

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 913
Tuesday, June 28, 2005, 1:00 p.m.
Francis F. Campbell City Council Room
Plaza Level of City Hall
Tulsa Civic Center

**MEMBERS
PRESENT**

Dunham, Chair
Henke
Paddock
Stead

**MEMBERS
ABSENT**

Stephens

**STAFF
PRESENT**

Alberty
Butler
Cuthbertson

**OTHERS
PRESENT**

Ackermann, Legal

The notice and agenda of said meeting was posted in the City Clerk's office, City Hall, on Thursday, June 23, 2005, at 10:06 a.m., as well as at the Office of INCOG, 201 W. 5th St., Suite 600.

After declaring a quorum present, Chair Dunham called the meeting to order at 1:02 p.m.

Mr. Cuthbertson read the rules and procedures for the Board of Adjustment Public Hearing.

REQUEST TO CONTINUE AND CASES TO WITHDRAW

Case No. 20061

Action Requested:

Special Exception to permit residential accessory structure/pool on an abutting lot under common ownership (Section 1608.A.11); and a Request for refund, located: 1004 East 17th Place. South.

Presentation:

Mr. Cuthbertson informed the Board that Stan Dombrowski, the applicant, has withdrawn his application and has accomplished his goals by other means. He also requested a refund. Staff recommended a partial refund of \$250.00.

Board Action:

On **Motion** of **Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a partial

refund of \$250.00 per staff recommendation, regarding the following described property:

ALL LT 7 & E50 LT 8 LESS BEG NEC THEREOF TH CRV LF TO PT 50S NL N50 E TO POB BLK 2, MAPLE RIDGE ADDN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20065

Action Requested:

Special exception to allow Use Unit 11 - Office, Studios & Support Services in an RM-2 zoned district (Section 401) and a variance of the required number of parking spaces for an office from 9 to 6 (Section 1211.D), located: 1632 South Denver Avenue.

Presentation:

Mr. Cuthbertson informed the Board that Kayle Greiman, the applicant, requested a continuation to modify the request and re-notice the case.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20065 to the meeting on July 12, 2005, to allow time to re-notice for additional relief, regarding the following described property:

LT 8 BK 5, STONEBRAKER HGTS ADDN, City of Tulsa, Tulsa County, State of Oklahoma

NEW APPLICATIONS

Case No. 19974

Action Requested:

Variance to permit a setback of 2 ft. from the property line for a masonry screening wall to accommodate the wide footing; and a Special Exception to amend a site plan and landscape plan (BOA-19056) to change orientation of parking spaces, located: 1432 South Rockford.

Presentation:

Beth Mathers, 536 South Gillette, stated she has worked closely with Mr. Boulden, Mr. Ackermann, and INCOG staff to comply with the zoning code. She submitted

photographs and a site plan (Exhibits A-1 and A-2). She called their attention to the parking lot, screening wall, and the landscaping that has been completed as per code. They selected vegetation that would be attractive all year. The wall is located two feet into the subject property for the extra foundation width and the length goes all the way to the alley.

Comments and Questions:

Mr. Paddock asked about the change orientation of parking spaces decreasing them from nine to five. Ms. Mathers explained the City of Tulsa asked for the change to give more turning space for vehicles entering the parking lot.

Interested Parties:

Joe Ross, 32 North Louisville, stated he built the wall with the sight cut originally. The wall has been built structurally sound with rebar all the way to the alley.

Ms. Stead asked Mr. Boulden if the City of Tulsa found the changes acceptable. Mr. Boulden replied that this parking lot has been a difficult case. He covered the history of Mr. Walter, a neighbor that had a chain-link fence adjacent to the parking lot. The wall created a two-foot space between it and the fence that the parties involved considered a problem. Mr. Boulden suggested the applicant offer a two-foot use easement to Mr. Walter that allowed him to remove the chain-link fence and use the easement for as long as the wall is two feet off the property line.

Applicant's Rebuttal:

Ms. Mathers stated they plan to provide the use easement for Mr. Walter.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** to permit a setback of 2 ft. from the property line for a masonry screening wall to accommodate the wide footing, subject to the applicant granting a two-foot residential use easement to the property owner to the north of the parking lot until the wall is removed; finding because of the peculiarities of this land, the literal enforcement of the code would result in an unnecessary hardship; finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan.

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to amend a site plan and landscape plan (BOA-19056) to change orientation of parking spaces, subject to site plan B as submitted by the applicant, finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 8 BLK 6, LT 9 BLK 6, BELLVIEW ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20060

Action Requested:

Special Exception for automobile repair in a CS zoned district - SECTION 701 - Use Unit 17, located: 11426 East 21st Street South.

Presentation:

Loc Tram, 11682 East 21st Street South, #B, proposed to have an auto repair shop.

Comments and Questions:

Mr. Dunham asked about numerous disabled vehicles on the parking lot. Mr. Tram replied they belong to customers that brought their car in and then could not afford to pay for repairs. He applies for Title 42 to do with the vehicle as he chooses. Mr. Dunham inquired about the kind of work he does. Mr. Tram replied he repairs air conditioning, motor rebuilding and electrical jobs. Ms. Stead asked if he operates any type of wrecker service, to which he replied that he does not. In answer to questions from the Board Mr. Tram informed them that he has someone else process Title 42 for him. He stated he would do the best he could to get the abandoned vehicles off the lot. He estimated the abandoned vehicles are on the lot about 60-90 days. He has been running this business for four years. He informed the Board that he applied for the special exception because he received a notice of violation.

Interested Parties:

Louis Dillon, 2142 South 117th, submitted photographs (Exhibit B-1). He contested his taxes and they lowered his property taxes because he lived near this business.

Debbie Squires, 13516 E. 39th St., stated she is a property manager for Mr. and Mrs. Earl Sauer, who are out-of-state investors. They are opposed to a zoning change and an auto repair shop.

Rapheal Planos, 5209 South 66th, stated he owns the shopping center across the street and opposed the business. He was concerned about the accumulation of inoperable vehicles.

Comments and Questions:

The Board members discussed limiting the number of inoperable vehicles on the lot. Mr. Tram responded that knowing this he would make sure to remove the cars quickly.

Board Action:

On **Motion** of **Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** for automobile repair in a CS zoned district - SECTION 701 - Use Unit 17, subject to the following conditions: no outside storage of materials; no repair work outside the six service bays; no more than six customer vehicles awaiting repair, parked on the parking lot in front of the business; to keep the lot clean of trash and shopping carts; and limit this approval to two years, finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 1 BLK 1, BURRIS SQUARE City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20062

Action Requested:

Special Exception to allow a school related use (Use Unit 5) in an RS-2 district and approval of an amendment to an approved site plan, located: 6410 South Yorktown Avenue.

Presentation:

The applicant was not present. Staff was asked to contact the applicant by phone. The case was moved down on the agenda.

Interested Parties:

There were several parties present.

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Case No. 20063

Action Requested:

Variance of the setback for a projecting sign from the required 40 feet to 37 feet (Section 1221.C.6), located: 514 South Boston Avenue.

Presentation:

B. R. Ritzhaupt, 3527 South Trenton, had done some research and was awaiting approval by the Board.

Comments and Questions:

Ms. Stead asked how high the bottom of the sign would be from the sidewalk. Mr. Ritzhaupt estimated 12' above the sidewalk. She suggested it should be higher. Mr. Paddock agreed that it should be higher.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of the setback for a projecting sign from the required 40 feet to 37 feet (Section 1221.C.6), with condition: that the bottom of the sign be in alignment with the top border of the window opening, finding the cause of the exceptional circumstances peculiar to the building the literal enforcement of the code would result in an unnecessary hardship, the conditions do not generally apply to other properties in the same district; and finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan, on the following described property:

N50 N75 LT 3 BLK 148, TULSA-ORIGINAL TOWN, City of Tulsa, Tulsa County, State of Oklahoma

Case No. 20066

Action Requested:

Special exception to allow tent sales (Outdoor Sales - Use Unit 2) in a CS zoned district for the sale of flower - plants - fruits & vegetables and Christmas trees for a period of ten (10) years from April thru December (Section 701) and a special exception of the required all-weather surface to allow gravel parking (Section 1202.C.1), located: Northeast Corner of 81st South and Yale Avenue.

Presentation: Stephens,

Lonnie Basse, 4732 South Columbia Place, asked for the same relief as previously requested for about a 170 day total.

Interested Parties:

There were no interested parties who wished to speak.

Board Action:

On **Motion** of **Henke**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to allow tent sales (Outdoor Sales - Use Unit 2) in a CS zoned district for the sale of flower - plants - fruits & vegetables and Christmas trees for a period of ten (10) years from April thru December (Section 701); and a Special Exception of the required all-weather surface to allow gravel parking (Section 1202.C.1), finding it will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

LT 3 BLK 1, HOLLAND CENTER, City of Tulsa, Tulsa County, State of Oklahoma

injurious to the neighborhood, or otherwise detrimental to the public welfare, with condition: there be no access from the property adjacent to the south;
On **Amended Motion of Henke**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Variance** of the maximum square footage of display surface area of a sign for a bank logo on the front building wall (Section 602.B.4), with conditions for a 2' x 8' unlighted wall sign and a monument sign 12' ht. limited to 40 sq. ft. and no changeable copy; finding due to extraordinary or exceptional circumstances to this land, the literal enforcement of the code would result in an unnecessary hardship; finding it will not cause substantial detriment to the public good or impair the purpose, spirit and intent of the code or Comprehensive Plan,

And the staff found the last special exception requested to be unnecessary, on the following described property:

S100 N500 E/2 E/2 SE SE LESS W25 & E60 THEREOF FOR RD SEC 16 18 13 .562AC, S100 N400 E/2 E/2 SE SE LESS W25 & E60 THEREOF FOR RD SEC 16 18 13 .562AC, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20062

Action Requested:

Special Exception to allow a school related use (Use Unit 5) in an RS-2 district and approval of an amendment to an approved site plan, located: 6410 South Yorktown Avenue.

Presentation:

Steve Holloway, 2825 East 56th Place, represented Metro Christian Academy. They built a park on their eastern property with two baseball fields. The Tulsa Parks Department and Metro Christian Academy made a mutual lease agreement. The school is growing and they proposed to build a small indoor practice building. The Parks Department had no objection. The building would be 3,200 square foot building for baseball practice.

Comments and Questions:

Mr. Dunham asked if they have discussed the plans with the neighborhood. Mr. Holloway replied that Tim Cameron discussed with the neighborhood association. There were concerns they were going to sell the property. Those concerns seemed to subside when they realized the school was going to maintain the property. Mr. Dunham asked if they proposed screening along the north line between the building and the neighborhood to the north. Mr. Holloway noted there are already a number of trees in this area and the school is willing to add more trees as needed. Mr. Dunham asked what activities would go on in the building. Mr. Holloway responded it would be for baseball practice. There would be netting all the way around the walls to keep the balls from hitting the walls. Ms. Stead

asked if they expect to have enough parking. Mr. Holloway replied that this would not add to their population in any way. They have asked for permits for additional parking already. He added that they intend to put in security lighting on a motion detector system and it will be pointed down and away from the neighborhood.

Mr. Paddock emphasized the school owns the land and is leasing it to the park.

Interested Parties:

Gerald LaVoy, stated he represented his mother **Gertrude LaVoy**, 1751 East 53rd Street. He stated there is a delicate balance in this square mile. There is a lot of multi-family housing and a lot of commercial. He commented on the use of the property for school and park. He stated parks need land and schools need buildings. He added that Ms. LaVoy would strongly object to another building taking up park space.

Carla Schilman, 1804 East 63rd Street, stated that her property backs up to the baseball field. She understood Mr. Holloway to say if they removed any trees they would replace them. She was concerned that it would take many years for the new trees to reach the size of the existing trees. She suggested they build on the school campus proper, such as on the southwest side. Ms. Schilman stated the neighborhood already has issues with the storm water drainage, lights on the ball field noise and gang activity.

Joel Cantor, 4504 South Louisville, expressed concern that the plans included an access road that would bring more traffic into the neighborhood. He otherwise was in support of the application.

Nancy Wells, 6221 South Yorktown, in Cambridge Square, noted changes in the neighborhood over the last several years, including the addition of Metro Christian School and Headstart South School. She added that from Rockford to Yorktown on 61st Street the traffic backs up when school lets out. She stated it makes it very difficult for the neighbors to get out of the neighborhood going north. She pointed out the need for emergency vehicles to enter and exit the neighborhood in a timely fashion.

Deborah Early, 6311 South Utica, complained that the proposed building would tower over her backyard. She was concerned about the neighborhood losing it's appeal and decreased property value.

Carl Oakley, 6253 South Victor, stated his concern that this project would lead to similar projects.

Greg Warren, Data Resource Manager for Tulsa Parks Department, stated they have met with Mr. Holloway. They have no concerns with this application. He added that a condition for Mr. Holloway to attend the Parks Department Board

meeting on July 12th, and the Board of Adjustment approval be contingent on the Parks Board approval.

Steve Steiner, 1817 East 63rd, commented that he is a long time resident of this area. He is somewhat concerned that this would decrease the size of the park. He indicated that tends to open the door to other development until the park is gone. He suggested locating the building to the west of the school.

Chris Medlock, 2919 East 82nd, City Councilor, District 2, stated he was familiar with the area. He is in agreement with what the school is doing to keep the youth occupied. He also stated that the neighbors have legitimate concerns for lighting, noise and crime. He pointed out that the 61st and Peoria is a high crime area. He stated he has had numerous meetings with the business associations of the area and the police department regarding their efforts against crime.

Mr. Dunham suggested a continuance for the applicant and neighborhood to discuss and resolve issues.

Applicant's Rebuttal:

Mr. Holloway responded that the school was trying to complete construction during the summer as it is harder after school starts. He stated the building height is only 20'. They have offered to allow people using the park to use their facilities. They are not changing the road system. He pointed out why they cannot relocate the site for the building because of easements and storm sewer. He also stated it is supposed to be near the practice field to coordinate the use of the field and the practice building.

Comments and Questions:

Ms. Stead asked for specifics regarding the activity in the proposed building. Mr. Holloway replied there will be netting all the way around the interior. There will be pitching on one side and a couple of batting cages. The construction will be metal with insulated exterior walls and the netting will stop the balls from actually hitting the walls. Mr. Henke asked about the compliant of cutting down trees and the lighting. Mr. Holloway replied that they have not planned to cut down any trees. The Parks Department is responsible for any outdoor lighting in the park. Mr. Paddock asked if anyone from the neighborhood contacted the applicant to meet with them for any reason other than concern that the applicant might be selling the property. Mr. Holloway did not know of any.

Ms. Stead stated she was familiar with such practice places and that this would not increase traffic in the neighborhood. She stated the school owns this property and have numerous restrictions to protect the neighborhood. Mr. Dunham suggested a continuance for a landscape and a lighting plan. Mr. Paddock wanted a restriction to not cut down any large trees.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **APPROVE** a **Special Exception** to allow a school related use (Use Unit 5) in an RS-2 district and approval of an amendment to an approved site plan based on the following conditions: lighting be directed downward on a motion detector and away from the neighborhood; subject to a lighting plan and a landscaping plan, which would include the direction of the lighting; that no trees greater than one foot in diameter be removed; and approval conditioned upon approval of the Parks Department at their Board meeting on July 12, 2005; the special exception be for baseball use only and the special exception be approved for phase one only, which is the construction of a 3,200 square foot facility, finding the special exception will be in harmony with the spirit and intent of the code and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Mr. Dunham **QUESTIONED** if they were going to set a date for a hearing to look at the landscape plan and the lighting plan. He suggested the meeting on July 26, 2005 and to encourage the applicant to get input from the neighborhood.

Mr. Paddock **CONTINUED** with the motion: the Board requested the applicant to come before the Board at the meeting on July 26, 2005 to discuss the landscaping and lighting plan approval, which has been discussed with the neighborhood and the applicant has discussed and gathered input from the neighbors.

Ms. Stead asked for **DISCUSSION** on the motion. She was sensitive to the statement that the use is for baseball only. She asked if the girls play softball and if they can use the facility. She stated they could not limit it to baseball.

Mr. Paddock asked to **MODIFY** the motion to strike the condition for baseball use only and to replace it with a condition for athletic facility use only. All of the above on the following described property:

PRT SW NE BEG 305S NWC SW NE TH E585.03 S580 W585.05 N580 POB
SEC 6 18 13 7.79AC, PRT SW NE BEG 350S & 585.03E NWC SW NE TH
E555.03S580 W555.03 N580 POB SEC 6 18 13 7.39ACS, COLLEGIATE
SQUARE, SOUTHERN HILLS VIEW B5-6, City of Tulsa, Tulsa County, State of
Oklahoma

Mr. Ackermann gave a point of information. The building permit review will be contingent upon the approval from this Board on the lighting plan and landscape plan. It would be incumbent upon the applicant to present the plan to the Board to clear that condition on his building permit.

Case No. 20068

Action Requested:

Variance of the required 50 ft setback from the center of the street to 40 ft for the construction of a new dwelling Section 403, 1860 East 17th Street South.

Presentation:

Rob Baumgarten, 3926 East 51st Place, stated his request. He submitted the site plans (Exhibit E-3).

Comments and Questions:

Mr. Dunham asked if he was not aware that he was violating the front yard setback. Mr. Baumgarten replied part of the reason was a mis-measurement of the houses on either side and an incorrect survey of the subject property prior to construction. Mr. Baumgarten proposed to remove the dining room that protruded out and put in a front porch all the way across. Ms. Stead pointed out it still further out than the houses on each side. He went before the Preservation Commission and the sub-committee unanimously approved this change. He has presented it to the neighbors on his street. Mr. Paddock asked if he had documentation from the Historic Preservation of the approval. He replied that Pat Fox was present and could verify actions by the TPC. He provided a petition of support and a letter of support (Exhibit E-1 and E-2). He added that he would go before the TPC on July 14, 2005. Mr. Dunham asked if there were any porches that extend out as far as this one. The applicant replied that not every house is exactly the same distance from the centerline of the street. Ms. Stead asked the size of the porch. Mr. Holloway indicated it would be 47 feet. He added that he has a post-tension slab and if he cut into it, the whole project would be ruined. Mr. Dunham stated for the record, the Board received a letter of opposition from Randy and Betty Burns in opposition to this application.

Interested Parties:

Patrick Fox, 1111 South Greenwood, staff planner with the TPC, stated that the information Mr. Baumgarten gave was correct. The sub-committee for TPC is only a recommending body. The TPC will review it based on the recommendation.

Comments and Questions:

Mr. Dunham commented the BOA could continue the case to July 26, 2005, after he goes before the TPC.

Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **CONTINUE** Case No. 20068 to the meeting on July 26, 2005, and that the applicant bring an approved site plan to that meeting and documented results of the TPC hearing, on the following described property:

W 20 LT 4 E 25 LT 5 BLK 2, WEAVER ADDN, City of Tulsa, Tulsa County, State of Oklahoma

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Case No. 20069

Action Requested:

Special Exception to permit a temporary construction facility - Use Unit 2, temporary stockpile storage of earthen construction material (Section 1202), located: Northwest of 121st Street South and South Yale Avenue.

Mr. Dunham announced to the interested parties that this hearing is strictly regarding the storage of earthen construction material and not about the proposed bridge. He asked that comments be confined to this application.

Presentation:

Neil Pulliam, 5416 South Yale, stated he is a civil engineer with Tetra Tech. He represented M.J. Lee Construction relative to this application. They proposed to begin storing the material over the next six to nine months to use on the project. It would be difficult to obtain 6,000 cubic yards of material within a short time period.

Comments and Questions:

Mr. Dunham noted the current heavy truck traffic in this area. He added that another such company obtained BOA approval for the same activity recently. He asked if they had considered a location with less impact on the neighborhood. Mr. Dunham asked about plans to deal with the mud, dust and noise from this project. He replied that is included in the Storm-water Prevention plan, which has been submitted to the permitting center. Ms. Stead asked the hours of operation. Mr. Pulliam did not know. She also mentioned other information the Board would need in this type of request, i.e. plans to restore the land, and no material closer than 100' of a dwelling.

Mr. Dunham out at approximately 3:56 p.m.

Other members asked for expected height of the stored material and planned route for bringing material onto the property.

Interested Parties:

Bill Christianson, 5106 East 86th Place, indicated the request is premature for a proposed plan that may or may not eventually happen, and that this proposal would be detrimental to the neighborhood.

Mr. Dunham returned at 3:58 p.m.

Michael Covey, represented the South Tulsa Citizen's Coalition, 12012 South Granite Avenue. He was certain this storage was for the bridge project that may or

may not be approved. He informed the Board that they had filed a lawsuit in opposition to the bridge (Exhibit F-1).

Comments and Questions:

The Board members made comments of concern for the location of this request and proximity to a residential neighborhood.


Board Action:

On **Motion of Paddock**, the Board voted 4-0-0 (Dunham, Paddock, Henke, Stead "aye"; no "nays"; no "abstentions"; Stephens "absent") to **DENY** a **Special Exception** to permit a temporary construction facility - Use Unit 2, temporary stockpile storage of earthen construction material (Section 1202), finding it would not be in harmony with the spirit and intent of the code and would be injurious to the neighborhood, or otherwise detrimental to the public welfare, on the following described property:

E/2 SE SE SE LESS E25 & S50 THEREOF SEC 33 18 134.27AC, W/2 SE SE SE LESS W25 & S50 THEREOF SEC 33 18 134.27AC, City of Tulsa, Tulsa County, State of Oklahoma

There being no further business, the meeting was adjourned at 4:12 p.m.

Date approved: July 26, 2005.


Chair