Business or Services.

9. General Council Business

- A. 18-1519 **Consideration, discussion, and possible approval of PUD-17B (Planned Unit Development Major Amendment) Vandever Acres Center, 5 acres, CG, located north and west of the northwest corner of New Orleans Street and Elm Place**

Plan Development Manager, Larry Curtis, reported with PUD-17B the applicant requested a Major Amendment to PUD-17B to allow place of assembly as a permitted use and to develop the property for a place of assembly and commercial uses. He explained on the proposed development plan 37,500 sq. feet of approximately 50,000 sq. feet of the building would be used for a place of assembly while 12,500 sq. feet was proposed to be remodeled for commercial use as phase 1 of the development plan. He stated phase 1 also included removal of the existing hut east of the existing building, right of way and easement dedications, and bringing the property into compliance with current zoning code requirements, unless otherwise noted within the PUD. He stated phase 2 proposed to include development of a new maximum of 7,000 sq. foot retail/restaurant building in development area B located on the southern portion of the lot along New Orleans Street.

Mr. Curtis indicated the Planning Commission heard the request for a Major Amendment to PUD-17 during two public hearings and during the first, at the Meeting of October 25, 2018, the Planning Commission continued PUD-17B to the December 6, 2018 Meeting to allow time for the City's consultant, Catalyst Commercial, to evaluate how the request would correspond with the Revitalization Study which was underway. He reported several people spoke on this item, both for, and in opposition to, the request; those in favor cited difficulty in finding a suitable tenant for the space, the desire to have an entity in the building that was ready to use it, multiple uses could coexist to generate activity and draw traffic to the area, and the façade rendering of the project was appealing. He stated those in opposition cited concerns regarding the appropriateness of the proposed use, the potential loss of tax revenue, a preference for retail or entertainment, the impact on property owners regarding the new use who desired to locate within 300 feet of the proposed use, and desire to review the Revitalization Report in its completion before the decision was made. He reported staff re-notified property owners within 300 feet of the property for the December 6, 2018 meeting.

Mr. Curtis indicated the Draft Report of the Elm and New Orleans small area plan was approximately 90% complete and showed that successful revitalization of the commercial area was incremental and needed to focus on a shared vision which provided a strategic framework for each phase of the implementation. He stated the Plan called for density and mixed uses, with clustering of retail, dining, entertainment, office in between the uses and parking adequate for the uses. He explained the Report noted less than 25% of the total parking in the area was in use at any given time; therefore, the Report supported mixed use developments with shared parking which would reduce parking requirements and create additional opportunity sites for development. He indicated the proposed project would meet the parking requirements for the first phase of redevelopment and would meet the requirements through the second phase with additional striping of parking. He stated the Draft Plan designated the former Hobby Lobby site as a location for future retail and acknowledged, with the shifting of retail formats, there were fewer expanding big box formats, which made it difficult to find uses for larger existing vacant space. He stated the Draft Report noted there were national and regional big box retailers along Highway 51, Broken Arrow Expressway, and along the Creek Turnpike; therefore, the subject site would not be successful in providing the same type of development. He stated the Report encouraged mixed use developments, specifically for Vandever Acres, and supported enhancements to streetscape, connectivity, walkability and row profile; it recommended updates to older buildings which have become functionally obsolete and updates to parking lots with tree island landscaping.

Mr. Curtis reported on December 6, 2018, the Planning Commission recommended approval by a vote of 3 to 1 of PUD-17B per Staff recommendations. He reported five individuals spoke regarding PUD-17B; those in favor indicated the leaders of the place of assembly would be good stewards of the property and attendance would add patrons to local restaurants and services; the broker for the property indicated the property had been marketed nationally and there was no other interest in the property; those opposed indicated while not against the place of assembly, the preference of a use which would bring foot traffic during the week was preferred, and once the retail space was lost it would not be recovered; and the adjacent property owner was opposed and indicated the decision should not be made until the consultant's report was complete. He stated the Development Services staff and the Economic Development Team were working with the property owner for the former Hobby Lobby site and no interest in the site had been expressed in the past two years. He stated staff was in agreement that the highest and best use for this site was retail, but what the applicant asked for was the additional use of place of assembly, not the removal of retail use. He stated place of assembly use combined with mixed use fulfilled the consultant's recommendation to increase density, to provide a mix of uses, to add landscaping, to dedicate right of way for wider streets and for wider sidewalks, to provide more connectivity and brought private investment for revitalization of the building and improved site amenities. He stated staff recommended PUD-17B be approved as recommended by Planning Commission and staff.

Council Member Mike Lester asked if there was enough room to allow for a 7,000 sq. foot building on the south side of the property while still allowing mutual access. Mr. Curtis responded in the affirmative; the additional development of area B would accommodate the 7,000 sq. foot building. He stated Staff performed a calculation of the proposed parking associated with the site, 205 parking places would be required and while the project currently reflected 203 spaces, there would be additional striping to the north. Council Member Lester asked if the new building would face New Orleans. Mr. Curtis responded in the negative; it would face to the east or west. Council Member Lester stated he worried this might be problematic in the future. Mr. Curtis stated the design plan for the 7,000 sq. foot building had not been submitted. Council Member Lester asked if this PUD guaranteed the developer would be permitted to build a 7,000 sq. foot building. Mr. Curtis responded the PUD permitted a building up to 7,000 sq. feet, regardless of which direction the building would face.

Council Member Johnnie Parks asked if the developer had committed to constructing this proposed 7,000 sq. foot structure. Mr. Curtis responded the developer was required to come back to Planning Commission to provide regular updates regarding phase 2. Council Member Parks asked how the retail rental space on church property would be taxed. Mr. Curtis responded Staff had spoken with the Tax Assessor for Tulsa County and found that the portion of the property owned and used by the church was exempt from property taxes, but the portion used for commercial purposes was subject to taxation. Council Member Lester asked if the landscaping included irrigation. Mr. Curtis responded in the affirmative; the property was required to come into compliance with Zoning Ordinance regarding landscaping.

Council Member Parks stated this area should be developed and renovated in an upscale manner. He asked if any corner property owners requested working with the city for innovation/renovation purposes.

Economic Development Manager, Norm Stephens, stated the property owners had not come forward with requests; however, there had been three suggestions, one to tear down the Hobby Lobby (made by a realtor who worked on the four corner area), one negotiate with QuikTrip move to the location facing toward Elm, and one to move Reasor's to the Hobby Lobby location, all of which were cost prohibitive. Discussion ensued regarding Reasor's and QuikTrip, QuikTrip locations being within one mile of major highways, it being cost prohibitive to incentivize QuikTrip to relocate, the viability of the proposed mixed use plan with place of assembly, the beautification

of the corner through this proposed project, and the applicant being in agreement with all ten staff recommendations.

Council Member Parks stated City funds allotted for revitalization of this corner should be earmarked for infrastructure.

City Attorney Trevor Dennis stated the question had been raised regarding whether or not businesses with beverage licenses would be permitted to continue to sell alcohol if a church was developed in this location. He explained a business could continue to serve alcohol if said business did not cease operations for more than 60 days. He explained no new businesses which generated more than 50% revenue through alcohol sales would be permitted within a 300 foot radius; however, generally restaurants did not generate more than 50% revenue from alcohol sales, only liquor stores and bars.

City Manager, Michael Spurgeon, stated the Rose District revitalization was hugely successful due to private businesses investing \$3 to \$4 dollars for every \$1 dollar the city invested into the Rose District. He stated the city was committed to revitalization of the area with funds allocated for the consultant and for infrastructure, public improvements and street repair. He stated the city's investment needed to be matched and exceeded by private dollars in order to ensure successful revitalization of the area, just as in the Downtown Rose District area. He stated it was up to City Council to decide if the proposed plan would be a good fit, augmenting and improving the area.

Vice Mayor Eudey stated he understood the Revitalization Plan was not complete; however, everything he read and heard focused on the importance of a public and private partnership and the importance of private investment in revitalization. He stated the developer was ready to invest a consequential sum into a building which was otherwise not being used while keeping a retail component. He stated he felt, after reviewing the renderings and the plan, this project would improve the corner.

City Manager Spurgeon stated a number of property owners attended the meeting last year and were interested in the city's plan for the area. He stated it was important to work with the private sector as the private sector was ultimately responsible for investing in the area to attract businesses, while the city would use funds to help facilitate the private sector investments.

Mr. Tony Lombardi, the broker representing Home Church, stated Home Church wanted to bring retail back to the corner. He stated the plan was carefully considered to enable the development to fit with the future of this particular intersection and the second building space was intended to generate additional sales tax through retail.

Council Member Lester asked what the church demographics were. Mr. Lombardi responded the church was home to a wide variety of individuals from a wide variety of locations, some of which drove 20 miles to attend, while others were within walking distance. He stated he believed the church and the proposed retail space fit in nicely with the consultant's plan for revitalization. Council Member Lester stated he believed this church would draw new traffic to the area. Mr. Lombardi concurred. Vice Mayor Eudey asked if the church intended to have Sunday and Wednesday services. Mr. Lombardi responded in the affirmative; this was a very active church on a daily basis; the administration was in attendance daily. Council Member Parks stated it seemed through the PUD the church would find it very difficult to expand if needed. Mr. Lombardi agreed; however, the pastors of Home Church were downsizing from a 200,000 sq. foot facility, had carefully assessed the needs of the Church through outside analysis and determined the church needed approximately 20,000 sq. feet. He explained the church had chosen a facility with 37,000 sq. feet to allow for growth. Council Member Debra Wimpee indicated churches often utilized satellite locations for growth purposes as well.

Citizen Debbie Murphy stated her address was 5733 S. 241st East Avenue, Broken Arrow. She stated she was the manager of BA Liquor Mart on 101st and Elm. She stated she attended Battle Creek Church, but she was concerned about a church being developed in this location. She stated the area needed citizens to be drawn in regularly to shop at the Liquor Mart. She explained the Liquor Mart was hoping for an everyday type business to be developed in the area, not a church which would draw traffic just Sundays and Wednesdays.

Citizen George O'Connor stated his address was 10125C S. Sheridan, Tulsa, OK. He stated he was a realtor who had been involved in the Broken Arrow market for approximately 20 years and his investors owned approximately 250,000 sq. feet of retail shopping centers in Broken Arrow. He stated one such retailer was located at the southwest corner of 101st and Elm and had 100,000 sq. feet. He stated retail mass was extremely important for a thriving intersection. He stated if this was a 10,000 sq. foot or 15,000 sq. foot church it would not be so worrisome; however, this was almost 40,000 sq. feet which would permanently be removed from the available retail rentable taxable space. He stated he did not believe it was worth "giving up the fight" just to get a tenant for the Hobby Lobby space. He stated the face of retail had changed significantly over the years and was now geared more to entertainment venues. He stated he recently leased 38,000 sq. feet at 51st and Harvard, in Country Club Plaza, which was an old Reasor's. He stated by selling to the church the retail mass on the corner would be reduced by approximately 40,000 sq. feet which he

believed would permanently hinder the possibility of retail development on that corner and the city would lose sales tax dollars. He stated the loss of sales tax dollars over the next 20 to 40 years was not worth the gain of a few dollars invested now. He stated the city had invested in a consultant to evaluate best fit for this corner and the consultant did not recommend a church as the best fit. He stated the consultant recommended the area remain retail. He stated he worried this would begin a trend of leasing vacant large spaces to churches or other non-retail spaces.

Citizen Ben Latham, President of GBR Properties, stated his address was 3114 E. 81st Street, Tulsa. He stated GBR Properties had owned Vandever Acres Shopping Center, Lot 3 of this Block, since 1990. He stated once this 10% of retail mass was lost, it would detrimentally affect all other property owners in the area. He stated he heard it said the Rose District was 12 years in the making. He stated the City's consultant specifically recommended for the Hobby Lobby site to be future retail. He stated he believed this should be allowed to happen, but it would not happen overnight. He stated it was unnecessary to designate 12,500 sq feet for retail; there was plenty of smaller retail space available. He stated the building could be subdivided. He stated the PUD presently in existence had a voting requirement to change the deed of restrictions and the ECR (Easement, Conditions and Restrictions), and no such vote had been taken. He asked City Council to listen to the consultant and deny the change of use in PUD-17B. He stated this would be best for the City of Broken Arrow, the intersection, and especially the corner's other property owners.

Council Member Lester stated twelve years ago, through the Chamber of Commerce, he worked on improving this intersection and could find no interest in revitalization. He stated he had served both on the City Council and as a commercial real estate broker, and while he understood Mr. Latham's perspective, he had the ability to see both sides. He stated on 71st and County Line, Albertson's was converted to Life Church, which positively revitalized the shopping center. He explained this made him believe this could be a positive change for the corner. Mr. Latham stated one corner of the intersection had been constantly upgraded and maintained: his corner. He stated the consultant's report talked of "deinvestment," which occurred with deterioration. He stated the other three corners of the intersection had deteriorated, but his had not. He stated he had not given up and he did not want City Council to give up either. He stated it would take a public/private partnership and he felt it was important to wait for the right public/private partnership. He stated he believed with time this would happen. He stated he did not believe the Hobby Lobby building had been properly marketed nationally in the most effective manner.

Citizen Sonny Kinion stated his address was 3804 W. Vandalia, Broken Arrow. He stated he had been very involved in the Chamber of Commerce and Economic Development for most of his career. He stated he believed it was important to follow the advice of the experts. He stated he had owned BA Liquor Mart for over 25 years. He stated the BA Liquor Mart collected and remitted well over \$100,000 dollars per year in sales tax revenue. He stated while he would be permitted to continue to sell liquor, if he sold his business a new license would not be allowed which prohibited him from selling his store. He stated he was almost 70 years old and he wished to be able to sell his business.

Citizen Michael Joyce stated his address was 4105 S. Peoria, Tulsa. He stated he was with McGraw Realtors and represented the property owners. He stated he was a Broker Associate and had been a Broker for 30 years. He stated he was also a real estate attorney and had worked with local, regional and national clients from around the Country. He stated he had worked with the City of Broken Arrow and had enabled beautiful redevelopments within the city. He stated he believed this to be an excellent opportunity for the city; this was not a down grade of the intersection, it was a first and necessary step in a revitalization of the corner. He stated he believed this would help the other three corners. He stated there were several churches in the Rose District which had not ruined or prohibited the Rose District from growing and thriving. The churches were partners in the Rose District development which provided diversity and he believed Home Church, along with the new retail development, would do the same. He stated he would hate to see the city miss this opportunity.

Vice Mayor Eudey asked how McGraw Realtors had nationally marketed the property. Mr. Joyce responded McGraw reached out to known real estate departments, with known retailers from around the world, and propagated relationships by attending conventions and other events. He stated he had conducted business all across the Country and Mr. Jerry Reeves (co-listing broker) transacted business across the Country. He stated he had dealt with Starbucks, Chipotles, as well as other large retailers and shopping centers, including within airports. He explained he reached out to all of his connections, submitted packages to generate interest, contacted co-brokers around the Country, and had received no positive feedback. He stated it was not a "build it and they will come" situation.

Mayor Thurmond stated there were eleven citizens who signed up in opposition of Item 9A, but did not wish to speak.

Council Member Parks asked whether the consultant's report indicated a church/place of assembly was a good fit for the area. Mr. Curtis responded on page 59 of the report it indicated retail should be the primary use of the Hobby Lobby site and the city should work with the owner of the property in an attempt to develop the property by providing incentives. He stated the city had actively been

working with the property owner in an effort to develop the property for two years. He explained there were sixteen other places within the report which contradicted retail being the primary use of the Hobby Lobby site, specifically indicating big box was becoming obsolete, and because of big box stores on the south side along the Creek Turnpike and on the north side along the Broken Arrow Expressway, big box development would not be a good fit at this particular location. He indicated the report did not state places of assembly were not recommended. He stated he had contacted the consultant regarding this project and the consultant stated while a church might not be the highest and best use in this location, it was the second best alternative as it provided redevelopment of the site, provided mixed development and reuse of the site, provided right of way dedication, provided landscaping, etc.

Council Member Parks stated he was concerned about Mr. Kinion, the liquor store owner. He asked if Mr. Kinion would be able to sell his business. City Attorney Dennis responded in the affirmative; Title 37, Section 2-139, subsection D, specifically indicated “if any school or church shall be established within 300 feet of any package store, mixed beverage establishment, beer and wine establishment, or bottle club subject to the provisions of this section, after such a package store, mixed beverage establishment, beer and wine establishment, or bottle club has licensed, the provisions of this section shall not be a deterrent to the renewal of such license, if there has not been a lapse of more than 60 days.” He explained, so long as BA Liquor remained in operation and the license did not lapse for 60 days, the fact that the church was being developed would not be a deterrent to re-licensing. He stated this was an updated version of the law which was approved in October 2018. Council Member Parks asked if Mr. Kinion wanted to sell his business would the new business owner be able to obtain licensing. City Attorney Dennis responded in the affirmative; Mr. Kinion would be able to sell his business and the new owner could continue operating the business as long as there was not a 60 day lapse in the licensing. Vice Mayor Eudey asked if the ABLE Commission had been contacted regarding this situation. City Attorney Dennis responded in the negative; this was his interpretation of State Law. Vice Mayor Eudey asked if ABLE (Alcoholic Beverage Law Enforcement) was required to comply with State Law. City Attorney Dennis responded in the affirmative.

Mr. Kinion stated he had been in contact with ABLE Commission and ABLE stated if a new applicant came in and it was within 300 feet of a church a new license would not be allowed. Discussion ensued regarding change of ownership, ABLE being required to comply with State Law, State Law addressing new ownership specifically and indicating there would not be a deterrent to obtaining licensing in a change of ownership in this situation.

Council Member Lester stated Hobby Lobby left this location during a good economic period and there was no interest in the property even with the good economy. He stated he believed while this may not be the very best use of the space from a retail perspective, it would boost the area and accomplish the city’s goals in bringing new traffic to the area. Vice Mayor Eudey stated his first inclination was to deny this request as he believed corners should be reserved for retail; however, the more he learned more about the project, the more he approved. He believed if the church was able to beautify the property and a portion of the property brought in sales tax, it was more sales tax than the city was receiving currently. He stated he lived a mile south of this corner, drove by every day to and from work, and the corner due east from the Hobby Lobby was essentially vacant and had been vacant for most of the last decade. He stated Mr. Latham did a wonderful job maintaining his corner of the intersection. He stated if this corner was developed with a brand new beautiful façade, kept a portion of retail, the parking lot was brought up to date, and new traffic was drawn to the area, he believed this could be a successful endeavor which would improve the area. He indicated he had originally been concerned about Mr. Kinion; however, after reading the State Statute he agreed with City Attorney Dennis that the recent changes in the law increased the ability for the facility to remain open, even if it changed ownership.

Council Member Wimpee stated she had watched the progress and improvement of the new church development in the old Albertson’s location. She indicated the area now thrived as a result. She stated she was hopeful Home Church’s development of this corner would produce the same thriving environment.

Council Member Parks stated historically the City was willing to give up commercial corners on occasion for noncommercial endeavors; for example, the apartment building across the street from the QuikTrip one mile south of this location. He stated retail could not be developed on every corner and he felt this was the appropriate time to develop noncommercial, especially given there would be commercial retail space developed in this location as well.

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

Move to approve PUD-17B as recommended by the Planning Commission and Staff subject to the conditions of approval recommended by Staff

The motion carried by the following vote:

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

B. 19-95 Consideration, discussion, and possible approval of Resolution No. 1177, A Resolution providing Notice of and calling for a non-partisan general election, if needed, to be held for

the council members for Ward 3, Ward 4, and Member at Large to be held on April 2, 2019; Establishing the filing period; Providing for said officers to be nominated by ward and elected at large for a term of four years; Setting forth residency requirements; Providing for absentee ballots in accordance with state law; and providing that the Tulsa County Election Board is responsible for holding the elections and certifying the results

City Attorney Dennis reported Resolution No. 1177 provided for the notice and calling of a nonpartisan general election to be held on April 2, 2019, specifically for Ward 3, Ward 4, and the Member at Large position. He explained passing the Resolution would allow the city to send the Resolution to the Tulsa County Election Board in accordance with State Law to set this for an election on April 2, 2019. He stated the filing period for this election began at 8:00 a.m. on Monday February 4, 2019 and ended at 5:00 p.m. on Wednesday February 6, 2019.

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

Move to approve Resolution No. 1177 and authorize its execution

The motion carried by the following vote:

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

- C. 19-98 Consideration, discussion, and possible approval of and authorization to execute a Notice of Election of the Council of the City of Broken Arrow, Oklahoma, providing notice of and calling for a non-partisan general election, if needed, for the Council Members for Ward 3, Ward 4, and Member at Large to be held on Tuesday, April 2, 2019; establishing the filing period; providing for said officers to be nominated by ward and elected at large for a term of four years; setting forth residency requirements; providing for absentee ballots in accordance with State Law; and providing that the Tulsa County Election Board is responsible for holding the election and certifying the results**

City Attorney Dennis reported this was the accompanying Notice of Election required in addition to the Resolution. He explained the city provided the Notice of Election, along with the Notice of Election Map to the Tulsa County Election Board and this would set the election as previously outlined in Item 9B for April 2, 2019.

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

Move to approve the Notice of Election and authorize its execution for Ward 3, Ward 4, and Member at Large

The motion carried by the following vote:

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

- D. 19-96 Consideration, discussion, and possible approval of a two percent across the board wage adjustment to non-union City employees effective January 1, 2019**

City Manager Spurgeon reported employees who were members of the Fraternal Order of Police and the International Association of Fire Fighters, Local 2551, received an across the board adjustment on July 1, 2018. He stated both Unions would receive an additional across the board increase which became effective January 1, 2019. He reported the nonunion employees received a 2% across the board adjustment on July 1, 2018. He indicated the Council was in agreement that all employees throughout the City Departments continued to provide outstanding services to the Broken Arrow community and, as such, he recommended a 2% across the board wage adjustment to all nonunion employees to be effective January 1, 2019. He reported there was sufficient revenue growth to support this increased. He asked for the Council's consideration.

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

Move to approve to provide a 2% across the board wage adjustment to nonunion employees effective January 1, 2019

The motion carried by the following vote:

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

- E. 18-1483 Consideration, discussion and possible approval of and authorization to execute Resolution No. 1159, a Resolution of Necessity to Condemn Property located in the NW/4 of Section 20, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)**

Director of Engineering and Construction Alex Mills reported the next five Resolutions were purported to condemn various pieces of property. He stated the first was Resolution No. 1159, regarding Washington Street Improvements, which was a 2014 Bond Project. He stated city staff had attempted to negotiate with the property owners for parcels located at 11520 E. 91st Street for a fee simple right of way and temporary construction easement for the road project. He stated in addition to the Resolution there was a right of way agent log which detailed the contacts made with the property owners in an attempt to reach a negotiated amount. He stated city staff was unsuccessful in the negotiations and the project had reached a point in which the property needed to be condemned if the city were to be able to continue construction.

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

Move to approve Resolution No. 1159 and authorize its execution

The motion carried by the following vote:

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

- F. 18-1484 **Consideration, discussion and possible approval of and authorization to execute Resolution No. 1161, a Resolution of Necessity to Condemn Property located in the NW/4 of Section 20, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)**

Mr. Alex Mills explained Resolution No. 1161 was for the adjacent piece of property, same property owners as in the previous Resolution (No. 1159), and same general situation.

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

Move to approve Resolution No. 1161 and authorize its execution

The motion carried by the following vote:

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

- G. 18-1489 **Consideration, discussion and possible approval of and authorization to execute Resolution No. 1170, a Resolution of Necessity to Condemn Property located in the Southwest Quarter of Section 16, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)**

Mr. Alex Mills reported Resolution No. 1170 was regarding the Washington Street Improvements; the property in question located at the northeast corner of Washington to Olive and was a corner clip of the property. He explained city staff attempted to negotiate with the property owner who counter offered at over three times the city's offer price which was based on the appraisal. He stated the property owner also requested driveway access which the city had no power to provide. He reported city staff recommended Condemnation of the property.

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

Move to approve Resolution No. 1170 and authorize its execution

The motion carried by the following vote:

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

- H. 18-1492 **Consideration, discussion and possible approval of and authorization to execute Resolution No. 1172, a Resolution of Necessity to Condemn Property located in the Southwest Quarter of Section 17, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Washington Street Improvements, Garnett to Olive, (Project No. ST1616)**

Mr. Alex Mills reported Resolution No. 1172 was for the Washington Street Improvements, for the home located east of Jackson Park. He stated City Staff attempted to negotiate; however, the property owners did not reply in a timely fashion; therefore, based on the time frame city staff recommended Condemnation of the property.

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

Move to approve Resolution No. 1172 and authorize its execution

The motion carried by the following vote:

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

- I. 18-1517 **Consideration, discussion and possible approval of and authorization to execute Resolution No. 1173, a Resolution of Necessity to Condemn Property located in the Northwest Quarter of Section 11, T-18-N, R-14-E of the Indian Meridian, Tulsa County, Oklahoma, for the Kenosha Street Improvements, Main to Date, (Project No. ST1409)**

Mr. Alex Mills reported Resolution No. 1173 was for the Kenosha Street Improvements. He stated city staff attempted to negotiate with KNS Investments who owned the building at 45 West Kenosha Street. He stated the appraised value was at \$15,300, KNS countered at \$100,000 dollars, and then \$85,000 dollars. He stated the city did not feel comfortable with this counter offer. He stated the argument was KNS would be required to move its sign and would lose a little parking. He stated the right of way agent researched and discovered when the sign was erected, it was agreed that the sign would be moved at the cost of KNS, if in the future the city widened the road; therefore, based on the time frame, counter offer price, and KNS's responsibility for sign relocation, city staff recommended Condemnation of the property.

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

Move to approve Resolution No. 1173 and authorize its execution

The motion carried by the following vote:

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

10. Preview Ordinances

There were no Preview Ordinances.

11. Ordinances

- A. 19-97 **Consideration, discussion, and possible adoption of Ordinance No. 3549, an Ordinance amending Chapter 2, Administration, Article IX, Employee Rules and Regulations, Section 2 151 Attendance; repealing all ordinances to the contrary; and declaring an emergency**

City Attorney Dennis reported Ordinance No. 3549 was a recommendation by the Employee Advisory Committee. He stated at the beginning of 2018 the Employee Advisory Committee contacted City Manager Spurgeon and recommended the addition of Presidents Day to the

list of city recognized holidays. He stated a survey was conducted that indicated many surrounding communities had adopted Presidents Day as a holiday and outgoing Governor Mary Fallin had approved Presidents Day as a State recognized holiday. He indicated Presidents Day was celebrated on the third Monday of every February. He reported there would be a cost of approximately \$75,000 (the approximate cost of overtime pay incurred by employees who were required to work on Presidents Day). He stated based on the information provided and Governor Fallin's action the City Manager recommended approval of Ordinance No. 3549. Council Member Parks asked if this would take effect immediately. City Attorney Dennis responded in the affirmative.

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

Move to adopt Ordinance No. 3549

The motion carried by the following vote:

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

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

Move for emergency clause

The motion carried by the following vote:

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

B. 19-107 Consideration, discussion and possible adoption of Ordinance No. 3550, related to Blasting Operations, amending Chapter 10, Fire Prevention and Protection, Article IV. Explosives, Section 10 76, discharge of class 2 explosives; blasting operations and adding Section 10 78, Blasting Operations; repealing all ordinances to the contrary; and declaring an emergency

City Attorney Dennis stated Ordinance No. 3550 was previewed at the previous Council Meeting. He explained the city was updating and modernizing the blasting ordinance as blasting had become more prevalent within developments, and also for safety purposes to ensure blasting was being done in conformance with Oklahoma State Department of Mines. He stated city staff recommended City Council approve Ordinance No. 3550 and move for the emergency clause.

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

Move to adopt Ordinance No. 3550

The motion carried by the following vote:

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

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

Move for emergency clause

The motion carried by the following vote:

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

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond wished all present a happy and prosperous new year.

Council Member Lester recognized the importance of the city employees and stated he was happy a 2% wage increase was approved. He commended Rocky Henkel and staff for the work done on the Rushbrook drainage problem.

Vice Mayor Eudey indicated the Sanitary Department worked extremely hard to ensure trash was picked up in a timely manner, which was even more difficult around the holidays. He commended the Sanitary Department for its efforts.

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

City Manager Spurgeon wished the City of Broken Arrow a Happy New Year. He thanked City Council for recognizing city employees. He commended Lee Zirk and staff in the General Services Department.

City Manager Spurgeon reported the city had executed a new Economic Development Agreement. He stated the Chamber of Commerce had decided to engage a consultant to assist with the recruitment of a President/CEO of the Chamber; the consultant would be on site January 23, 2019 and January 24, 2019 to conduct focus groups, etc. He stated he expected a new President/CEO would begin in May or June of 2019.

City Manager Spurgeon reported the planning process had begun for implementing a Business Retention, Expansion and Engagement Program; a retreat was planned for Friday to create a Plan of Action to bring the Business Retention Program to fruition in March of 2019. He stated he would provide an update in February.

City Manager Spurgeon stated Scott Esmond's last day would be Friday January 4, 2019; Phil Hink would be acting as Interim Director of Parks and Recreation. He stated the consultant advised him the notice period had closed and the city had received approximately 25

applications for the Director of Parks and Recreation position with 13 applicants which met the position qualifications. He stated he would keep the Council Members updated.

City Manager Spurgeon reviewed a few items from the Focus Newsletter: Curbside Recycling Pilot Programs and Trevor Dennis new City Attorney. He reported the Recycling Pilot Programs would begin in approximately three weeks. He stated there was also a transparency piece about the Utility Department and Chuck Vokes the new Utilities Director.

14. Executive Session

There was no Executive Session.

15. Adjournment

The meeting adjourned at approximately 7:56 p.m.

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

Move to adjourn

The motion carried by the following vote:

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

Attest:

Mayor

City Clerk