

BOARD OF CITY COMMISSIONERS PROCEEDINGS

NOVEMBER 21, 2016 AT 6:30 P.M.

The Board of City Commissioners of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in Regular Session in the Commission Chambers at City Hall, 9th and Broadway, Shawnee, Oklahoma, Monday, November 21, 2016 at 6:30 p.m., pursuant to notice duly posted as prescribed by law. Mayor Finley presided and called the meeting to order. Upon roll call, the following members were in attendance.

Richard Finley

Mayor

Dub Bushong

Commissioner Ward 1

Ron Gillham

Commissioner Ward 2

James Harrod

Commissioner Ward 3-Vice Mayor

Darren Rutherford

Commissioner Ward 4

Lesa Shaw

Commissioner Ward 5

Absent

Commissioner Ward 6

ABSENT: Micheal Dykstra

INVOCATION

Emergency Management Director Don Lynch

FLAG SALUTE

AGENDA ITEM NO. 1:

Consider approval of Consent Agenda:

- a. Minutes from the October 17, 2016, as amended, and November 7, 2016 regular meetings.
- b. Acknowledge the following reports and minutes:
 - License Payment Report for October 2016
 - Project Payment Report for October 2016
 - Planning Commission Minutes from October 5, 2016 meeting.
- c. Acknowledge City Commission and Related Authorities meeting schedule for 2017.

A motion was made by Commissioner Shaw, seconded by Commissioner Bushong, to approve Consent Agenda Item Nos. 1(a-c). Motion carried 6-0.

AYE: Shaw, Bushong, Gillham, Harrod, Finley, Rutherford

NAY: None

Mayor Finley announced to those in attendance that Oklahoma Baptist University has requested Agenda Item Nos. 11 and 12 be deferred to a future meeting and no public comments will be made at tonight's meeting.

AGENDA ITEM NO. 2:

Citizens Participation

(A three minute limit per person)

(A twelve minute limit per topic)

Mr. Mark Finley spoke regarding Agenda Item No. 8, considering a sales tax rebate to a proposed project located at 45th Street and Harrison Avenue. Mr. Finley, an employee of Modern Oil Company, stated that he is opposed to citizens' subsidizing private businesses if rebates are applied retroactively.

AGENDA ITEM NO. 3:

Discussion, consideration and possible action to enter into executive session to discuss confidential communications between the City and the City Attorney concerning a pending claim and investigation which the City, with the advice of the City Attorney, has determined that disclosure would seriously impair the ability to the City to process the claim and conduct an investigation in the public interest in compliance with its duty of confidentiality concerning investigation of complaints of the existence of a hostile work environment as authorized by 25 O.S. Section 307B(4).

A motion was made by Vice Mayor Harrod, seconded by Commissioner Rutherford, to enter into executive session to discuss confidential communications between the City and the City Attorney concerning a pending claim and investigation which the City, with the advice of the City Attorney, has determined that disclosure would seriously impair the ability to the City to process the claim and conduct an investigation in the public interest in compliance with its duty of

confidentiality concerning investigation of complaints of the existence of a hostile work environment as authorized by 25 O.S. Section 307B(4). Motion carried 6-0.

AYE: Harrod, Rutherford, Shaw, Bushong, Gillham, Finley

NAY: None

AGENDA ITEM NO. 4:

Discussion, consideration and possible action for an executive session pursuant to 25 O.S. §307 (C) (10), for the purpose of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within Shawnee due to advice from the City Attorney and City Manager that public disclosure of the matter discussed would interfere with the development of products or services or that public disclosure would violate the confidentiality of the business.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Gillham, to enter into executive session pursuant to 25 O.S. §307 (C) (10), for the purpose of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within Shawnee due to advice from the City Attorney and City Manager that public disclosure of the matter discussed would interfere with the development of products or services or that public disclosure would violate the confidentiality of the business. Motion carried 6-0.

AYE: Harrod, Gillham, Finley, Rutherford, Shaw, Bushong

NAY: None

COMMISSION ENTERED INTO EXECUTIVE SESSION AT 6:37 P.M. WITH ALL MEMBERS PRESENT

COMMISSION RECONVENED FROM EXECUTIVE SESSION AT 7:29 P.M. WITH ALL MEMBERS PRESENT

AGENDA ITEM NO. 5:

Consider matters discussed in executive session regarding confidential communications between the City and the City Attorney concerning a pending claim and investigation which the City, with the advice of the City Attorney, has determined that disclosure would seriously impair the ability to the City to process the claim and conduct an investigation in the public interest in compliance with its duty of confidentiality concerning investigation of complaints of the existence of a hostile work environment as authorized by 25 O.S. Section 307B(4).

A motion was made by Vice Mayor Harrod, seconded by Commissioner Gillham, to engage attorney Margaret Love to carry out resolution of the complaint consistent with the recommendation of the independent third party investigation. Motion carried 6-0.

AYE: Harrod, Gillham, Finley, Rutherford, Shaw, Bushong
NAY: None

AGENDA ITEM NO. 6:

Consider matters discussed in executive session pursuant to 25 O.S. §307 (C) (10), for the purpose of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within Shawnee due to advice from the City Attorney and City Manager that public disclosure of the matter discussed would interfere with the development of products or services or that public disclosure would violate the confidentiality of the business.

No action was taken under this item but will be discussed in a later agenda item.

AGENDA ITEM NO. 7:

Public hearing and consideration of an ordinance to rezone property located at 4020 North Kickapoo Avenue from C-1; Neighborhood Commercial District to C-3; Highway Commercial District. Case No. P09-16. Application: Nelmon Brauning.

Community Development Director Justin DeBruin explained details of the potential plans for the location and stated that staff recommends approval of this item. Mr. DeBruin answered questions from the Commission.

Mayor Finley declared a public hearing in session to consider an ordinance to rezone property located at 4020 North Kickapoo Avenue from C-1; Neighborhood Commercial District to C-3; Highway Commercial District. No one appeared in favor or against said rezoning. The public hearing was closed.

A motion was made by Commissioner Shaw, seconded by Commissioner Bushong, to approve an ordinance to rezone property located at 4020 North Kickapoo Avenue from C-1; Neighborhood Commercial District to C-3; Highway Commercial District.

Ordinance No. 2588NS was introduced.

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO-WIT: LOT FIVE (5), BLOCK TWO (2), COLLEGE VIEW ADDITION, TO THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF REZONING SAID PROPERTY FROM C-1; NEIGHBORHOOD COMMERCIAL DISTRICT TO C-3; HIGHWAY COMMERCIAL DISTRICT AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

Motion carried 6-0.

AYE: Shaw, Bushong, Gillham, Harrod, Finley, Rutherford

NAY: None

Ordinance No. 2588NS was adopted by the City Commission.

AGENDA ITEM NO. 8:

Consideration of a Sales Tax Rebate Agreement between the City of Shawnee and the Elmer Smith Oil Company.

City Manager Justin Erickson stated that the property location of this project would be north of 45th Street and east of Harrison Avenue. The proposal is for a \$4.5 million dollar project, which will consist of a gas station/convenience store, restaurants, hotels and a dog park. He stated that the term of the agreement will include a sales tax rebate up to \$785,000. 00 and will extend for seven years. The sales tax rebate will not begin until a second structure is built on the location and a certificate of occupancy is issued. Mr. Erickson noted that the agreement is contingent upon Pottawatomie County providing substantial similar incentives. If they fail to do so, the agreement will not be valid.

After discussion by Commissioners, a motion was made by Commissioner Rutherford, seconded by Commissioner Gillham, to approve a sales tax agreement with Elmer Smith Oil Company in an amount not to exceed \$785,000.00 based on actual costs for specified improvements as set forth in the agreement. Motion carried 6-0.

AYE: Rutherford, Gillham, Harrod, Finley, Shaw, Bushong

NAY: None

AGENDA ITEM NO. 9:

Public hearing and consideration of an ordinance to rezone property located at the northeast corner of 45th Street and Harrison Avenue from CP; Planned Shopping Center to PUD; Planned Unit Development. Case No. P10-16. Applicant: Shawnee Harrison, LLC.

Community Development Director Justin DeBruin gave a staff report for Agenda Item Nos. 9 and 10. He explained that the property location is fifteen acres and will be sectioned into five lots and two common areas. The development will include restaurants, a gas station with convenience store, two hotels and a privately maintained dog park. There will be access to the new development from John C. Bruton Drive and Harrison Avenue. Sidewalks will be required along 45th Street, Harrison Avenue, and John C. Bruton Drive and improvements will be made to John C. Bruton Drive. He described façade requirements for the area and noted that a variance to erect an 80 foot free-standing sign has been requested. Mr. DeBruin stated that staff does recommend approval of these items with conditions.

Mr. DeBruin then answered questions from the Commission regarding landscape, traffic, parking, and structure design.

Mayor Finley declared a public hearing in session to consider an ordinance to rezone property located at the northeast corner of 45th Street and Harrison

Avenue from CP; Planned Shopping Center to PUD; Planned Unit Development. No one appeared in favor or against said rezoning. The public hearing was closed.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Rutherford, to approve an ordinance to rezone property located at the northeast corner of 45th Street and Harrison Avenue from CP; Planned Shopping Center to PUD; Planned Unit Development.

Ordinance No. 2589NS was introduced.

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO-WIT: A TRACT OF LAND LYING IN THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 11 NORTH, RANGE 4 EAST OF THE INDIAN MERIDIAN, POTTAWATOMIE COUNTY, OKLAHOMA, AND FURTHER DESCRIBED AS BEGINNING AT A POINT ON THE SOUTH LINE OF SAID WEST HALF OF THE SOUTHWEST QUARTER, 150.08 FEET EAST OF THE SOUTHWEST CORNER OF SAID WEST HALF OF THE SOUTHWEST QUARTER, SAID POINT OF BEGINNING ALSO BEING THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY NO. 18; THENCE NORTH 00°42'25" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 704.00 FEET; THENCE SOUTH 89°17'35" WEST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 10.00 FEET; THENCE NORTH 00°42'25" WEST A DISTANCE OF 954.52 FEET; THENCE NORTH 10°13'16" EAST ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 191.27 FEET TO THE SOUTH LINE OF A 120.00 FOOT ROAD AND UTILITY EASEMENT; THENCE NORTH 89°17'35" EAST ALONG SAID SOUTH LINE A DISTANCE OF 278.92 FEET; THENCE NORTHEASTERLY ALONG SAID SOUTH LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 458.08 FEET A DISTANCE OF 50.57 FEET; THENCE SOUTH 00°01'41" WEST AND PARALLEL WITH THE WEST LINE OF SAID WEST HALF OF THE SOUTHWEST QUARTER A DISTANCE OF 1850.12 FEET TO THE SOUTH LINE OF SAID WEST HALF OF THE SOUTHWEST QUARTER; THENCE SOUTH 89°26'29" WEST ALONG SAID SOUTH LINE A DISTANCE OF 331.92 FEET TO THE POINT OF BEGINNING, TO THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF REZONING SAID PROPERTY FROM CP; PLANNED SHOPPING CENTER TO PUD; PLANNED UNIT DEVELOPMENT AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

Motion carried 6-0.

AYE: Harrod, Rutherford, Shaw, Bushong, Gillham, Finley

NAY: None

Ordinance No. 2589NS was adopted by the City Commission.

AGENDA ITEM NO. 10:

Consideration of a Preliminary Plat for Domino Plaza Addition located at the northeast corner of 45th Street and Harrison Avenue. Case No. S19-16. Applicant: Shawnee Harrison, LLC.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Shaw, to approve a Preliminary Plat for Domino Plaza Addition located at the northeast corner of 45th Street and Harrison Avenue, with the following conditions:

1. Final construction documents must be approved by the City Engineer concurrent with Final Plat approval.
2. Any necessary drainage plans must be approved by the City Engineer concurrent with Final Plat approval.
3. The requirements and conditions of the City Engineer as detailed in the memorandum (Exhibit 3) shall be met and shall be so shown on the above-noted construction plans and Final Plat.
4. These conditions shall override any deviation proposed in the Planned Unit Development Master Plan or Design Statement.
5. Sidewalks are required along 45th Street, Harrison Avenue, and John C. Burton drive.
6. Approval of requested variance to allow for one eighty (80') foot free-standing sign, in place of further free-standing sign allowances.
7. Approval of requested variance to eliminate a perimeter easement along the east boundary due to the creek abutting the east side.
8. Correction of minor details on the Preliminary Plat.
9. The Planned Unit Development Design Statement shall be amended as needed to be in conformance with these conditions and submitted to the City for acceptance.
10. All other applicable City standards apply.

Motion carried 6-0.

AYE: Harrod, Shaw, Bushong, Gillham, Finley, Rutherford

NAY: None

AGENDA ITEM NO. 11:

Public hearing and consideration of an ordinance to close University Drive, University Avenue, also known as University Street, Chapman Avenue, also known as Pottenger Street, and Pottenger Avenue, also known as Ione Street. Applicant: Oklahoma Baptist University.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Bushong, to defer this item until the December 19, 2016 City Commission meeting at the request of Oklahoma Baptist University. Motion carried 6-0.

AYE: Harrod, Bushong, Gillham, Finley, Rutherford, Shaw

NAY: None

AGENDA ITEM NO. 12:

Consideration of an Agreement between the City of Shawnee and Oklahoma Baptist University to maintain vehicular access to University Drive/Street and pursue certain roadway improvements.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Shaw, to defer this item until the December 19, 2016 City Commission meeting, per the request of Oklahoma Baptist University. Motion carried 6-0.

AYE: Harrod, Shaw, Bushong, Gillham, Finley, Rutherford

NAY: None

AGENDA ITEM NO. 13:

Acknowledge Sales Tax Report received November 2016.

Finance Director Cynthia Arnold gave her monthly sales tax report showing that November sales tax collected this month was \$1,468,286.00, which is up 2.9% or \$42,095.00 from November of 2015. She further provided information regarding the city's revenues and expenditures in the General Fund and the Shawnee Municipal Authority.

AGENDA ITEM NO. 14:

New Business (Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)

There was no New Business.

AGENDA ITEM NO. 15:

Commissioners Comments

Commissioner Shaw thanked the Pioneer Library staff and urged citizens to participate in special activities currently going on at the library.

Commissioner Shaw said that she was very touched and impressed with the Shawnee Animal Shelter after a recent visit to their facility. She explained that the employees educated her on the maintenance and care of the animals and the kennels. She noted that the shelter still has needs and wants to encourage citizens and rescue groups to help the staff. She suggested concerned persons to find funding and sponsors for animals. She also suggested local photographers volunteer to take professional photographs of available animals.

Commissioner Shaw encouraged citizens to attend the dedication of the Veterans Memorial Wall at the Woodland Veterans Park on December 10, 2016.

Commissioner Gillham shared a story relating to his previous time on the City Commission from 1992-2000 when votes were taken by roll-call.

Vice Mayor Harrod thanked Justin Erickson and Tim Burg for their assistance with the 45th and Harrison project.

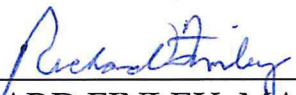
Mayor Finley announced that OML (Oklahoma Municipal League) would be hosting one of the five District Dinner Meetings on November 29th at Cattlemen's Steak House.

AGENDA ITEM NO. 16:

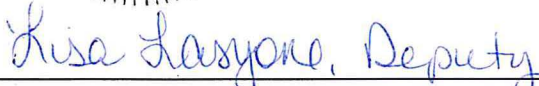
Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (8:07 p.m.)





RICHARD FINLEY, MAYOR



PHYLLIS LOFTIS, CMC, CITY CLERK