



## 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 Johnnie Parks*  
*Council Member Debra Wimpee*  
*Council Member Christi Gillespie*

**Tuesday, January 7, 2020**

**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 Daniel Chamberlin 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 noted Items G, I and K were to be removed from the Consent Agenda. He asked if there were any other items to be removed from the Consent Agenda. There were none.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

**Move to approve the Consent Agenda less Items G, I and K**

The motion carried by the following vote:

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

- A. 20-1 Approval of the City Council Meeting Minutes of December 17, 2019**
- B. 19-1521 Acceptance of Planning Commission meeting minutes of November 7, 2019**
- C. 19-1522 Acceptance of Planning Commission meeting minutes of November 21, 2019**
- D. 19-1523 Acceptance of Planning Commission meeting minutes of December 5, 2019**
- E. 19-1506 Approval of PT13-100A, Conditional Final Plat, Shadow Trails II, 35.16 acres, 111 lots, A-1 to RS-3, one-quarter mile west of Olive Avenue, one-quarter mile south of Tucson Street**
- F. 19-1524 Approval of PT17-115A, Conditional Final Plat, Creek 51 Business Park, 97.21 acres, 8 Lots, A-1 to CG and IL/PUD-204A, one-half mile south of Houston Street (81st Street), west of Highway 51 and west of the Creek Turnpike**
- G. 19-1532 Approval of and authorization to execute Agreement for Professional Consultant Services with CP&Y, Inc. for providing design services on the Houston Street Widening from Olive Avenue to Aspen Avenue project (Project Number ST2037)**
- H. 19-1534 Approval of and authorization to purchase one (1) Pierce fire apparatus from Conrad Fire Equipment, Inc. pursuant to the Houston-Galveston Area Council (HGACBuy) contract, using the "prepay" option, for the Fire Department.**
- I. 19-1537 Approval of and authorization to execute Agreement for Professional Consultant Services with Poe & Associates, Inc. for providing design services on the Houston Street Widening from Garnett Road to Olive Avenue project (Project Number ST2036)**
- J. 19-1540 Approval of and authorization to accept Shelter Insurance's offer to settle a claim for vehicle loss, declare the vehicle surplus, release the vehicle to Shelter Insurance**
- K. 20-73 Approval of and authorization to execute Agreement for Professional Consultant Services with CEC Corporation for providing design services on the Aspen Avenue Widening from Shreveport Street to Tucson Street project (Project Number ST2039)**
- L. 20-78 Approval of and authorization to execute Change Order Number 3 to Police/Fire Command Post from Farber Specialty Vehicles, for the Police Department**
- M. 20-96 Ratification of the Claims List Check Register dated January 3, 2020**

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

Transportation Manager Travis Smalls with the Department of Engineering and Construction reported Item G was related to the 2018 bond issue projects which were going out for design. He reported the Engineering and Construction Department was tasked with selecting an Engineering Firm to design the project and negotiated a contract with the design firm CP&Y which was before City Council for approval. He noted the design would widen Houston Street from Olive Avenue to Aspen Avenue from three lanes to five lanes, add a trail and a

sidewalk (one on each side of the road), and would address utility issues.

Council Member Johnnie Parks asked when the design would be completed. Mr. Smalls responded the design would take approximately 9 to 10 months to complete. Council Member Parks indicated it was important to have the design plans completed prior to bond sale.

Council Member Gillespie asked about utility coordination. Mr. Smalls explained during the design process the Engineering and Construction Department, design firm, and the utility companies worked hand in hand to coordinate the timing of utility relocation. He noted in the past there were difficulties with this coordination; however, Broken Arrow was developing better relationships with the utility companies and moving forward he believed there would be an improvement with coordination. He noted the teamwork process would begin much earlier within the design process in an effort to bring the utility companies on board and allow the utility companies more time for planning.

Council Member Gillespie stated she felt aesthetic intersection improvements should be completed alongside road improvements. She asked for efforts to be made in this regard. Mr. Smalls responded this could be done during the design planning process; pattern concrete, crosswalks, asphalt inlays, and backlit street signs could be incorporated into the design. He noted difficulties might arise with incorporation of streetlamps, as streetlamps were not figured into the budget; however, if City Council so directed streetlamps could be considered. He noted if this was done the contract would require amendment.

Council Member Parks stated the budget for intersection improvements would depend upon whether the bond project included the intersection or only the road. Mr. Smalls indicated this particular design plan project included the Elm intersection, but not the Aspen intersection. He noted the Elm intersection had already been widened and consideration was being made to upgrade the traffic signals and pedestrian signals in this intersection. He stated the crosswalks could easily be included in this project.

Council Member Gillespie stated she believed it was important to have consistency while moving forward with street improvements and intersection improvements. She stated if trails were being installed, and the City wished to become more walkable and bikeable, it was important for the walkable and bikeable areas to be aesthetically pleasing as well. She asked about the amendment process for adding in aesthetic improvements. Mr. Smalls indicated once a funding source was identified the amendment process was relatively simple; the Engineering and Construction Department would negotiate a new contract with the design firm for approval by City Council.

Vice Mayor Scott Eudey noted as this project was a bond project, the City could only spend bond funds on the outlined proposed project; therefore, additional funds would need to come from the General Funds or other source. Mr. Smalls stated the bond project seemed relatively vague in regard to aesthetics and intersection improvements and he believed some improvements could possibly be included; however, he was not certain and wished to consult with the City Attorney and City Manager to be certain. City Manager Michael Spurgeon stated he believed the improvements Council Member Gillespie was requesting could be included in the plans and specifications; however, these might be included as add alternates as priority was to complete the road, sidewalks and stormwater elements. He indicated if City Council wished to direct Staff to include improvements as alternates for possible inclusion. Vice Mayor Eudey agreed. He stated it was important to include these types of improvements in future bond projects. Mayor Thurmond agreed the improvements should be included as alternates; if the bids came in low enough the improvements could be included in the bond project, otherwise, the funding would need to be obtained elsewhere.

City Manager Spurgeon discussed including the improvements as alternates, the expense of improvements, the expense of expanding improvements throughout the City, examining the bids, the possibility of utilizing contingency funds for improvements if available, the Welcome to Broken Arrow signage, the importance of City Council discussing Welcome to Broken Arrow signage and making various decisions regarding sign design and sign location, and utilizing money in STCI for Welcome to Broken Arrow signage. Discussion ensued regarding the Welcome to Broken Arrow signage, landscaping and backlighting of the signage, strategic planning regarding signage location, and what steps should be taken to initiate a Welcome to Broken Arrow sign plan.

City Manager Spurgeon indicated based upon City Council feedback he would ask Kenny Schwab and Travis Smalls to review these contracts and determine if there needed to be an amendment to include beautification for all three projects; if so, the amendments would come before City Council for approval. He stated separately he would sit with Mr. Schwab, Mr. Smalls, and Mr. Mike Kyser to discuss possible locations of Welcome to Broken Arrow signage and begin research regarding signage concepts. He noted in spring he would bring this information before City Council and once approved obtain an estimate; funding

considerations would follow.

Council Member Parks stated it was important for the bond issue projects to be completed as indicated within the bond issue. He stated funding for this signage needed to come from an outside source. Vice Mayor Eudey noted many great ideas fail due to lack of funding; therefore, it was important to begin considering funding sources for these great ideas. He noted public education regarding the Welcome to Broken Arrow signage project was important to encourage community pride.

Mr. Smalls corrected his previous statement; he explained the CP&Y contract included the Aspen intersection, not the Elm intersection.

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

**Move to approve and authorize execution of Agreement for Professional Consultant Services with CP&Y, Inc. for providing design services on the Houston Street Widening from Olive Avenue to Aspen Avenue project (Project Number ST2037)**

The motion carried by the following vote:

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

Mr. Travis Smalls reported Item I was similar to Item G. He stated Item I was for Houston Street widening from Garnett to Olive. He noted this was also a 2018 bond project for which the Engineering and Construction Department was tasked with selecting a design firm. He noted the design firm Poe & Associates was chosen. He stated this project would widen the road from three lanes to five lanes, include a trail on one side and sidewalk on the other, and address utility issues and bridge structure issues. He noted this project would include right-of-way acquisition (conducted by the City of Broken Arrow) and governmental agency coordination.

Council Member Gillespie thanked the Engineering and Construction Department for answering her questions and explaining the need to hire multiple firms for multiple projects. She thanked the Engineering and Construction Department for its hard work.

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

**Move to approve and authorize execution of Agreement for Professional Consultant Services with Poe & Associates, Inc. for providing design services on the Houston Street Widening from Garnett Road to Olive Avenue project (Project Number ST2036)**

The motion carried by the following vote:

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

Mr. Smalls reported Item K was similar to Item I and Item G. He noted the Engineering and Construction Department was tasked with selecting a design firm. He noted the design firm CEC Corporation was chosen. He explained after the 2018 bond issue was voted on and approved the Engineering and Construction Department solicited consulting firms to send in Statements of Qualifications (SOQ). He indicated his Department reviewed the Statements of Qualifications, ranked the SOQs, created a qualified list of firms, interviewed the list of firms and re-ranked the interviewed firms into a finalized list. He stated all three of the design firms (for Item G, Item I and Item K) were selected from this finalized list. He stated this particular project would widen Aspen Avenue from Shreveport to Tucson from two lanes to five lanes, would include sidewalks (no trail), and address utility issues. He noted this project would include right-of-way acquisition (conducted by the City of Broken Arrow) and governmental agency coordination.

City Manager Spurgeon asked for clarification of the project parameters. Mr. Smalls stated the project would start at the entrance into the soccer fields on the east side of Indian Springs and proceed north up to Tucson, the signals at Jasper would be improved. He noted the signals at Tucson were already improved, but improvements would be made as the intersection was widened to five lanes.

City Manager Spurgeon noted there were difficulties with stacking at the Tucson intersection, especially during sporting events. He asked what type of intersection was planned at Tucson. He asked if the intersection would be similar to Kenosha and Elm Place or Aspen and 71<sup>st</sup>. Mr. Smalls stated a full five lane intersection was anticipated which he hoped would greatly improve traffic facilitation. He noted the roadway north of Tucson was already widened; however, the south, east and west legs required widening. He indicated there was a drainage structure constraint immediately west of the intersection; however, designs were being adjusted to address this drainage structure. City Manager Spurgeon asked if an additional right turn only lane was incorporated into the intersection design. Mr. Smalls responded in the negative; a right turn only lane was not included in this agreement. He indicated this option could be included. Assistant City Manager of Operations Kenny Schwab indicated a right turn only lane was being considered for the Jasper intersection and he would have the design firm include a right turn only lane for Tucson as well.

Council Member Gillespie noted a recent traffic count at the Tucson intersection revealed 20,000 vehicles drove through this intersection on a Saturday. She indicated it was important to beautify this area as it was a gateway area from Tulsa into Broken Arrow. She stated the Indian Springs Sports Complex was a huge Broken Arrow attraction. Mr. Smalls agreed.

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

**Move to approve and authorize execution of Agreement for Professional Consultant Services with CEC Corporation for providing design services on the Aspen Avenue Widening from Shreveport Street to Tucson Street project (Project Number ST2039)**

The motion carried by the following vote:

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

**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)**

Mayor Thurmond stated no Citizens had signed up to speak before the City Council.

**9. General Council Business**

**A. 20-76 Consideration, discussion and possible award of the most advantageous bid to Luber Brothers Inc. for the purchase of one (1) Cemetery Utility Vehicle for the Cemetery Division of the General Services Department**

General Services Director Lee Zirk reported Item A was before City Council for consideration as Luber Brothers Inc. was not the lowest bidder. He explained the three lowest bidders submitted bids for vehicles which were not the right classification of vehicle and did not meet specs. He stated another bidder was unresponsive. He indicated the remaining bid was therefore considered the lowest responsible bid: Luber Brothers for a Cushman XD Truckster vehicle.

Vice Mayor Eudey asked about sending this item out for rebid. Mr. Zirk noted this had already been sent out for bid once; this was actually the second time this project had been bid out. He explained the first set of bids were rejected due to specs not being met in any bid.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

**Move to award of the most advantageous bid to Luber Brothers Inc. for the purchase of one (1) Cemetery Utility Vehicle for the Cemetery Division of the General Services Department**

The motion carried by the following vote:

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

**B. 20-82 Consideration, discussion and possible approval of and authorization to execute Resolution No. 1291, a Resolution to request programming of FFY 2023 Tulsa Urbanized Area Surface Transportation Funds for the 23rd Street Improvements between Houston Street and Kenosha Street (ST0914)**

Mr. Travis Smalls reported in previous years the City requested federal STP funds for the 23<sup>rd</sup> Street improvements from Houston to Kenosha which would include replacement of the bridge over State Highway 51. He indicated federal funds in the amount of \$8,309,803 dollars had been approved for environmental assessment, design, right-of-way acquisition, and construction. He noted the design firm Infrastructure Solutions Group, LLC, formerly known as Mehlburger Brawley Inc., was in the process of completing the final design plans and the environmental assessment was being refreshed. He stated right-of-way acquisition was complete and relocations of utilities were currently underway. He reported the cost of construction was estimated at \$19,530,000 dollars and ODOT pledged \$4 million dollars for construction of the project from State funds leaving \$15,530,000 dollars required for construction. He stated with the \$8,309,803 dollars of federal STP funds already allotted to the project, \$7,220,197 dollars were still needed for construction of the project. He stated the Engineering & Construction Department was asking for Resolution No. 1291 to be approved to allow application submittal for the upcoming INCOG Federal Fiscal Year 2023 STP funding request in the amount of \$3 million dollars.

City Manager Spurgeon asked if \$19 million dollars was the amount needed to widen the road, replace the bridge, sidewalks, etc. Mr. Smalls responded in the affirmative; this was a conservative number. City Manager Spurgeon asked about INCOG's support regarding additional funding. Mr. Smalls reported the City had applied for a build grant for this project but was denied; Mr. Viplav Putta with INCOG had been in discussions with the Engineering and Construction Department regarding additional funding for this project and suggested Broken Arrow apply for the STP. City Manager Spurgeon asked when the funds, if awarded, would be available. Mr. Smalls responded he believed the advertisement and bidding for this project would need to be held until the end of 2020; however, he would consult with INCOG.

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

**Move to approve Resolution No. 1291 and authorize its execution**

The motion carried by the following vote:

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

**C.    19-1528    Consideration, discussion and possible approval of BACP 166, 811 W. New Orleans, 2.21 acres, Level 4 to Level 6, west of the southwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue)**

Community Development Director Larry Curtis reported BACP-166 was a request to change the Comprehensive Plan designation on a 2.21 - acre tract of land from Level 4 to Level 6. He stated the property, which was located west of the southwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue), was presently zoned CG (Commercial General) and the property was platted as Lot 1, Block 1, Luby's. He explained the applicant sought to change the Comprehensive Plan in an effort to modify the zoning on the property; the owner of the property wished to lease space to a tenant who desired to use a portion of the existing building for the processing of medical marijuana, as well as for commercial growing/cultivation of medical marijuana. He indicated processing and growing medical marijuana was only allowed in the IL (Industrial Light) and IH (Industrial Heavy) zoning districts; IL zoning was in conformance with the Comprehensive Plan in Level 6 when done as part of a PUD (Planned Unit Development). He noted as part of the request for a change in the Comprehensive Plan, a draft PUD was submitted for informational purposes only. He stated if BACP-166 was approved, the applicant would submit a request to change the zoning on part of the property from CG to IL with a formal PUD submittal. He indicated the draft PUD acknowledged the growing and processing of medical marijuana would occur completely inside the existing building and was limited to 12,000 square feet; no medical marijuana dispensary would be allowed; also, no signage for the medical marijuana processing or growing facility would be allowed. He stated the Planning Commission made a recommendation by a vote of 4 to 1 for BACP-166 to be approved per Staff recommendations.

Council Member Parks noted a Comprehensive Plan change would affect all surrounding property owners. He indicated it was unusual to approve a Comprehensive Plan change just to accommodate a new tenant in an existing building. Mr. Curtis stated the Comprehensive Plan was a living document and ever changing. He noted in the lifetime of Broken Arrow 165 Comprehensive Plan requests had come before the Planning Commission and City Council. He stated this particular request area was adjacent to Level 6 and would be an expansion of the existing Level 6 onto this lot. He reported use of IL within Level 6 was required to have a PUD to provide protection to the City and its citizens. He indicated the PUD would restrict the use to the 12,000 square feet.

Council Member Gillespie asked how much sales tax could be expected from this business. Mr. Curtis responded there was only one other similar facility in the City of Broken Arrow, and he was unsure of the associated sales tax. He noted wholesale facilities would be taxed a use tax. Council Member Gillespie asked without collection of sales taxes and without bringing in additional foot traffic for adjacent businesses what would be the City's gain. Mr. Curtis responded the gain would be 100 new jobs. Council Member Gillespie asked if a 100-employee guarantee could be included in the PUD. Mr. Curtis noted employee number guarantees were typically included in economic development agreements, not PUDs or Comprehensive Plan changes.

Vice Mayor Eudey stated he was uncomfortable with amending the Comprehensive Plan to accommodate a business versus the business coming in and accommodating the Comprehensive Plan. He stated there was much thought invested in what this area was to be as expressed through the newly developed Comprehensive Plan. He stated he did not feel the Comprehensive Plan should be changed to accommodate any business, especially in an area which was being newly developed as this area was. He noted in the past the Comprehensive Plan had been changed to accommodate businesses; however, this was done in well-developed areas which had changed, and in which it had become more suitable to allow a business which previously would have been prohibited.

Council Member Wimpee commented Broken Arrow was not looking to make this area a Light Industrial area.

Mr. Curtis stated, along with the Elm and New Orleans draft plan, which had not yet been adopted, one of the considerations incorporated was increasing job growth in the area. He noted as the Comprehensive Plan was adopted, and the Elm and New Orleans plan was not yet adopted, chances were the two plans would not be in complete alignment. He stated once the Elm and New Orleans plan was approved the Comprehensive Plan would most likely need to be amended. Vice Mayor Eudey noted this would be a wholesale amendment rather than a piecemeal amendment. He stated he understood the Light Industrial area adjacent to this was a storage facility. Mr. Curtis agreed.

Council Member Parks stated if Light Industrial was approved for this particular business, a

precedent would be set for any other business nearby to be approved for Light Industrial. He stated he did not believe it was in the best interest of this intersection (Elm and New Orleans) to become Light Industrial.

The applicant, Shawn Dewitt, stated he represented the owner of the building. He stated a majority of the building was essentially industrial business and was not retail. He indicated the front face of the building was a retail pharmacy and would remain as such. He stated the upstairs portion of the building was 15,000 square feet of office space and would remain CG. He noted this space had been vacant for quite some time and could never be a retail location due to the layout of the building and a lack of windows in the space. He noted the space would not be a grow facility; it would be a contract manufacturing space for edible marijuana gummies. He stated there would be no smell associated with the manufacturing. He stated no signage would be displayed. He indicated he did not envision growing would take place in this facility in the future.

Council Member Wimpee noted just because growing was not envisioned currently did not mean it would not take place in the future in this location if permitted. Mr. Dewitt stated he would agree to prohibiting growing.

Vice Mayor Eudey stated he approved of any legal business being conducted in this space; however, he was concerned about changing the Comprehensive Plan. He stated he understood the Comprehensive Plan was a living document, but so was the Constitution and it had not changed in 200 years. He explained he was concerned about the potential far reaching consequences of changing the Comprehensive Plan to accommodate a business in this area.

Mr. Curtis explained how amendments to the Comprehensive Plan were considered on an individual basis and annually rolled into a large amendment to the Comprehensive Plan.

Council Member Parks stated he was concerned with the lack of pictures of the area, building and surrounding businesses for review; this would help him visualize the area and the change which would take place. Mr. Curtis apologized for the lack of visual aids which were normally provided. He stated behind this property there was IL zoning which contained ministorage which had also been approved through a PUD process.

Vice Mayor Eudey asked about the old restaurant/gym building. Mr. Dewitt responded this building was currently an FDA registered compounding API pharmaceutical wholesale business. He explained only a few options were available regarding a suitable business for this 12,000 sq. foot space which would not be an eye sore, would not have an accompanying smell, and would bring in new commerce.

Discussion ensued regarding the PUD restricting growing in this facility, the licensing allowing growing, the intended tenant being a manufacturer not a grower, the possibility of a grow facility coming in if the manufacturer left the facility, the possibility of expanding IL area due to approval of this BACP, the 30,000 sq. foot building in which this space was located being directly off of 101<sup>st</sup> Street, and the 12,000 sq. foot space being an industrial warehouse space.

Mr. Dewitt stated the 12,000 sq. feet of warehouse space should be Level 6. Council Member Gillespie noted when the building was constructed the 12,000 sq. foot space should not have been developed as an industrial warehouse space which required Level 6. She stated the building should have been developed to conform with the Comprehensive Plan. Mr. Dewitt indicated the space did not require Level 6; it could be utilized as CG in Level 4.

Vice Mayor Eudey explained the reason for the Level 6 request was to accommodate the type of business going into the space. He stated he did not care about the type of business; he was concerned about starting a spread of Light Industrial throughout the area. He was concerned about setting a precedent in the area.

Council Member Gillespie noted residential area was being considered for development near this building as well. Mr. Dewitt stated on one side of this building was a shopping mall, on the other was ministorage, and behind the building was an area which could not be developed. Vice Mayor Eudey asked if, as the building was in essence "land-locked" there would be no concern regarding the spread of IL to other nearby businesses. Mr. Curtis responded in the affirmative. Discussion ensued regarding the space in front of the ministorage facility, this space being Level 6 with a PUD indicated CG zoning, and the shopping center being Level 6 as well.

Council Member Gillespie stated she was opposed to a growing facility in this location. Mr. Dewitt indicated he was willing to include a prohibition of growing facilities in the PUD.

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

**Move to approve BACP-166 as amended with growing prohibited**

The motion carried by the following vote:

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

- D.    19-1530    Consideration, discussion and possible approval of PUD-298 (Planned Unit Development), Stewart Martin Equipment-Kubota Dealership and abrogation of a portion of SP-196A (Specific Use Permit), 6.60 acres, CH (Commercial Heavy), located one-quarter mile north of Kenosha Street (71st Street), east of Elm Place (161st E. Ave)**
- Mr. Larry Curtis reported Planned Unit Development (PUD)-298 involved a 6.60-acre tract located one-quarter mile north of Kenosha Street, east of Elm Place (161st E. Avenue) at 1275 N. Elm Place. He stated, in conjunction with PUD-298, the applicant requested a portion of SP-196A be abrogated for this property. He stated with PUD-298, the applicant requested approval to allow tractor, utility trailer, all-terrain vehicle, and associated equipment sales and rentals, including parts and service, on a 6.60-acre tract. He reported the applicant proposed gated access and a drive aisle surrounding the building; the required front landscape edge was proposed to be increased from ten feet to fifteen feet with expanded landscaping at the front corners of the site and along the entrance drive. He noted a black ornamental metal fence was proposed at the back of the landscape edge extending back a minimum of 200 feet where it would transition to chain link. He indicated chain link fencing currently existed towards the rear of the site. He stated the site was currently paved, and the applicant proposed to resurface the existing pavement; the applicant proposed to retain existing light poles but may replace fixtures. He stated the outdoor display of equipment was proposed. He noted the one-story building was proposed to be 17,500 square feet in area including a 5,000-square-foot showroom, service bays, storage, and an employee breakroom; exterior building materials would include a masonry base with metal on the upper portion. He stated a 29-foot-high monument sign with aluminum cladding was proposed to include a primary sign (74 square feet) and an LED display sign (42 square feet). He stated the property associated with PUD-298 was designated as Level 6 in the Comprehensive Plan recently adopted by the City Council; CH (Commercial Heavy) zoning was considered to be in conformance with the Comprehensive Plan in Level 6.

Mr. Curtis noted the Planning Commission recommended approval by a vote of 4 to 0 to 1 (with 1 abstaining) per Staff recommendations with additional requirements: the front of the building must be masonry up to 12 feet in height and the masonry must wrap 50 feet back on both the north and south side of the building. He stated no members of the public spoke during the public hearing session. He indicated Staff recommended approval.

Mayor Thurmond asked if this business would pay sales tax. Mr. Curtis responded in the affirmative. He stated the tractors themselves might be exempt from sales tax; however, all equipment and related accessories would not be exempt.

Vice Mayor Eudey asked if the applicant provided a revised elevation which reflected the new masonry requirements. Mr. Curtis responded in the affirmative.

Council Member Parks asked if the 50 feet of wrap around masonry would be 12 feet high. Mr. Curtis explained the business proposed the masonry come up to the overhang level in the front of the building (12 feet high) and would wrap around the building at a height of 4 feet. He noted the Planning Commission recommended the full 50 feet of wrap around masonry be 12 feet high. Council Member Parks asked how far the building was set back from Elm Place. Mr. Curtis responded the building was set back approximately 50 feet from Elm Place; the building would be closer to Elm Place than the existing building.

Vice Mayor Eudey asked for the Planning Commission's reasoning for requesting the masonry be 12 feet high wrapped around the building. Mr. Curtis indicated there was no particular reasoning behind this recommendation. He noted the Planning Commission did take into consideration the neighboring building materials. Council Member Gillespie stated as Elm was a gateway into the City of Broken Arrow, she approved of the Planning Commission recommendation for masonry to be 12 feet high. Vice Mayor Eudey stated he agreed with the recommendation for 12-foot-high masonry on the front of the building, but not the sides as this could be a cost burden to the business. He stated he approved of the included proposed elevation photos which showed the front of the building and the sides extending back approximately 10 feet at 12 feet high masonry, then a drop to 4 feet of masonry to extend back the additional 40 feet or so. He stated he felt this was an excellent compromise. He noted he wished to understand the Planning Commission's reasoning. He agreed with the Planning Commission's recommendation regarding the front of the building.

Council Member Parks asked about ordinance requirements for masonry. Mr. Curtis explained ordinance required the front of the building consist of masonry materials; however, not the sides. Council Member Parks noted this building was located along the main entry into the City of Broken Arrow and agreed efforts should be made to ensure this building was aesthetically pleasing. He asked about the landscaping requirement. Mr. Curtis stated Staff increased the landscaping requirement for this property for aesthetic purposes.

The applicant, Ryan McCarty, with Select Design, stated his address was 20 E. Dawes, Bixby, OK. He stated he agreed with Planning Commission's recommendations. He stated his understanding was the front of the building needed 12 feet high masonry while the 50 feet of masonry extending back was only required to be 4 feet high; however, upon consideration it was felt extending the 12 feet high masonry throughout the entire canopied area would be more aesthetically pleasing followed by a drop to 4 feet high masonry outside of the canopy to extend back the full 50 feet.

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

**Move to approve PUD-298 subject to the revised elevation**

The motion carried by the following vote:

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

**E. 19-1525 Consideration, discussion and possible approval of PUD-17C (Planned Unit Development Major Amendment), Vandever Acres Center, 4.94 acres, CG/PUD-17 (Commercial General), located west of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue)**

Mr. Larry Curtis reported Planned Unit Development (PUD)-17C involved a 4.94-acre parcel located west of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue). He stated with PUD-17C, the applicant requested approval of a major amendment to PUD-17 to include Medical Marijuana Dispensary as a permitted use in addition to other principal and accessory uses permitted as a matter of right in the CG (Commercial General) zoning district. He stated when PUD-17 was approved, medical marijuana dispensary was not a permitted use; therefore, an amendment to the PUD was necessary to include the dispensary use as a permitted use. He reported on September 18, 2018, the City Council adopted Ordinance No. 3542 allowing for retail medical marijuana establishments, commercial marijuana growing facilities, wholesale marijuana facilities, and marijuana storage facilities. He explained the ordinance allowed for retail medical marijuana establishments in commercial zoning districts provided that the establishment was not located within one thousand (1,000) feet from any public or private school entrance. He noted the ordinance also outlined the process an operator must complete in order to obtain the required City of Broken Arrow Medical Marijuana Dispensary permit. He indicated should this PUD major amendment be approved the business operator would be required to obtain the dispensary permit. He reported in the meeting of December 5, 2019, the Planning Commission recommended approval by a vote of 3 to 1 for PUD-17C per Staff recommendation. He stated Staff recommended the business operator obtain all applicable licenses and permits. He reported at the meeting, no one spoke during the Public Hearing session on the item.

Council Member Wimpee asked what business was currently operating in this location. She noted the windows were papered and there was no way to determine what was happening inside the building. Mr. Curtis stated as Broken Arrow did not require business licenses it was difficult to keep track of all businesses within the City. He stated there was no way to enter the building without a warrant unless there was a physical code enforcement violation on the property. Council Member Wimpee noted the zoning for this building did not include processing as this building was not zoned IL. She stated if the City could not enter the building there was no method of action which could be taken to verify what type of business was being conducted on the premises. Mr. Curtis stated moving forward if this PUD was approved the City would then have the right to enter the facility through the permit. He stated the permit license would also allow the City to enter the facility at any time to confirm the business was in compliance with the issued permit. He stated the permit was required to be renewed annually, and at renewal the City would re-inspect the property to ensure code requirements were being met. He stated growing or processing would not be permitted in this facility. Discussion ensued regarding code enforcement, signage requirements, paper window coverings not being prohibited, paper window coverings not being aesthetically pleasing, and the possibility of requiring more attractive window coverings through the PUD.

Council Member Gillespie asked if a survey had been done to ensure this business was more than 1,000 feet from the preschool across the street. Discussion ensued regarding the survey, state law requiring dispensaries to be 1,000 feet from schools, state law not requiring growing or processing facilities to be 1,000 feet from schools, ordinance requiring growing and processing facilities to be 1,000 feet from schools, the measurement survey taking place upon license submission, approval of PUD-17C not providing carte blanche to run a dispensary from this building, and the applicant being required to obtain all applicable licensing and permitting required by the City and State.

The applicant Natalie Cornett stated she represented the property owner. She indicated the use being requested was dispensary only; the amendment would not permit any processing. She stated a State license for processing had not been issued. She stated she was in agreement with Staff recommendation regarding obtaining State and City permits prior to utilizing the space for dispensary. Council Member Wimpee asked if the business was



currently in operation. Ms. Cornett responded in the negative; she represented the landowner, but as far as she knew the business was not in operation. Council Member Wimpee stated a new church was coming into the area and if the church opened a preschool, said preschool would be extremely close to this facility. Ms. Cornett stated recently a school was constructed near a dispensary in Tulsa and the dispensary was required to shut down as a result.

Vice Mayor Eudey asked if measurements had been taken to determine if the preschool was more than 1,000 feet from this building. Ms. Cornett responded she was unsure. Mr. Curtis indicated without an official survey, using Google Earth, the closest entrance from the dispensary to the preschool was over 1,000 feet. Ms. Cornett indicated the OMMA would not issue the permit if the dispensary was within 1,000 feet of a school facility. She stated she understood the business had a dispensary permit; therefore, she believed the dispensary was over 1,000 feet from any school facility.

Vice Mayor Eudey asked if the covered window difficulties would be addressed through the PUD. He stated it was important for any business which operated within the City to operate in a manner consistent with being a “good neighbor.” He stated he was inclined to approve of this PUD as it was a legal activity and was appropriate; however, he was inclined to say this PUD needed to be tabled and amended to address the concerns appropriately raised by Council Member Wimpee. Ms. Cornett stated she would be inclined to agree include removal of the paper window coverings once the business was operational with the PUD. Vice Mayor Eudey asked if she understood why the paper window coverings were concerning. He explained whether it was true or not, the coverings made it seem as if sketchy activity was taking place within the building. Mayor Thurmond agreed; this was to be a retail facility and as such there should be visibility during the day. He stated if the business wished to close its blinds outside of business hours it had that prerogative. Council Member Parks stated he felt the Fire Marshall would also disapprove of the current window coverings as windows were considered a point of ingress and egress during a fire.

Vice Mayor Eudey stated if these requirements were to be included today, he would request guidance regarding how to word the motion. Mr. Curtis stated he understood if the City Council wished to table this item until the next City Council Meeting to allow time to meet with Legal to ensure proper language was incorporated. Vice Mayor Eudey stated he understood Ms. Cornett wished to have PUD-17C approved as soon as possible; however, it would be better for everyone involved to ensure the language was correct. Ms. Cornett agreed.

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

**Move to table PUD-17C until the next City Council Meeting**

The motion carried by the following vote:

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

**F. 19-1526 Consideration, discussion and possible approval of PUD-126C (Planned Unit Development Major Amendment), Broken Arrow Plaza, 9.64 acres, CG/PUD-126 (Commercial General), located west of Elm Place (161st E. Ave), north of Tucson Street (121st Street)**

Mr. Larry Curtis reported Planned Unit Development (PUD)-126C involved a 9.64-acre parcel located west of Elm Place (161st E. Avenue), north of Tucson Street (121st Street). He explained with PUD-126C, the applicant requested approval of a major amendment to PUD-126 to include Medical Marijuana Dispensary as a permitted use in addition to other principal and accessory uses permitted as a matter of right in the CG (Commercial General) zoning district. He noted when PUD-126 was approved, medical marijuana dispensary was not a permitted use; therefore, an amendment to the PUD was necessary to include the dispensary use as a permitted use. He stated in the meeting of December 5, 2019, the Planning Commission recommended approval by a vote of 4 to 0 for PUD-126C per Staff recommendation. He indicated Staff recommended the business operator obtain all applicable licenses and permits. He noted at the Planning Commission meeting, no one spoke during the Public Hearing session on the item.

Vice Mayor Eudey stated this Item should also be tabled to enable the Legal Department to ensure the proper language was utilized in the PUD. Mr. Curtis noted this facility did not have the same issues as the other; however, it was important to be consistent. Vice Mayor Eudey agreed. He stated he believed these PUD amendments would be coming before City Council more often in the future and he felt it was important to organize uniform language for utilization. Mr. Curtis agreed. He stated it was important to have guidance from Legal Counsel moving forward. He noted this would also be helpful to Staff working with applicants moving forward.

The applicant Natalie Cornett stated she represented the property owner. She noted the issue regarding papered windows did not exist for this property owner. She indicated the underlying zoning for this PUD was CG; therefore, if there was no PUD in place the use

would be permitted by right. She stated the property owner requested this item be approved today rather than be continued until the next meeting.

Vice Mayor Eudey explained this was the first time an amendment of this kind had come before City Council. He noted the item was not being continued to slight Ms. Cornett's client; it was being tabled to ensure everything was done correctly. He indicated what was done with these two PUD amendments would set the precedent for other PUD amendments in this regard. He noted it would only be a two-week delay.

Ms. Cornett asked if City Council had any concerns other than spacing and window coverings for either of her clients.

Council Member Wimpee stated she wished there was a way to determine if a property was more than 1,000 feet from a school before the item came before City Council for approval. Vice Mayor Eudey stated he did not believe State law allowed the City to add a survey requirement to the process. City Attorney Trevor Dennis explained there was a State law requiring dispensaries to be more than 1,000 feet from any school facility. He noted Broken Arrow Ordinance mirrored the 1,000-foot setback for dispensaries, growers and processors. He stated he believed the City had the right to enforce its Ordinance as written. He indicated the process currently required a survey be conducted and submitted with the application for a City license. He noted applicants who obtained state licenses have been denied a city license due to the state having incomplete information regarding where schools were located in the City of Broken Arrow. He stated the OMMA had a disclaimer which indicated the applicant was responsible for being compliant with local and state law. Discussion ensued regarding issuance of the license, when in the process the survey was completed, the PUD decision only allowing the use in a location, the PUD decision not guaranteeing licensing, and four dispensaries currently existing within 1,000 feet of Broken Arrow schools.

Vice Mayor Eudey stated the PUD could be amended to reflect the use would only be permitted if the location was more than 1,000 feet from a school. Mr. Curtis noted this could be done; however, it was understood all state laws and local code requirements were required to be met prior to license approval. He stated regarding the four dispensaries in violation to the 1,000-foot requirement, State law had changed due to legislation. He explained now facilities were required to obtain city permission for licensing; the four dispensaries were set up under the old system. Council Member Wimpee noted this was a big concern as these dispensaries were permitted to operate less than 1,000 feet from a school and were still in operation. Mr. Curtis indicated when these dispensaries applied for annual license renewal the licenses would be denied. Council Member Wimpee agreed it was important to table these Items to give the Legal Department an opportunity to review the language.

Ms. Cornett stated she and her client were agreeable to a two-week continuance.

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

**Move to table PUD-126C until the next City Council Meeting**

The motion carried by the following vote:

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

**G. 20-107 Consideration, discussion and possible approval to survey the public on naming the area of Elm & New Orleans Corridor and to hire a consultant for Branding and Marketing of the Elm & New Orleans Corridor**

Mr. Larry Curtis reported the Elm and New Orleans Advisory Committee met on January 2, 2020, and decided it wished to have a survey submitted to the public to obtain ideas regarding a name for the Elm and New Orleans area. He stated Staff met with the City Manager and suggested adding the item to tonight's City Council meeting for full transparency. He explained the goal of the Committee was to ensure the public could provide feedback regarding naming this important area. He noted tomorrow morning the survey would be sent out through social media and a news blast. He stated at the same meeting the need for a consultant to help with the branding and marketing of the area was discussed. He noted it was important to have branding and marketing strategy. He reviewed how a consultant would be useful in this regard. He noted this survey would serve as valuable information for any consultant which might be hired.

Council Member Gillespie asked about the survey. Mr. Curtis indicated the survey would be five questions and would go out for one month via social media. He stated one month would allow time for last minute survey entries, as well as time for Staff to review the collected survey answers and provide a summary to the Committee. Discussion ensued regarding how the survey would be accessed including various social media platforms, local news websites and various Broken Arrow websites.

City Manager Spurgeon stated he was excited about this survey and the possibility of a consultant. He indicated he supported the idea of hiring a consultant and there were economic development funds available for a consultant. He noted the Committee would pass

a motion recommending to City Council the hire of a consultant which should come before City Council for consideration on February 21, 2020. He discussed the process of hiring a consultant. He noted name selection would be completed prior to consultant selection. He indicated no action by City Council was required for this Item. Discussion ensued regarding the process, approving the Item currently before City Council, and the Elm and New Orleans Advisory Committee being in agreement regarding the necessity to hire a consultant.

MOTION: A motion was made by Scott Eudey, seconded by Christi Gillespie.

**Move to approve Staff survey the public on naming the area of Elm & New Orleans Corridor and approve the hiring of a consultant for Branding and Marketing of the Elm & New Orleans Corridor**

The motion carried by the following vote:

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

City Manager Spurgeon stated he would speak with Larry Curtis and Kenny Schwab tomorrow and begin the RFP process.

## 10. Preview Ordinances

There were no Preview Ordinances.

## 11. Ordinances

**A. 20-83 Consideration, discussion, and possible adoption of Ordinance No. 3618 amending the Zoning Code of the City of Broken Arrow Chapter 5-Development Standards; Section 5.9-Telecommunication Facilities; repealing all ordinances to the contrary; and declaring an emergency**

City Attorney Trevor Dennis reported in 2017 City Council adopted a Small Cell Ordinance. He noted subsequent to this, the State of Oklahoma passed a law regarding Small Cell Wireless Facilities which overlapped and spoke to 2017 Ordinance issues. He stated an update to City Ordinance was necessary to bring the Ordinance in compliance with State law, specifically regarding definitions and height requirements, regulations and procedures. He noted the update would bring the Ordinance in line with State law. He recommended adoption of Ordinance No. 3618 and approval of the emergency clause.

MOTION: A motion was made by Christi Gillespie, seconded by Scott Eudey.

**Move to adopt Ordinance No. 3618**

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 approve the emergency clause**

The motion carried by the following vote:

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

## 12. Remarks and Inquiries by Governing Body Members

Mayor Thurmond wished his fellow Councilors, Staff, and Broken Arrow Citizens a Happy New Year.

Council Member Parks noted at the last City Council Meeting, in the Consent Agenda, an Agreement with the Arbitrators working with the Fire Fighters was approved. He stated he approved of this Agreement. He noted he was pleased with the Arbitrator's recommendation. He stated the recommendation discussed wages being fair within the City of Broken Arrow. He stated Broken Arrow was a City in which it was desirable to serve as a Fire Fighter. He asked about Fire Fighter's grievances. He asked if the Fire Chief had any comments.

City Manager Spurgeon discussed the process and timeline of Fire Fighter Union negotiations. He noted he received updates regarding the number of grievances and could update the City Council in this regard. Council Member Parks stated he wished to be updated. He stated he felt the Fire Fighter Agreement was good. He stated he hoped the Fire Fighters were pleased and the next negotiations would be completed more quickly.

Council Member Gillespie presented the City Attorney Trevor Dennis with a humorous T-shirt.

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

There were no Remarks and Updates by City Manager, including Recognition of Recent Accomplishments by Employees and Elected Officials.

## 14. Executive Session

There was no Executive Session.

## 15. Adjournment

The meeting adjourned at approximately 8:27 p.m.

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

**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