



City of Broken Arrow

Minutes City Council Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

Mayor Craig Thurmond
Vice Mayor Scott Eudey
Council Member Johnnie Parks
Council Member Debra Wimpee
Council Member Christi Gillespie

Tuesday, January 5, 2021

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

Pastor Scott Moore performed the invocation.

3. Roll Call

Present: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, 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 Scott Eudey, seconded by Debra Wimpee.

Move to approve the Consent Agenda

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

- A. 21-1A**Approval of the City Council Meeting Minutes of December 15, 2020
- B. 21-90**Approval of the City Council Special Meeting Minutes of December 15, 2020
- C. 21-95**Acceptance of the Planning Commission meeting minutes of October 8, 2020
- D. 21-96**Acceptance of the Planning Commission meeting minutes of October 22, 2020
- E. 21-89**Acceptance of a Corrected Deed of Dedication from Metro Tulsa Properties, LLC on property located approximately one-half mile south of Kenosha Street (71st Street), west of Elm Place (161st East Avenue), Tulsa County, State of Oklahoma, (Section 10, T18N, R14E)
- F. 21-110**Acceptance of a Temporary Construction Easement consisting of 0.0259 acres from the Lakeland Real Estate, LLC, an Oklahoma limited liability company, the owner, on property located at 119 East Canton Street, Broken Arrow, Oklahoma, a tract of land that is part of Lot 4, Block 2, Swanda Acres Duplexes, an addition to the City of Broken Arrow, located in the Northwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Broken Arrow Creek Trail, Phase II, Parcel 14.A (Project No. 196032)
- G. 21-111**Acceptance of a Temporary Construction Easement consisting of 0.0260 acres from the Lakeland Real Estate, LLC, a Oklahoma limited liability company, the owner, on property located at 122 East Canton Street, Broken Arrow, Oklahoma, a tract of land that is part of Lot 4, Block 1, Swanda Acres Duplexes, an addition to the City of Broken Arrow, located in the Northwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma for the Broken Arrow Creek Trail, Phase II, Parcel 15.A (Project No. 196032)
- H. 20-1571**Acceptance of Utility Easements 6.0 and 6.1 and Temporary Construction Easements 6.A and 6.B from Paul Mark and Kara J. Wilson, on property located at 8103 South Juniper Place, Broken Arrow, Oklahoma, located in the Southeast Quarter of Section 3, Township 17 North, Range 14 East, Tulsa County, State of Oklahoma for the Elm Creek Trunk Line Replacement, Parcel 6.0, 6.1, 6.A, 6.B (Project No. S.1606)
- I. 20-1467**Approval of and authorization to execute Agreement for Professional Consultant Services with McClelland Consulting Engineers, Inc. for providing design services on the 37th Street Roadway Widening from Omaha Street to Dearborn Street project (Project Number ST21390)
- J. 20-1588**Approval of and authorization to execute the renewal of CyberRisk insurance coverage with Travelers Casualty and Surety Company of America
- K. 21-75**Approval of and authorization to execute a professional services contract with First Responder Support Services, PLLC to provide behavioral health services (counseling,

- training, and consultation) to all employees of the Broken Arrow Police Department, for the police department
- L. 21-86 Approval of and authorization to execute Budget Amendment Number 19 for Fiscal Year 2021
 - M. 21-102 Approval of and authorization to execute Budget Amendment Number 20 for Fiscal Year 2021
 - N. 21-106 Approval of and authorization to execute Budget Amendment Number 22 for Fiscal Year 2021
 - O. 21-109 Approval of and authorization to execute Resolution No. 1367, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 12.0 and accept a Temporary Construction Easement for the Olive Avenue: Kenosha to Albany Roadway Improvements generally located at Tacoma and Olive Avenue, Broken Arrow, Oklahoma in the Northwest Quarter of Section 4, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma, from Paragon Films, Inc. Parcel 12.0, 12.A (Project No. ST1710)
 - P. 21-108 Approval of and authorization to execute Resolution No. 1368, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 2.0, which consists of 0.19 acres of permanent Right-of-Way for the Albany Street Improvements: 23rd - 37th, generally located at 19700 East 61st Street, Broken Arrow, Oklahoma, in the Northwest Quarter of Section 6, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma, from John and Cynda Spoon Trust and authorization of payment in the amount of \$5,100.00 for the Albany Street Improvements: 23rd to 37th, Parcel 2.0 (Project No. ST2035)
 - Q. 21-107 Approval of and authorization to execute Resolution No. 1369, a Resolution authorizing acceptance of a General Warranty Deed for Parcel 4.0, which consists of 0.33 acres of permanent Right-of-Way for the Albany Street Improvements: 23rd - 37th, located at 20060 East 61st Street, Broken Arrow, Oklahoma, in the Northwest Quarter of Section 6, Township 18 North, Range 15 East, Wagoner County, State of Oklahoma, from Richard Harriger and authorization of payment in the amount of \$13,900.00 for the Albany Street Improvements: 23rd to 37th, Parcel 4.0 (Project No. ST2035)
 - R. 21-84 Approval of and authorization to purchase Phoenix G2 fire station alerting system components for the dispatch center from US Digital Designs, Inc.
 - S. 21-73 Approval of a modification to Section 4.1(n) of the Land Subdivision Code for James Wickham, 1 lot, approximately 3.5 acres, RE (Residential Estate), west of Oak Grove Road (273rd East Avenue), one-quarter mile south of Kenosha Street (71st Street) at 27040 East 75th Street
 - T. 20-1566 Award the most advantageous bid to John Vance Motors for the purchase of twelve (12) Dodge Durango Police Pursuit Vehicles, pursuant to the Oklahoma Statewide Vehicle Contract for the Police Department and approve and authorize their purchase
 - U. 20-1567 Award the most advantageous bid to John Vance Motors for the purchase of three (3) Dodge Charger Police Pursuit Vehicles pursuant to the Oklahoma statewide Vehicle Contract for the Police Department and approve and authorize their purchase
 - V. 20-1559 Award the most advantageous bid to Professional Turf Products, L.P. and approve and authorize execution of procurement contract for Battle Creek Golf Course Irrigation Pumping System Procurement (Project No. 195427A1)
 - W. 20-1420 Notification of City Manager's and Assistant City Manager's execution of Professional Consultant Agreements and Amendments to an Agreement, as well as public Construction Contracts not subject to the Competitive Bid Act, with a Contract value of less than \$25,000
 - X. 21-82 Ratification of the Claims List Check Register dated December 23, 2020

City Manager Michael Spurgeon noted under the Consent Agenda, City Council approved a professional consulting services agreement for an engineering company to work on the widening of 37th Street to the north. He noted this was a General Obligation Bond project and he was excited to see it moving forward. He thanked City Council.

6. Consideration of Items Removed from Consent Agenda

There were no Items removed from the Consent Agenda; no action was taken or required.

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

- A. 21-104 **Presentation and discussion regarding the COVID-19 Infection rate for Broken Arrow**
Mayor Thurmond indicated he understood this was a very controversial issue; however, all present were expected to behave with the same decorum as expected in a court of law. He explained those who signed up to speak would be given three minutes to do so; he asked for respect to be given to those who were speaking. He noted any who were not quiet and respectful would be removed from the Chambers into another location to listen to the meeting.

Community Relations Liaison Mackenzie Jones indicated in this report, and in previous presentations, data was pulled for all of Broken Arrow from the Oklahoma State Department of Health (OSDH) daily tracking website and Tulsa Health Department provided data for Tulsa; moving forward Broken Arrow would begin tracking the data for both Broken Arrow

and the City of Tulsa from the OSDH daily dashboard in order to enable direct comparisons. She noted the Tulsa Health Department and the Oklahoma State Department of Health had notices that the data changed regularly. She indicated hospitalization data would continue to be provided by Tulsa Health Department.

Ms. Jones displayed and discussed charts which illustrated the new infection rates for Broken Arrow and Tulsa. She stated the Tulsa Health Department noted “since hospital capacity had been at 100% or more the recent transfer hospitalization is not representative of historical or previous trends as we know patients who would have been admitted previously have been turned away and the data represented is based on admittance.” She displayed a graph which illustrated new hospital admittances in City of Tulsa as compared with Broken Arrow. She displayed a chart which illustrated long term care facility data. She displayed and discussed information from OSDH regarding the impact of mask mandates. She stated several municipalities recently implemented mask mandates as mask mandates impacted new infection rates; however, mask mandates did not affect those currently in the incubation period. She reported OSDH indicated experience had shown, in absence of mitigation efforts, such urban areas had higher rates of disease transmission than in less populated areas. She noted the infection rate was clearly higher in communities which eventually adopted mask mandates as a result. She stated mask mandates were not the only mitigation effort being employed and it was not possible to determine what effect mask mandates alone had. She indicated currently mask mandated cities showed an 11% lower infection rate than cities without a mask mandate.

Council Member Johnnie Parks asked if the graph information comparing Broken Arrow and City of Tulsa infection rates was available online for review.

Ms. Jones indicated this graph was available in the Agenda Packet information; it was a graph she assembled from data collected. She noted Broken Arrow was at 872.96 new infections per 100,000 residents and Tulsa was at 350.12 new infections per 100,000 residents.

Mayor Thurmond asked to see the hospitalization rate chart once again. He noted Tulsa was at 9.17 per 100,000 residents and Broken Arrow was at 5.42 per 100,000 residents. Ms. Jones concurred noting this number reflected new admissions for the week.

Council Member Parks asked about death rates in Broken Arrow as compared with City of Tulsa. Ms. Jones indicated Tulsa suffered 274 deaths (a rate of 67.89 per 100,000) while Broken Arrow suffered 85 deaths (a rate of 77.18 per 100,000 residents). Council Member Parks noted he understood this was a discussion item only; no decisions could be made for this item; however, he felt, due to the consistently increasing rates, Broken Arrow needed to include this as a decision item on the next City Council Meeting Agenda to see if there were some way to bring the case numbers down in Broken Arrow. He indicated he received complaints from residents who were uncomfortable coming to a City Council meeting due to COVID concerns and space restrictions. He asked for City Council to consider a larger venue for the next City Council Meeting to better accommodate COVID social distancing requirements and allow more residents to attend.

Mayor Thurmond stated a change of venue would be the responsibility of the City Manager.

Vice Mayor Scott Eudey stated he would not object to a change in venue as he was receiving similar complaints from residents who were not comfortable in the Council Chambers as it was a smaller enclosed space and social distancing was difficult. He stated he did not want anything to inhibit residents from addressing City Council.

City Manager Spurgeon suggested the Broken Arrow Municipal Court as a possible meeting site.

Council Member Debra Wimpee commented safety provisions had been made for holding meetings at City Council Chambers.

Council Member Christi Gillespie agreed she wanted all residents to have the opportunity to be heard; however, she was concerned about the precedent changing the location of the meetings might set.

Vice Mayor Eudey stated it was not without precedent to hold meetings at a large venue when it was known there was a high level of interest. He indicated this had been done in the past.

Council Member Gillespie stated she wondered if the CARES Act funds might cover improvements to the City Council Chambers to better accommodate social distancing protocols.

City Manager Spurgeon stated he believed it would qualify.

Council Member Gillespie indicated she felt this was an interesting thought.

Council Member Parks agreed. He noted often there was not enough space to accommodate interested residents, even prior to COVID.

Discussion ensued regarding resident complaints regarding there not being enough space in Council Chambers to meet and properly social distance, not wishing residents to be uncomfortable attending City Council Meetings and enabling residents to feel free to attend meetings and address City Council regarding COVID.

Vice Mayor Eudey noted this subject had been discussed at every meeting for many meetings. He stated he hoped after a meeting was held at a larger venue, residents would no longer complain about not being able to be heard.

Council Member Parks noted when COVID was discussed as an action item, action was a possibility; this did not mean action was required or would be taken.

Council Member Gillespie asked what type of action Council Member Parks wished to be considered.

Council Member Parks responded any action could be considered.

Vice Mayor Eudey noted at least two news outlets reported City Council planned to vote on a mask mandate at this evening's meeting; however, this was not the case. He noted this was frustrating. He explained when an item was discussed as a non-action item, legally per statute, no action could be taken. He noted Council Member Parks wished COVID to be considered as an action agenda item which would allow the City Council to take action at any level of this issue.

Council Member Parks commented he had informed some members of the press tonight's discussion would not be an action item. He noted some members of the press were not comfortable attending City Council Meetings due to the limited space.

City Manager Spurgeon stated he would find a larger venue location; he would look into use of the municipal courts as well as other options. He noted a special meeting would need to be advertised including all required legal notices, as well as over-advertisement on social media. He stated as the meeting would still be a regular City Council Meeting, he would attempt to keep other Agenda Items short. He stated he would work with the Legal Department to determine appropriate wording for the action item. He asked if City Council would be willing to begin the meeting at 6:00 p.m. rather than 5:30 p.m. He suggested saving the COVID discussion as requested by Council Member Parks for the final agenda action item.

Council Member Parks asked if City Attorney Trevor Dennis had any objections to City Manager Spurgeon's suggestions. City Attorney Trevor Dennis responded in the negative; there were no legal objections. There were no objections by City Council.

Mayor Thurmond noted a resident signed up to speak in opposition of Item 7A, as well as for Item 8, the citizens' opportunity to address City Council.

Council Member Parks noted City Council had to make decisions regarding City situations, and issues which affected the citizens of Broken Arrow. He stated he believed it was the responsibility of the City Council to review COVID data regularly.

Council Member Wimpee commented City Council Members reviewed COVID data daily, not just during City Council Meetings.

Citizen Jason Coan stated his address was 1716 Narcissus Place. He thanked City Council for the opportunity to speak. He stated he chose "in opposition" on his Request to Speak form to signify how he felt about how the City was handling the COVID situation; however, if there were a third option, perhaps a "comments" option, he would choose this instead. He stated he understood the City Council cared for the residents of Broken Arrow. He stated he believed City Council understood masks helped to some extent. He stated he felt Broken Arrow was facing a "was the juice worth the squeeze" situation. He stated City Council should consider whether the effort of enforcing the mask mandate was worth the 3% or 4% reduction in the spread of COVID as this was what it came down to. He noted Broken Arrow did not have as many police officers per 100,000 residents as compared with other large municipalities; however, no city had excess available resources to enforce a mask mandate but were working to do so regardless. He stated he believed Broken Arrow could do so as well. He compared enforcing mask mandates to enforcing neighborhood speed limits; he noted residents were inclined to follow speed limits regardless of whether a police officer was

present. He discussed the difficulties Broken Arrow businesses were having enforcing mask mandates within businesses.

Mayor Thurmond stated citizens were responsible for citizens' actions. He noted he did not wear a seatbelt because there was a law requiring a seatbelt, but because he felt safer wearing a seatbelt. He stated his mother-in-law wanted to have Christmas Eve dinner; he went, and everyone wore a mask for dinner to be safe as his mother-in-law had diabetes and cancer. He stated he believed citizens had a responsibility to take care of themselves, friends, and family. He stated he did not believe a law was needed for this to be done.

**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)**

Mayor Thurmond noted several citizens signed up to speak.

Citizen Sarah DeNeui stated her address was 908 S. Redbud Avenue. She stated she believed it was important for City Council to continue hearing from the residents of Broken Arrow regarding COVID issues. She thanked City Council for its sound governance in this area to date. She discussed the early stages of COVID shutdowns. She discussed the history of COVID in the nation and the mixed information being circulated including asymptomatic transmission being a risk, while the claims asymptomatic transmission was not a risk were not being circulated.

Citizen Angela Liter stated her address was 1216 E. Kenosha Street. She stated she understood some felt safer with a mask and she did not object if others chose to wear a mask; however, she did not believe mask wearing should be required. She noted not all could safely wear a mask; there were valid medical exemptions. She stated she was a military veteran who served in a combat zone and suffered disabilities which made it difficult for her to wear a mask. She discussed the difficulties she faced when shopping in stores without curbside pickup availability including evil stares and comments. She discussed severe anxiety, PTSD, and asthma noting these were not visible disabilities. She stated she had friends who suffered from these conditions and it was not okay to put her friends down for not wearing a mask, nor was it okay to force them (or herself) to wear a mask. She stated she was treated as if she had the plague at work due to her not wearing a face mask. She noted she was not permitted to enter a room where others were present at work, including the bathroom and the breakroom. She noted the government should focus on proper nutrition and immune system strengthening rather than mask wearing. She discussed tobacco use, obesity and related diseases which killed more Americans than COVID. She asked City Council to consider how a mask mandate would affect the community.

Citizen Jodi Snedeker stated her address was 1909 W. Nashville Street. She thanked City Council for keeping the City of Broken Arrow as free as possible. She stated she survived obesity, drug and alcohol abuse, domestic violence, cancer, and had the scars to prove it. She stated the government did not keep her and her family alive. She stated she trusted in God to protect her and her family. She stated she did not feel she needed to be subjugated to rules and regulations mandated from those who "did not know what they were talking about." She stated she wore the armor of God daily and did not need others to tell her how to take care of herself or her family. She stated those with health issues should wear a mask, but those without health issues should not be forced to wear masks. She noted she was a small business owner and believed in small government. She stated she worried about big government and the communism which was right at the door. She stated she believed this was not about a virus, but about a bigger agenda and this truth needed to be revealed. She stated if you agreed to allow the government to enforce mask wearing the next step was forced vaccines, followed by the government taking all you owned. She stated she would fight for her freedom. She asked City Council to allow the public the freedom to make its own choices about healthcare.

Citizen Lori Gracey stated her address was 712 W. Granger Street. She stated statistics, science, and news reports were easily manipulated. She stated the U.S. Constitution, and the Constitution of the State of Oklahoma should be honored. She stated she loved the way Oklahoma residents valued freedom and believed the role of the government was to protect the rights of the people, not infringe the rights of the people. She stated she did not believe the government had the authority to tell her to wear a burqa any more than it had the authority to tell her to wear a mask. She stated the role of the government was not to tell her what kind of medication she had to take or how to keep herself safe. She stated as long as she was not infringing someone else's rights she should have the freedom to act as she felt was appropriate. She stated it was the duty of the government to protect the resident's rights. She asked City Council to continue in this manner.

Citizen Jason Coan stated his address was 1716 S. Narcissus Place. He stated recently the City changed trash service to carts which he felt was fantastic. He noted the carts prevented stray animals from tearing apart trash bags and spreading trash around. He asked if there had been any consideration for a green trash cart for green waste. He noted using clear plastic

bags for green waste was difficult as twigs and thorns tore through plastic. He asked if green waste carts had been considered.

City Manager Spurgeon responded in the affirmative; however, for the next year or two green waste would be collected in a bag. He noted there were logistical and operational challenges in adding a third cart; additional trucks and additional personnel would be required.

Citizen Coan suggested possibly allowing residents to add the third cart for an additional trash fee. He thanked City Council.

Citizen Allen Conway stated his address was 8683 S. 262 E. Avenue. He stated he saw the apparently false news report and attended as he had believed this was an action item. He stated he was a homeowner and resident of Broken Arrow for 16 years; his children graduated from Broken Arrow High School and he was a proud citizen of Broken Arrow, now more than ever. He stated Broken Arrow was a bastion of freedom. He stated he believed mask mandates were ridiculous and he did not leave the City of Broken Arrow unless he had to as a result. He stated the studies for mask efficacy showed evidence for and against mask wearing. He stated he was proud Broken Arrow had resisted forcing residents to do something which was arguably not necessary and likely detrimental to some residents' health. He asked City Council to choose freedom and stick with previous decisions to not mandate masks.

Citizen Misty James stated her address was 409 W. Key West Street. She reported multiple studies showed masks did not prevent the spread of the virus; data could be manipulated to say what you wished at any time. She stated inhalation of ones CO2 gases was extremely unhealthy and could cause a host of issues. She noted she was a dance instructor and children were unable to participate in dance class due to masks. She stated she felt forcing children to wear masks and inhale continuous CO2 was child abuse. She stated if it were agreed masks worked, most would wear masks, but most agreed masks did not work. She stated it was currently flu season, COVID tests had a high rate of false positive and captured many viruses. She stated all probable symptoms were being included and coded as positive cases. She stated the overall death rate had not changed for COVID. She stated children were the least affected by COVID. She stated she was a healthy person and lived a health lifestyle. She stated she could not be responsible for the health of others. She stated it was the responsibility of individuals to take the necessary steps to support a health immune system.

Citizen Joshua Stenros stated his address was 3901 S. 201st E. Avenue. He stated he was against a mask mandate. He stated Broken Arrow was anti-mask mandate, not anti-mask. He stated most wore masks in public. He stated there was a petition going around asking for a mask mandate with over 200 signatures; as a result a counter-petition was circulated against a mask mandate with over 700 signatures. He stated some of these signatures had to be removed due to incorrect addresses, with 249 signatures coming from cities outside Broken Arrow proper. He stated citizens did not want to be told what to do. He stated Broken Arrow was currently the area leader in liberty, common sense, and tax revenue.

9. General Council Business

- A. 21-79 Consideration, discussion, and possible appointment of two city council members and one external representative, Jeff Hewitt, to the Broken Arrow Finance Audit Committee**
Finance Director Cindy Arnold reported on December 17, 2019 the Council adopted Ordinance No. 3607 establishing the Broken Arrow Finance Audit Committee. She noted COVID delayed formation of this committee She stated the purpose of this committee was to review revenues and expenditures, professional service contracts, debt issuances and the Manual of Fees. She indicated the Ordinance stated the Committee would consist of three members, two City Council members and one external representative appointed by the Mayor. She stated Mr. Jeff Hewitt was interested in serving as the external representative. She stated Staff recommended City Council appoint two Council members and Jeff Hewitt as the external representative.

City Manager Spurgeon noted several City Council Members knew Mr. Hewitt; Mr. Hewitt was excited to serve in this capacity.

Vice Mayor Eudey noted the City Council Members would serve on this committee in a revolving fashion to enable each City Council Member to learn about City finances and guide decision making.

City Manager Spurgeon noted the Finance Audit Committee Meetings would be held on the same night as the City Council Meetings initially.

Council Member Wimpee indicated she would not mind serving.

Council Member Gillespie nominated Council Member Wimpee.

Vice Mayor Eudey stated if the Finance Audit Committee Meetings were held just prior to City Council Meetings he felt he could serve.

City Manager Spurgeon stated the Finance Audit Committee would meet approximately four to six times annually. He stated he felt rotating Members from the City Council annually would be beneficial, or at the most every two years.

MOTION: A motion was made by Johnnie Parks, seconded by Christi Gillespie.

Move to appoint two City Council Members, Debra Wimpee and Scott Eudey, and one external representative, Jeff Hewitt, to the Broken Arrow Finance Audit Committee

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

B. 21-87 Consideration, discussion, and possible acceptance of ST20-141, site plan for The Nest at Centennial, 14.54 acres, 158 units, A-1 to PUD-266A/RM, east of N. Elm Avenue, one-quarter mile south of Omaha Street (51st Street)

Community Development Director Larry Curtis reported on February 7, 2019, the City Council approved PUD-226 on 19.64 acres located east of N. Elm Avenue, one-quarter mile south of Omaha Street. He reported at that time, a multifamily complex with two and three-story apartment units was proposed; as part of the approval of PUD-266, the City Council stipulated that when a site plan was submitted, it would be sent to the City Council and notices would be sent to the surrounding property owners, and those who had addressed the City Council. He stated on February 13, 2020, the Planning Commission approved a minor PUD amendment, PUD-266A, subject to the property being platted. PUD-266A kept the design regulations of PUD-266 but added an alternative design for Development Area A which reduced the number of allowed dwelling units from 285 to 175 units. He stated while the uses permitted allowed multifamily dwellings, the number of units which could be attached was limited to two. He noted in addition, all units could only be one story in height. He reported a conditional final plat was approved by the City Council on June 1, 2020, subject to a checklist. He stated on December 4, 2020, a site plan was submitted to the City of Broken Arrow; the site plan showed 158 units, of which 112 were single-family detached-type units and 46 were duplex-type units. He noted all the units were one-story in height. He indicated a five-foot wide sidewalk was shown along both sides of Kansas Place; the complex would be gated, with one point of access to Elm Place and two points of access to Kansas Place.

He stated Staff reviewed the site plan and landscape plan submitted on December 4, 2020. He reported comments were sent to the applicant on December 18, 2020, and applicant was in the process of addressing these comments. He stated informational notices advertising the review of the site plan by the City Council were sent to all the property owners on the mailing list associated with PUD-266, as well as those who had attended the City Council meeting. He stated Staff recommended approval of the site plan.

Council Member Wimpee noted there originally were going to be houses on the land to the south, but she did not see this included in the site plan. Mr. Curtis concurred; Development Area A was only being considered; Development Area B would come before City Council in the future.

Council Member Wimpee asked if traffic was being addressed. Mr. Curtis responded in the affirmative; the addition of Kansas Place as a second access point helped alleviate the traffic difficulties in the area. He noted most traffic difficulties were due to the schools in the area. He stated the access point on Elm was limited to a one direction access point, while the Kansas Place access point was two directions. He stated the impact analysis was completed which showed the turning radiuses and the “ins and outs” of Kansas Place have been resolved.

Council Member Wimpee asked about the concerns regarding the curb on 2nd Street noting there was no designated crossing area. Mr. Curtis responded traffic would not connect onto Independence at this point; traffic would not connect onto Kansas; in the future traffic would connect onto Independence to the south. He stated Staff noted this concern and this would be presented to the Traffic Safety Committee to see if this could be resolved with additional signage or a potential crosswalk.

The applicant was present and in agreement with Staff recommendations.

Mayor Thurmond noted one citizen signed up to speak.

Citizen Lori Gracey stated her address was 712 W. Granger Street. She stated the traffic issues were her biggest concerns. She noted she lived in the neighborhood to the west of this new development. She indicated it was difficult turning out of her neighborhood in the morning and it was difficult to see the oncoming traffic due to the hill and the speed of traffic. She discussed the Elm/Elm break in the road where drivers had to exit off Elm to get back

onto Elm a short distance ahead. She asked if any traffic lights were being considered in this location in an effort to slow down and control traffic. She asked about the apartments being considered south of this new development.

Mr. Curtis explained the other development area was across Kansas and was limited due to setbacks and the detention facility. He noted to the south was another parcel, not associated with this PUD, which would be for future residential development.

Ms. Gracey noted previously there was concern about buses coming out of the south side of the school property to make a left-hand turn onto Elm. She asked if this had been addressed and resolved.

Mr. Curtis responded in the affirmative; however, the school district made its own choices regarding bus directions and routes.

Ms. Gracey asked City Council to consider placing a light on Elm near the Elm/Elm break.

Council Member Gillespie asked if there were any developments similar to this elsewhere in Broken Arrow.

Mr. Curtis responded in the negative; this was unique for Broken Arrow. He stated there was another proposal for a similar neighborhood in the east of Broken Arrow. He indicated he was pleased to see this type of development as from a planning standpoint, the older generation residents would appreciate a home with less yard upkeep.

Vice Mayor Eudey asked if there was a similar development in Eufaula. Mr. Curtis responded in the affirmative: Carlton Landing. He noted the Carlton Landing development had individually owned lots and houses but was a condensed community similar to the proposed development.

Council Member Gillespie asked if the yards would be maintained by the renters or the rental company. Mr. Curtis responded the rental company.

Council Member Gillespie noted this development would not only be beneficial to seniors, but also to residents like her daughter, single mothers who wished to live in a home rather than an apartment but were not ready to purchase a home.

MOTION: A motion was made by Christie Gillespie, seconded by Debra Wimpee.
Move to accept the site plan for The Nest at Centennial, 14.54 acres, 158 units, A-1 to PUD-266A/RM, east of N. Elm Avenue, one-quarter mile south of Omaha Street (51st Street), and direct Staff to continue to review the site plan to confirm compliance with Broken Arrow regulations

The motion carried by the following vote:

Aye: 3 - Christi Gillespie, Debra Wimpee, Johnnie Parks
Abstain: 2 - Scott Eudey, Craig Thurmond

- C. 21-105 Consideration, discussion, and possible action regarding SP-298, Living Rivers USA, Inc., 5.75 acres, request for a Specific Use Permit for a Place of Assembly, one-eighth mile south of New Orleans Street (101st Street), east of Elm Place (161st E. Avenue)**
Mr. Larry Curtis reported on November 19, 2020, the Planning Commission heard a request for a Specific Use Permit (SP-298) for a Place of Assembly on property presently zoned CG (Commercial General) located one-eighth mile south of New Orleans Street (101st Street), east of Elm Place (161st E. Avenue). He reported during the Public Hearing portion of the Specific Use Permit there were 10 people at the meeting who spoke in favor of the request and 1 who spoke in opposition. He noted in addition, there were 104 forms submitted online, 52 in favor of the request and 52 in opposition; of the 104 forms submitted, 72 contained comments which were read to the Planning Commission during the meeting. He noted the comments in favor of the request for a Place of Assembly focused on providing information on the caring attributes of the church; how it would be an asset to the community by drawing more people to shop and dine in the immediate area and community; and the planned remodel improving the visual appeal of the area. He reported comments in opposition generally expressed concern with not needing another church in the area; a desire for retail and restaurants to support daytime traffic, jobs, and sales tax; and the use not aligning with the community’s vision for the Elm Place and New Orleans Street intersection.

He stated during the meeting, it was noted the issue before the Planning Commission was whether or not a Place of Assembly was appropriate for this location, not whether or not a church was appropriate for this location. He reported based on the Staff report, information provided by the applicant, extensive public comments, policies contained in the 2019 Comprehensive Plan, and the New Orleans Square report recently accepted by the City Council, the Planning Commission voted 3-2 to deny SP-298 for a Place of Assembly. He explained Zoning Ordinance defined Place of Assembly as “A building or structure, or group

of buildings or structures, intended primarily for the conduction of organized assembly. May include, but are not limited to religious facilities, assembly halls, and fraternal/social clubs. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.” He stated Place of Assembly required a Specific Use Permit in all agricultural, residential, commercial zoning districts. He stated Place of Assembly was a permitted use in the ON (Office Neighborhood district). He reported Living Rivers USA, Inc. wanted to hold church services in the existing vacant building and as a result, submitted a request for a Specific Use Permit. He noted according to the applicant, there would be up to 500 members in attendance on Sundays; services on Sunday occurred at 10:00 a.m. and 6:00 p.m.; in addition, there were church activities which took place on Tuesday evenings.

Mr. Curtis stated according to information provided by the applicant, the building, which was used by former grocery stores, contained 71,993 square feet. He stated the owner of the property commented during the Planning Commission meeting Reasor’s vacated the building in June 2019; since that time, the building had been under contract with five different parties but were unable to finalize the contract. He stated as part of their Specific Use Permit, the applicant proposed 24,820 square feet of the building be kept as retail space with only the church entrance on the west side of the building. He stated the remaining 47,173 square feet would be used as Place of Assembly space for the church. He noted this was similar to the concept used with the former K-Mart building immediately to the north which had retail and office uses on the north and west street sides of the building and mini storage in the interior east part of the building.

Mr. Curtis stated in making decisions on rezoning requests, including Specific Use Permits, the City of Broken Arrow placed heavy emphasis on what was contained in the Comprehensive Plan. He noted Policy LU1 of the Comprehensive Plan stated, “The City shall refrain from approving requests for Specific Use Permits and PUD’s for uses which could affect the ability to attract quality commercial dining or entertainment facilities within or immediately adjacent to existing or future commercial districts (Level 4 and Level 6 areas) as identified in the Future Development Guide.” He indicated dining establishments which receive less than 50 percent of revenue from alcohol sales were not impacted by the proximity of religious facilities; however, liquor stores and establishments which receive more than 50 percent of revenue from alcohol sales had to be located more than 300 feet from a religious facility or public/private school; therefore, if SP-298 were approved, there would be an impact on applications for future liquor stores and facilities which derived 50 percent or more of their income from alcohol sales. He stated the Comprehensive Plan showed the area associated with SP-298 as a “Special District Overlay” and Policy LU2.1 stated, “In the areas identified as special district overlays, the intent is for denser, walkable development with a mixture of retail, office, and residential uses. These special district intersections will have a different character than the traditional four-corner retail, so the standards should reflect it. Considerations should include walkability, community open space, consistent architectural facades, and appropriate ingress/egress.”

Mr. Curtis reported Policy EP2.3 of the Comprehensive Plan stated, “Mixed-use and lifestyle center developments, often featuring a concentration of specialized local and national retailers, are emerging as important economic development tools that cities are using to promote placemaking and their civic brands. These centers also have great potential to revitalize aging commercial areas, such as strip malls and big box stores, and ensure successful and sustainable nodal redevelopment that attracts higher-quality and higher yielding tenants.” He stated municipalities in Oklahoma relied heavily on sales tax generated from retail sales to fund and provide the City services. He noted along these lines, Policy LU10 of the Comprehensive Plan stated, “The City shall protect commercial areas from the encroachment of non-commercial uses.” He indicated the Place of Assembly proposed with SP-298 would be an encroachment of a non-commercial use into a commercial area; however, the interior, east part of the building which would be used by the church would be the most difficult to lease for retail uses. He stated according to the applicant, the church had up to 500 people in attendance on Sundays; it was recognized these 500 attendees may choose to eat at the nearby restaurants or shop at one of the retail stores in the area.

Mr. Curtis reported Policy D.1.2 of the Comprehensive Plan stated, “Conduct special area plans for the special districts to create a vision for future development and redevelopment.” He stated in August 2017, the City Council approved an economic development feasibility study for the Elm Place and New Orleans shopping area. He indicated this initiative was in response to increased building vacancies, aging infrastructure, and citizen concerns. He stated on September 1, 2020, the City Council accepted the Final Report for New Orleans Square as presented by the Elm and New Orleans Advisory Committee. He explained in this report it noted, “Creating a strong retail/mixed-use center within New Orleans Square will be an incremental process that relies heavily on the focuses of transportation, landscaping, infrastructure, and placemaking. Achieving this in the long-term will require a commitment by the city, Chamber of Commerce, and the merchants and property owners to cooperation and both public and private investment in the area. Guiding principles for collaboration should include training existing businesses, attracting new and complementary business,

enhancing private employment opportunities, incorporating a broader mix of public uses, and coordinating public and private investment.” He reported regarding the proposed land use, the New Orleans Square report stated, “Increased density and better mix of land uses will create sustainability, vibrancy, and economic growth. Clustering retail, dining, entertainment, office, and residential uses will foster greater utilization of multi-modal transportation and can create greater economic output. In addition, mixed-use creates greater operational efficiency for the city.”

He stated as per Section 3.1.A.2.b of the Zoning Ordinance, an “S” designation in a given district did not constitute an authorization or an assurance that such use would be permitted, rather, each specific use permit application should be evaluated as to its probable effect on adjacent properties and surrounding areas and may be approved or denied as the findings indicated appropriate. He stated in determining whether or not a change in zoning, including Specific Use Permits, was appropriate, a lot of emphasis was placed on what was recommended by the Comprehensive Plan. He stated the Comprehensive Plan adopted in 2019, as well as the previous Comprehensive Plan adopted in 1997, contained policies which stated commercial areas should be protected from the encroachment of non-commercial uses, and the City should refrain from approving requests for Specific Use Permits and PUD’s for uses which could affect the ability to attract quality commercial dining or entertainment facilities within or immediately adjacent to existing or future commercial districts (Level 4 and Level 6 areas) as identified in the Future Development Guide.” He indicated while Places of Assembly could serve as a draw for people to patronize businesses and restaurants in the area, Staff concluded the proposed use did not align with the Comprehensive Plan’s policies or the New Orleans Square Report. He stated Staff recommended City Council deny SP-298A as recommended by Planning Commission.

Mayor Thurmond stated City Council was a firm believer in the importance of churches. He asked if this was a lease or purchase. Mr. Curtis responded this was a purchase.

Mayor Thurmond asked if the City could somehow regulate the retail space as was done with Home Church. Mr. Curtis responded in the affirmative; however, if this were the desire of City Council, he recommended the Item be tabled to allow City Staff to work with the applicant on the restrictions.

Mayor Thurmond stated he was concerned about allowing a Place of Assembly in this location when this was supposed to be a commercial area.

Mr. Curtis stated Home Church applied through the PUD process and this was a Specific Use Permit. He explained the Specific Use Permit must comply with all sections of the Comprehensive Plan, where a PUD process was only required to comply with the land use map. Mayor Thurmond commented as a Specific Use Permit this did not comply with the Comprehensive Plan. Mr. Curtis concurred explaining the Specific Use Permit application at this time did not meet the Comprehensive Plan requirements which were read previously. He stated if this came through as a PUD process the Comprehensive Plan requirements still would not have been met, but a PUD only had to meet the requirements of the land use map.

Mayor Thurmond stated, as a Specific Use Permit, it would be very hard to approve this application as it violated Broken Arrow statutes.

Vice Mayor Eudey asked if legally City Council could even approve this application as it was not consistent with the Comprehensive Plan. Mr. Curtis stated he would advise against approval, but City Council had the ability to make its own decision. He stated if City Council found other statutes in the Comprehensive Plan which perhaps Staff had not recognized which would support this, then perhaps it could be approved. He stated at this time Staff could not find anything in the Comprehensive Plan to support this application.

Mayor Thurmond asked if the applicant was considering the use of a PUD. He stated he could not see approving this application as it violated rules created by the City. Mr. Curtis recommended asking the applicant about consideration of a PUD application.

Council Member Parks stated he understood big box spaces, as he believed this was, were difficult to market. He stated he felt this seemed like a good plan to bring in some commercial to the area when it might sit empty for many years unless it was subdivided. He indicated he did not wish to lose the commercial property space, but he worried this property would sit empty for some time.

Mr. Curtis indicated he understood Council Member Parks’ concern; however, the City Planners did consider this. He noted the Walmart on 193rd and Kenosha sat empty for 23 years, but now had a new owner and there was a site plan for the property. He stated the City Planners wished to fill empty space but took into consideration what would be best for the foreseeable future of an area, not just what looked good right now. He agreed a PUD process would allow the City to review possibilities of better developing this space.

Vice Mayor Eudey stated regardless of what was proposed to be developed, if it were inconsistent with City Ordinance, he was not comfortable approving the application. He indicated he would be much more comfortable considering a PUD application as it would enable City Council to ensure there was commercial development in a manner more consistent with the New Orleans Square Report. He noted he and Council Member Gillespie served on the Elm and New Orleans Advisory Committee. He indicated, while the New Orleans Square Report did not specifically oppose places of assembly, places of assembly were not consistent with the overall plan for the revitalization of the area. He noted first, Home Church was developed prior to this study, and second, Home Church was developed through a PUD. He stated third, approval of this application would be contrary to what Broken Arrow Ordinance indicated; therefore, Ordinance would have to be amended or a waiver of some sort would need to be granted which would be challenging and could set precedents which should not be set. He noted he personally loved seeing a church on every corner; however, this application was difficult to approve.

Mr. Curtis stated the New Orleans Square Report did not speak directly toward Place of Assembly, but neither did it speak toward agriculture or industrial. He stated the New Orleans Square Report was silent on many things, but it was very loud regarding what was desired in this location: mixed use, commercial, and residential. He explained even though place of assembly was not incorporated into the Report as being something negative, it was silent on the idea. He stated even with a PUD, while the requirement was only that it met the Future Land Use guide, it did not mean all the policies and regulations of the Comprehensive Plan were now to be disregarded. He noted even if this request were filed through a PUD, it did not necessarily mean it would be approved by City Council.

Vice Mayor Eudey stated a PUD would be a more palatable consideration, but still would have challenges associated with what City Council adopted with the New Orleans Square planned redevelopment.

Mr. Curtis concurred. He noted staff was moving forward with the transportation plan; the contract was approved by City Council. He stated a contract with a firm to begin work on the overlay district for this area would be coming before City Council at the next meeting. He indicated he was also concerned about having active cases proceeding while the overlay district process was proceeding.

Council Member Gillespie asked if the applicant could speak.

The applicant, Mr. Lou Reynolds, address 2727 E. 21st Street, stated he felt this application complied with the Comprehensive Plan. He stated he felt it complied with the Specific Use Ordinance. He stated the Comprehensive Plan was not a regulatory document; it was just a guide. He stated the site plan was far along in development and the development standards proposed were identical to PUD type standards. He stated whether this was applied through a PUD or an SP the application would be the same and the City Council could impose whatever conditions it chose for approval.

Mayor Thurmond asked if the applicant would be interested in utilizing a PUD.

Mr. Reynolds stated he would utilize a PUD if the City required it; however, he felt the SP Ordinance had been complied with, as well as the Comprehensive Plan. He stated Comprehensive Plans were intended to be flexible. He discussed the New Orleans Square Report and quoted various passages which he believed were in favor of this development. He noted he had negotiated a lease for the north two-thirds of this building last year which would have been a resale store such as Goodwill. He stated if this had gone through there would not be the placement of 35 more trees and a new store façade. He stated the potential lessor did not lease the building as other tenants for the space could not be found. He noted the parking lot currently had no trees, and the commercial project across the street had no trees. He stated there was a growing amount of disinvestment in this intersection, there was a problem with appearance, and functional obsolescence was a problem at the intersection. He indicated the proposed development would solve these problems. He stated the New Orleans Square Report called for cultural activities, family orientation, connectivity, safety, educational, quality, health, and open space. He indicated this application brought in all of these desirables. He stated the development would improve the façade, bring in shade trees, improve the parking lot, be environmentally progressive, update lighting, and add fixtures. He quoted the New Orleans Square Report and indicated the proposed development fit well with the New Orleans Square vision. He stated the development would reconfigure the building and draw a facet of retail. He noted the church brought in 500 adults to the area. He discussed the various services the church would hold throughout the week. He reviewed the self-imposed Development Standards associated with this development. He indicated the Church would waive any objections to a business which derived 50% or more of its income from liquor sales being located within 300 feet of the church. He stated this development would effectuate the change the City wished to see in this location. He reiterated the

Comprehensive Plan was not regulatory, it was a guide, and this proposed development complied with the Comprehensive Plan regardless. He discussed surrounding businesses. He noted the proposed development would be a \$2 million dollar investment in the property. He discussed the importance of churches. He stated he struggled with the idea a PUD was necessary to comply with local regulations; however, the applicant would retool the application if necessary.

Vice Mayor Eudey asked if City Attorney Dennis could prepare an opinion as to the applicability of this application to Broken Arrow Ordinance and Special Permits.

Council Member Gillespie asked if this could be further discussed. Vice Mayor Eudey responded in the affirmative. He indicated he simply wished to know whether legally this application complied with Broken Arrow Ordinance because if it did not, then he felt it was definitive and the applicant needed to be asked to move in a different direction.

Mayor Thurmond noted eight citizens signed up to speak.

Citizen Mike Renfro stated his address was 28700 E. 61st Street. He stated he was a resident and business owner in Broken Arrow for many years (in 2013 he sold his business). He stated for thirty years he drove through this intersection. He discussed the empty Walmart building and noted he was concerned the building in question would also sit empty for 23 years if this development were not approved.

Citizen Gary Mossop stated his address was 18852 E. 48th Street. He stated his family was the product of the local church. He discussed his children's accomplishments. He stated he believed churches were essential to the community. He discussed the "halo effect" regarding churches and how church congregations contributed to the local economy. He indicated a sociology study conducted by the University of Pennsylvania revealed church congregations significantly contributed to area economics, generating between \$1.2 million dollars and \$2.5 million dollars annually to the area in which the church was located.

Citizen John Dobberstein stated his address was 4216 S. Redwood Avenue. He stated he was a resident of Broken Arrow and a newly appointed member of the New Orleans Square Citizen Advisory Committee. He stated his wife, Tatum Adams, served on the original Elm and New Orleans Advisory Committee. He stated he was excited about the future of New Orleans Square. He indicated he felt it was wonderful a church expressed interest in this property and understood the landowner wished to sell his property; however, a considerable amount of time and taxpayer dollars had been spent in creating the Comprehensive Plan, and the New Orleans Square Plan. He stated more money was being invested in a traffic study, branding, and for development of an overlay district for New Orleans Square. He stated the old Reasor's building was a key piece of real estate in this intersection and the vision laid out for this building was for it to be a high-quality shopping center anchored by grocery and local oriented retail uses. He noted he spent hours reading hundreds of comments about this property and the possibility of a church in this location and the public comments were two to one against a church in this; residents wished to see restaurants, grocery stores, and retail. He stated another 10,000 residents were expected to be added to this area in the next seven years with up to 4,000 additional housing units. He indicated there was nearly 600,000 square feet of unmet retail demand in this area which required the City to stick to the New Orleans Square Plan rather than give in to short-term easy fixes which would do little for the Broken Arrow tax base. He asked the City Council to take into consideration the Comprehensive Plan and the efforts of the Community Development Department which had been working very hard on the New Orleans Square project. He indicated he was excited for the future and the positive things which would be accomplished.

Citizen John Pride stated his address was 3500 S. Astor Avenue. He listed four reasons the application should be approved: "1) We are in agreement with the City's goal of attracting retail to the area; 2) We are a party ready to develop immediately which would jumpstart the New Orleans Square project; 3) We bring in instant new customers;" and 4) He believed the proposed development was in alignment with the New Orleans Square Plan as it would bring in new retail and new customers. He requested City Council approve the application.

Citizen Mindy Payne stated her address was 4016 W. Vicksburg Street. She stated she spent a year and a half volunteering on the Elm and New Orleans Advisory Committee. She indicated she had a binder and her book which contained every note, every discussion, and every action which the Elm and New Orleans Advisory Committee took. She indicated the Committee spent much time discussing the desire to have powerlines moved, streets repaired, and retail brought into the area. She noted if this application were approved there would be five churches in this location. She stated New Orleans Square did not need this proposed development. She stated the Elm and New Orleans Advisory Committee wished to see grocery stores (the number one desire of all surveyed residents), new trees and lighting, shopping, and restaurants. She stated another church which took away tax dollars would not accomplish the goals of this project; tax dollars were needed to move powerlines. She

discussed the successful recent tactical urbanism project: a sparkly piano was placed outside in New Orleans Square which attracted residents to the area to relax, have fun, and shop. She discussed the efforts of the Elm and New Orleans Advisory Committee to ensure New Orleans Square would be amazing. She stated she disagreed this proposed development fit the New Orleans Square Plan; the Committee wanted this area to be commercial and amazing.

Citizen Mary Wardlaw (present with her husband Gary Wardlaw) stated her address was 3108 W. Edgewater Street. Mr. Gary Wardlaw thanked City Council for the opportunity to speak and thanked City Council for its service, the improvements with the streets, and the improvements with the trash service. He stated he believed City Council had the best interests of the City at heart. He stated City Council had a “no win” job as no matter what decision was made someone was going to be unhappy. He discussed the comments being made by residents online. He noted Broken Arrow was renown for being a nice place to live and raise a family. He indicated he believed churches had contributed to this renown. He indicated he believed the proposed church would be a benefit to the community. He stated this application would not be before City Council if there were no demand for more churches. He noted while the church itself did not pay taxes; the residents who attended church did pay taxes. Ms. Mary Wardlaw indicated she and her husband were transplants from Arkansas and chose to move to Broken Arrow because of the community culture. Mr. Wardlaw thanked City Council for its objective consideration of the application.

Citizen Erika Zimmerman stated her address was 408 W. Austin Street, just south of New Orleans Square. She indicated this church was her home church and was more like a family than a church. She noted this was not just another church; this church was different. She stated this proposed development would encourage economic growth. She indicated the proposed development would be wonderful and would open the area up to new possibilities. She discussed grocery stores and restaurants and how much square footage most grocers/restaurants require, noting there was too much square footage in this building to attract such businesses as it stood. She noted this proposed development would redesign the space and, as a result, could attract such businesses. She stated this church could be a valuable asset to the intersection.

Mayor Thurmond stated Citizen Karen Garcia signed up in favor of this Item but did not wish to speak. He asked if the applicant had any additional comments.

Mr. Lou Reynolds stated he believed this Specific Use Permit with its accompanying development standards complied with the Comprehensive Plan and Zoning Code. He stated he was happy to work with the City to make this application and development work. He noted if Staff wished for more time to review and consider the application, he was willing to work with Staff in this regard.

Mr. Larry Curtis discussed the Catalyst Report which was accepted by City Council (not adopted) and was not the Comprehensive Plan. Vice Mayor Eudey noted the Catalyst Report was not the New Orleans Square Report adopted by City Council. Mr. Curtis noted the Catalyst Report was utilized in the creation of the Elm and New Orleans Citizen Advisory Committee and to create the finalized New Orleans Square Report.

Council Member Gillespie indicated there were a couple of citizens who contacted her today; she was unable to respond to these citizens and she apologized. She noted she worked full time and was not always able to return phone calls right away. She asked for residents to reach out to City Council a few days prior to the meeting regarding agenda items to better enable City Council to respond to communications in a timely manner. She stated she was fully invested and obsessed with New Orleans Square. She reported she began attending local meetings regarding New Orleans Square over two years ago and became very involved with New Orleans Square and the City of Broken Arrow. She stated she previously was highly involved with the Broken Arrow Public Schools system, but not necessarily the City. She reported her entire campaign was based on New Orleans Square. She stated the citizens of Broken Arrow wanted revitalization of New Orleans Square and south Broken Arrow in general. She discussed the Catalyst Report noting the Elm and New Orleans Citizen Advisory Committee began over a year ago (of which she was a Member). She noted she heard a comment that “nothing was going on” in New Orleans Square; she disagreed. She reported since the New Orleans Square initiative, and since the beginning of the branding process, the Applebee’s had been purchased and redeveloped, the Ross building had been purchased and was being improved, three new businesses came into the Ross building as a result, and the movie theater was still under contract, the Dollar Tree and Stow’s Office Furniture had come in and improved the building facades, and a couple of new businesses were opening up in the southwest corner. She stated the new owner of the Ross building was excited to work with the City regarding the New Orleans Square Report. She stated the Home Church development came in prior to her being elected to City Council. She indicated this application was being compared to the Home Church development. She noted Home Church sold the retail portion of its building as Home Church realized retail/commercial

development was not in its wheelhouse. She stated a development company bought the retail space and was currently redeveloping the space which was completely filled with new business coming in. She reported the old Sonic location became a Dominos and a new Asian grocery store opened. She stated she believed much of this new development was a direct result of the buzz created within the City for New Orleans Square. She stated the Catalyst Study showed there was demand for over 582,258 square feet of retail in the area. She noted while the Reasor's building had been vacant for 20 months, but she believed COVID had affected this development.

Council Member Wimpee noted there had been four to five offers on the building during COVID.

Council Member Gillespie agreed. She stated the New Orleans Square Report was excellent and had taken many manhours from many citizens, not just during the Committee Meetings, but outside the meetings, studying, and researching. She indicated her feelings had nothing to do with this proposed development being a church. She stated her own personal church was looking at New Orleans Square for relocation and she told her church "no, do not even think about New Orleans Square." She stated a realtor contacted her about the possibility of putting a church in New Orleans Square and she told the realtor "no, it is not part of the plan." She explained it was not about this application being a church or place of assembly per se, but the City needed to allow the New Orleans Square Report time to work; it was just accepted in September and much had been accomplished since. She noted the building west of Home Church was redoing the façade. She explained when improvements began in one location, other locations also begin improvements in an effort to remain up to date and in competition with others. She indicated this was how it should be. She noted she was willing to wait for the Reasor's building to be redeveloped; she knew the New Orleans Square Report plan was great and would promote the development of the area in a positive manner. She stated she hoped if this application were denied, the church would still consider a location in Broken Arrow. She reiterated, her recommendation had nothing to do with this church specifically, as she had also told her own church not to attempt to locate in New Orleans Square. She reported Broken Arrow was named the 11th safest city in the "cities with over 100,000 residents" category. She commented the overlay district would encourage infill of the area, not just the planting of trees.

Vice Mayor Eudey stated he was uncomfortable with the statement "Broken Arrow does not need another church." He stated one could argue Broken Arrow did not need another chicken restaurant. He indicated he felt Broken Arrow should have as many churches as possible. He indicated he did not feel Broken Arrow could have too many churches; there were too many people who needed church. He asked about the legal implications of approval of this application.

City Attorney Dennis discussed State Statutes, City Ordinance, noting City Ordinance required a Specific Use Permit could only be approved by City Council if all criteria were met: "A) The proposed use is consistent with the Comprehensive Plan and all applicable provisions of this ordinance and applicable State and federal regulations. B) The proposed use is consistent with the purpose and intent of the zoning district in which it is located. C) The proposed use is consistent with any applicable Specific Use Permit standards set forth in section 3.2 Specific Use Permit Standards. D) The proposed use is compatible with adjacent uses in terms of scale, site design and operating characteristics, hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts. E) Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent practicable. F) Facilities and services including sewage and waste disposal, water, gas, electricity, etc., will be available to serve the subject property while maintaining adequate levels of service for existing developments. G) Adequate assurances of continuing maintenance have been provided." He stated, "Step 9, Conditions of Approval: Any of the conditions imposed by the permit shall be considered as conditions present with the granting of building permit for the specific use allowed and following approval a site plan meeting shall be required." He noted this was a long answer, but he believed it was important for the City Council to understand the criteria. He stated City Council had the responsibility of deciding whether these criteria were met.

Vice Mayor Eudey stated he was not entirely certain the design plan submitted could not be conformed to fit within the overall plan of New Orleans Square, but having said that, he was uncomfortable with this being done in the form of a Specific Use Permit, because to be consistent with past practice and to consider fully the implications, this would be more suitable in PUD format. He stated secondly, he was uncomfortable voting on this item this evening if the applicant chose to pursue the Specific Use Permit if the applicant wished to include the design statement as the design statement was presented during the meeting.

Council Member Parks asked if Vice Mayor Eudey felt this proposed development fell within the guidelines of the New Orleans Square Report.

Vice Mayor Eudey responded his concern was the Committee did not envision, during the multitude of discussions, a place of assembly, church or otherwise, unless there was more of an entertainment value to the place of assembly. He stated what was envisioned was a more commercial and sales tax driven situation. He indicated he was uncomfortable saying Broken Arrow did not need another church; he believed the City could always use another church; however, this particular plan was not consistent with what the Committee envisioned in its discussion, as was indicated by the three other Committee Members who spoke, as well as the Community Development Department Director.

Council Member Gillespie noted several other Committee Members spoke to her regarding this matter.

Vice Mayor Eudey noted New Orleans Square was in his ward and he lived half of a mile from this location. He stated he was concerned, given the level of study and effort which went into the New Orleans Square Report, if the applicant wished to bring this before City Council, the proposed development needed to further conform with the New Orleans Square Report.

Council Member Parks asked how the other Committee Members felt about the proposed development. Council Member Gillespie responded in essence she had passed on the feelings of these other Committee Members while speaking earlier. She noted the building was 72,000 square feet; two thirds of the building would be the church; infill would be difficult with this proposed development as the church planned to utilize the parking area. She stated she felt so much effort had gone into the study, the branding, the Report, and the Report had not been given the “opportunity to fly” yet. She noted there was already so much engagement in New Orleans Square, she felt the Reasor’s building would only grow in value and the property owner would soon have other opportunities.

Council Member Wimpee agreed. She stated she understood how much work had gone into New Orleans Square, and even during the pandemic so much was happening in New Orleans Square. She agreed time needed to be allowed to let the work completed by the Committee to come to fruition.

Mr. Reynolds stated the applicant was willing, if it was the desire of City Council, to send the application back to City Staff and work on the terms of a PUD.

Council Member Parks asked if the church would be willing to move the point of entry into the church to the south side of the building and leave the entire front of the building as commercial property. Mr. Reynolds stated he would examine this suggestion as part of the PUD process.

Discussion ensued regarding the proposed development, moving the entrance into the church, and the Committee being against the development.

Mr. Curtis asked if the applicant wished to withdraw the appeal. Mr. Reynolds stated he was willing to work through the PUD process but did not wish to withdraw the appeal.

Vice Mayor Eudey indicated this proposed development was not fully consistent with what the Committee recommended. He indicated just because he was more comfortable with the PUD process did not mean he would approve the PUD application. He explained he was not saying he would approve this in PUD form, but this type of development would be more appropriate through a PUD.

Council Member Parks stated this application would be more palatable with a PUD.

Mr. Reynolds indicated he understood.

Vice Mayor Eudey stated if the applicant wished to withdraw the appeal, the City Council did not need to vote regarding this item.

Council Member Parks agreed.

Council Member Gillespie commented the church would only really bring in traffic on Sundays.

Mr. Reynolds indicated the applicant wished to withdraw the appeal and would file a PUD application.

10. Preview Ordinances

- A. 21-74 Consideration, discussion, and possible preview of an Ordinance closing a portion of a utility easement from Caleb and Lindsey Hurd, married, on property located approximately one-half mile east of Aspen Avenue (145th East Avenue), one-quarter**

mile south of Omaha Street (51st Street), at 3507 North Narcissus Court, Tulsa County, State of Oklahoma, (Section 34, T19N, R14E); repealing all ordinances to the contrary; and declaring an emergency

Mr. Larry Curtis reported the owners, Caleb and Lindsey Hurd, submitted an application requesting the closure of approximately 0.01-acres of an existing 0.01-acre utility easement on property located approximately one-half mile east of Aspen Avenue (145th East Avenue), one-quarter mile south of Omaha Street (51st Street, at 3507 North Narcissus Court. He reported the property was currently platted as Lot 14, Block 1, Wakefield Heights, and the utility easement was recorded as part of the plat. He explained the applicant requested to close a portion of the platted easement for the purpose of constructing a pool on the property; the remainder of the easement would be left open to accommodate utilities in the area. He stated Staff reviewed the documents and recommended acceptance of the utility easement closure; AEP/PSO, Windstream, ONG, and COX had no objections to closing the easement.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to preview the ordinance and set it for adoption

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

11. Ordinances

There were no Ordinances.

12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond reported there were 19,000 cities and towns in the United States, with 303 cities which had a population over 100,000, and Broken Arrow was rated the #11 Safest City in the U.S. by Moneygeek.com based on violent crime and property crime. He commended the Broken Arrow Police Department.

Council Member Gillespie noted the City of Tulsa was #269 on the list.

Mayor Thurmond noted unfortunately, City of Tulsa was listed as one of the most dangerous cities.

Council Member Wimpee noted COVID preventative measures were not being discussed by doctors and health professionals on social media. She stated it would be wonderful if Broken Arrow was not only one of the happiest and safest cities, but also one of the healthiest cities. She stated it would be good to find ways to encourage the community to build immune systems to enable residents to fight the COVID virus. She stated she was excited to brainstorm ways to get this health initiative launched. She noted she (and others) were working with local businesses in the health industry to push out information encouraging residents to boost immune systems and practice healthy habits.

Mayor Thurmond agreed; Broken Arrow was far down on the healthy city list.

Council Member Parks stated Dr. Hendrick indicated he and his family took vitamin D supplements.

Council Member Wimpee stated she understood almost all patients who were in hospitals and had passed away were vitamin D deficient. She stated it was important to encourage the public to take vitamin D, as well as zinc which helped stop the replication of the virus.

Mayor Thurmond stated when his wife had cancer it was discovered 97% of all cancer patients were deficient in vitamin D. He indicated it was unknown at the time whether the cancer caused the deficiency, or the deficiency caused cancer. He agreed vitamin D was important. He noted he took it daily and felt the public should be encouraged to take vitamin D, or to get tested to see if there was a deficiency.

Council Member Wimpee stated taking vitamin K helped with the absorption of vitamin D. She stated she understood she was not a doctor, but this was why she was going to speak with health professionals regarding possible virus preventatives.

Council Member Gillespie stated as a health professional it was widely known many individuals were low in vitamin D. She noted many of her offices tested for vitamin D deficiency and gave vitamin D shots.

Council Member Wimpee stated more residents than ever had vitamin D deficiency due to being required to stay indoors more often.

City Manager Spurgeon stated the administration stood ready to assist with health-related communications. He stated this was an excellent initiative.

Mayor Thurmond stated Citizen Don Handy signed up in support of Item 12 but did not wish

to speak.

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

City Manager Spurgeon read: “Chief Brandon Berryhill credits the support of the Broken Arrow residents, Broken Arrow City Council, and administration, and the Broken Arrow Police Department personnel for the Safest City ranking. ‘The Community support is vital to our success. Our partnership in the Community, support from City Council and dedicated Officers and Staff allow the Broken Arrow Police Department to provide superior service to our Community.’” He noted public safety started “at the top;” the City Council had to make public safety a priority. He stated he believed this was where it began in all successful communities. He congratulated City Council, the Police Department, and Chief Berryhill.

He stated last summer Russell Gale announced his retirement in the early part of 2021. He noted, as a result, he initiated recruitment to fill Mr. Gale’s position. He reported he decided to hire from within for many reasons. He announced Mr. Norm Stephens was selected to be the Assistant City Manager of Administration. He gave a brief history of Mr. Stephens’ career noting Mr. Stephens worked for the City of Broken Arrow for over three decades, served as a police officer, Deputy Chief of Police, and then in Economic Development. He noted recruitment to replace Mr. Stephens’ current position had begun; Mr. Stephens would begin in his new position February 1, 2021. He congratulated Mr. Stephens. He thanked the other candidate who had applied for the position of Assistant City Manager of Administration. He stated he was proud of his entire leadership team.

Council Member Wimpee read from a post by Vice Mayor Eudey earlier in the week: “We need to be instruments of healing for our City, State and Country.” She stated she loved this quote and fully agreed.

City Manager Spurgeon agreed.

Mayor Thurmond indicated there was an Executive Session; therefore, he would entertain a motion for a brief recess to enter into BAMA and BAEDA.

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move for a brief recess

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Debra Wimpee, seconded by Christi Gillespie.

Move to enter into the Executive Session

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

14. Executive Session

Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney and any other pertinent staff members discussing, conferring on matters and possible action in open session pertaining to:

1. The City’s claim, investigation and potential litigation or action related to Stronghand, LLC’s potential breach of contract regarding the Tiger Hill Soldier Pile Retaining Wall, CJ 2020 1738; Tulsa County District Court; Contract No. 171703, and taking appropriate action in open session, under 25 O.S. § 307(B)(4);

2. Litigation involving the case of Joshua Andre Garza vs. City of Broken Arrow, 19 CV 423 TCK JFJ, Northern District of Oklahoma Federal Court case, and taking appropriate action in open session, under 25 O.S. §307(B)(4).

In the opinion of the City Attorney, the Council is advised that the Executive Session is necessary to process the litigation and disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation or proceeding in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

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

Move to find the Executive Session necessary

The motion carried by the following vote:

Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

MOTION: A motion was made by Scott Eudey, seconded by Debra Wimpee.

Move to authorize the City attorney to attend court ordered settlement conference and designate the police chief to attend the settlement conference as the city representative in the matter of Garza vs the City of Broken Arrow

The motion carried by the following vote:
Aye: 5 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

15. Adjournment

The meeting adjourned at approximately 10:05 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 - Christi Gillespie, Debra Wimpee, Johnnie Parks, Scott Eudey, Craig Thurmond

Mayor

City Clerk