

**BROKEN ARROW CITY COUNCIL  
MINUTES  
COUNCIL CHAMBERS  
220 SOUTH FIRST STREET  
BROKEN ARROW, OKLAHOMA 74012  
November 6, 2012**

**6:30 PM**

**1. Call to Order**

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

**2. Invocation**

**Section Minutes:** There was no one to present to deliver an invocation.

**3. Roll Call**

<b>Present:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Absent:</b>	None

**4. Pledge of Allegiance to the Flag**

**Section Minutes:** Councilor Richard Carter led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

**Section Minutes:** Mayor Thurmond asked for a motion to approve the Consent Agenda except for Item 5T.

<b>Motion:</b>	<b>Move to approve the Consent Agenda excluding item 5T</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- A. Approval of the meeting minutes of October 16, 2012
- B. Approval of Workers' Compensation Settlement Agreement for Gregory Duane Stout, former Police Department employee
- C. Approval of and authorization to execute Budget Amendment Number 5 for Fiscal Year 2012-2013
- D. Approval of and authorization to execute Resolution Number 767, a Resolution authorizing specific Officers to open accounts, deposit and withdraw funds, and designating the F & M Bank & Trust, Tulsa, OK as a Depository Bank

- E. Approval of and authorization to declare Kilo, a Police K-9 as surplus property and retiring said K-9 to his Handler, effective November 6, 2012
- F. Approval of the 2013 One Voice Legislative Agenda
- G. Ratification of an Expedited Settlement Agreement between the United States Environmental Protection Agency (EPA) and the City of Broken Arrow with regard to the Lynn Lane Wastewater Treatment Plant
- H. Approve and authorize execution of Amendment Number 1 to Professional Consultant Agreement with RL Shears Company for design of Downtown Streetscapes Phase III
- I. Approval of and authorization to execute Amendment Number 2 to the Blackboard Connect-CTY services agreement dated August 18, 2010, between Blackboard Connect Inc. and the City of Broken Arrow for Emergency/System Notification System
- J. Approval of and authorization to execute an Inter-local Agreement with Independent School District No. 3 of Broken Arrow Public Schools to assist with crossing guards
- K. Approval of and authorization to execute a Professional Consultant Agreement with Traffic Engineering Consultants, Inc., for a Traffic Study and Recommendations for Improvements at the Intersections in the Vicinity of the Broken Arrow Expressway and Elm Place and the Broken Arrow Expressway and 9th Street
- L. Notification of Contracts, Change Orders and Work Orders with a value of less than \$25,000 on Engineering and Construction Contracts since the last City Council Meeting
- M. Approval to renew annual subscription to Target Solutions online training program utilizing Wagoner County Fire Tax Funds
- N. Approval to reject all bids for mechanical work at the Military History Museum and specifically find that rejection is in the best interests of the citizens of Broken Arrow
- O. Review bids received, award the lowest and best bid to Raceway Electric, Inc., and approve and authorize execution of a construction contract for the Military History Museum Electrical (Re-bid)
- P. Approval of bids received and award the most advantageous bid to Fleet Distributors for the purchase of Police patrol vehicle lighting
- Q. Approval of bids received and award the most advantageous bid to Turn Key Mobile for the purchase of 15 Police patrol vehicle prisoner transport cells and gun racks
- R. Review bids received and award the most advantageous bid to Emergency Fire Equipment for the purchase of a Spartan ERV fire pumper truck for the Fire Department
- S. Approval of and authorization to execute a General Warranty Deed, permanent Drainage Easement and a Temporary Construction Easement between the City of Broken Arrow and BA Corner L.L.C., an Oklahoma Limited Liability Company, located in part of the SW/4 SW/4 of Section 34, Township 18 North, Range 14 East; and approve the expenditure of \$148,183.00 to be remitted to BA Corner L.L.C., at the time of a closing
- T. Approval of and authorization to execute conveyance documents that grant a Right of Way and Easement located at the Broken Arrow Water Treatment Plant (The SE/4 of the NW/4 and the North 330 feet of the North 660 feet of the NE/4 of the SW/4 in Section 2 Township 18 North Range 16 East, Wagoner County

- U. Acceptance of a Utility Easement located approximately 1072 feet south and 1122 feet east of South 177th East Avenue (South 9th Street) and East Houston Street (East 81st Street) intersection from Rick Marvin Properties, LLC., (Sec 13 T18N R14E)(Project #SW 1215)(East Houston Industrial Park Drainage Schedule A)
- V. Acceptance of a Utility Easement located approximately 3960 feet south and 1320 feet east of the intersection of West New Orleans Street (East 101st Street) and South Garnett Road from Laura L. Eckstein, Trustee of the Laura L. Eckstein Revocable Living Trust (Sec 29 T18N R14E)(Project Stacey Lynn 7 Drainage Improvements)
- W. Acceptance of a Utility Easement located approximately 3962 feet south and 1320 feet east of the intersection of West New Orleans Street (E. 101st Street) and South Garnett Road from Wesley Clark Eldridge, Trustee of the Wesley Clark Eldridge Revocable Living Trust (Sec 29 T18N R14E) (Project Stacey Lynn 7 Drainage Improvements)
- X. Approval of Claims List

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

- 5T. Approval of and authorization to execute conveyance documents that grant a Right of Way and Easement located at the Broken Arrow Water Treatment Plant (The SE/4 of the NW/4 and the North 330 feet of the North 660 feet of the NE/4 of the SW/4 in Section 2 Township 18 North Range 16 East, Wagoner County

**Section Minutes:** Councilor Mike Lester moved to table 5T.

<b>Motion:</b>	<b>Move to table item 5T</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

**7. Public Hearings, Appeals, Presentations, Recognitions, Awards and Oaths**

- A. Recognition of City of Broken Arrow Floodplain Manager, Jeff Bigby, PE., who was selected as the Floodplain Manager of the year by the Oklahoma Floodplain Managers Association

**Item Minutes:** Mayor Thurmond announced that Jeff Bigby, Floodplain Manager for the City of Broken Arrow, had been selected as the Floodplain Manager of the Year by the Oklahoma Floodplain Manager's Association. Mayor Thurmond read the formal announcement which outlined Mr. Bigby's outstanding job performance. Mayor Thurmond said that as a result of Mr. Bigby's hard work Broken Arrow had been rated in the top 5 percent of community floodplain programs nationwide.

**8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services**

**Section Minutes:** No citizens signed up to speak.

**9. General Council Business**

- A. Review of bids received and award of the most advantageous bid to Nebkan Emergency Vehicles LLC for the purchase of two ambulances for the Fire Department

**Item Minutes:** Deputy Fire Chief, Mr. Phil Reid, stated that the Fire Department had requested bids for two new emergency vehicles and had received bids from four vendors. He said the first vendor submitted an insufficient bid and was rejected; the bids submitted by Taylor Made Ambulances and Osage ambulance were also rejected due to failure to meet critical construction specifications or timelines. He added that the bid that had been submitted by Nebkan met all of the Fire Department specifications and provided the best overall value.

Councilor Jonnie Parks asked Deputy Chief Reid to clarify that there had been bids that were lower than the bid submitted by Nebkan but that none of those bids had met specifications. Deputy Chief Reid answered yes, that had been the case.

<b>Motion:</b>	<b>Move to approve and award the most advantageous bid to Nebkan Emergency Vehicles LLC for the purchase of two ambulances for the Fire Department</b>
<b>Motion by:</b>	Jill Norman
<b>Second by:</b>	Johnnie Parks
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- B. Consideration of and possible approval of and authorization to execute Resolution Number 763, a Resolution establishing written procedures to monitor compliance with provisions of Internal Revenue Code and U.S. Treasury regulations pertaining to tax exempt bonds

**Item Minutes:** Director of Finance, Mr. Tom Caldwell, explained that Resolution 763 would adopt written procedures to monitor compliance with provisions of the Internal Revenue Code and United States Treasury Regulations.

<b>Motion:</b>	<b>Move to approve Resolution 763 and to authorize execution</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- C. Consideration of and possible approval of and authorization to execute Resolution Number 764, a Resolution authorizing the City Attorney to enter into the Final Journal Entry of Judgment in the matter of Homes by Classic Properties, L.L.C. v. The City of Broken Arrow, Oklahoma, Case number CV-2012-01271, authorizing foreclosure and vacation of a utility easement located at THE VILLAGES AT WOOD CREEK III, a Subdivision in the City of Broken Arrow, Tulsa County, Oklahoma, Plat Number 6138 being a Subdivision of a part of the Northwest Quarter (NW/4) of Section 17, Township 18 North, Range 14 East of the Indian Base and Meridian

**Item Minutes:** Mayor Thurmond stated that he had a conflict with Resolution Number 764 and that Vice Mayor Carter would present the Item.

Mayor Thurmond left the room

City Attorney, Beth Anne Wilkening, said that in 2011 the council had adopted an ordinance that closed a portion of an easement in The Villages at Wood Creek III subdivision. Ms. Wilkening explained that the City no longer need this easement so this Resolution authorizes permanent foreclosure and releases Plat 6138 to Homes by Classic Properties for development.

<b>Motion:</b>	<b>Move to approve Resolution 764 and to authorize execution</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

Mayor Thurmond returned to the Room.

- D. Consideration of and possible approval of and authorization to execute Resolution Number 765, a Resolution authorizing the City Attorney to agree to judgment in the case of City of Broken Arrow, Oklahoma v. Ernest Couch, et al., Wagoner County District Court Case No. CJ-2012-391 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry of Judgment for the Court's Approval

**Item Minutes:** Ms. Wilkening said that the City's pre-acquisition offer for the property owned by Ernest Couch was \$14,800.00. The landowner had rejected the offer and retained attorney Tim Baker who offered \$25,000.00 to settle this matter. She pointed out that litigation over the difference in these two offers would likely cost the City more than \$10,000.00. She recommended that the City approve Resolution 765 allowing for pay out for this property that will be needed for a sewer lift station improvement.

<b>Motion:</b>	<b>Move to approve Resolution 765 and to authorize execution</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- E. Consideration of and possible approval of and authorization to execute Resolution Number 766, a Resolution authorizing the City Attorney to agree to judgment in the case of City of Broken Arrow v. Grace Irene Couch Revocable Living Trust Dated August 30, 1994 et al., Tulsa County District Court Case No. CJ-2012-04952 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a journal entry for the Court's Approval

**Item Minutes:** Ms. Wilkening said that the City's pre-acquisition offer had been \$3,860.00 for the property. She said that the landowner had rejected the offer and retained attorney Tim Baker who offered \$10,000.00. Ms. Wilkening

recommended that Resolution 766 be approved to settle this matter for \$10,000.00.

<b>Motion:</b>	<b>Move to approve Resolution 765 and to authorize execution</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

- F. Consideration and possible approval to reappoint Jill Norman, Lee Whelpley and Greg Graham to the Downtown Advisory Board with terms expiring October 31, 2016

**Item Minutes:** Acting City Manager, Mr. Russell Gale, said that three of the members' terms were set to expire in 2012 and all three had indicated interest in continuing.

<b>Motion:</b>	<b>Move to approve reappointment of Jill Norman, Lee Whelpley and Greg Graham to the Downtown Advisory Board with terms expiring October 31, 2016</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Mike Lester, Richard Carter and Craig Thurmond
<b>Abstain</b>	Jill Norman
<b>Nays:</b>	None

**10. City Manager's Report**

**Section Minutes:** There was no City Manager's Report

**11. Preview Ordinances**

- A. Consideration, discussion and possible preview of an Ordinance adopting an employee retirement system, defined contribution plan for the position of City Manager for the City of Broken Arrow, Oklahoma; providing retirement benefits for eligible employees of the City of Broken Arrow, Oklahoma; providing for purpose and organization; providing for definitions; providing for eligibility and participation; providing for employer and employee contributions; providing for accounting, allocation, and valuation; providing benefits; providing for required notice; providing for amendments and termination; providing for transfer to and from other plans; creating a committee and providing for powers, duties, and rights of committee; providing for payment of certain obligations; providing for duration and payment of expenses; providing for effective date; providing for vesting schedules; providing for a fund to finance the system to be pooled with other incorporated cities, towns and their agencies and instrumentalities for purposes of administration, management and investment as part of the Oklahoma Municipal Retirement Fund; providing for payment of all contributions under the system to the Oklahoma Municipal Retirement fund for management and investment; providing for non-alienation of benefits and loss of benefits for cause; adopting those amendments mandated by the Internal Revenue Code; providing for repealer and severability; and declaring an emergency

**Item Minutes:** Ms. Wilkening stated that this Ordinance was necessary to allow the new City Manager to participate in the City Manager's retirement program with the Oklahoma Municipal Retirement Fund (OMRF).

<b>Motion:</b>	<b>Move to set Preview Ordinance for adoption at the next Council meeting</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

**12. Ordinances**

- A. Consideration, discussion and possible adoption of Ordinance 3216, an ordinance amending Chapter 16, Article I, Section 16-22.1 of the Broken Arrow Code pertaining to Transporting a firearm improperly, and specifically allowing unconcealed pistols to be transported by persons with a license authorized pursuant to the Oklahoma Self-Defense Act and addressing the confiscation of firearms; repealing all ordinances to the contrary; and declaring an emergency

**Item Minutes:** Ms. Wilkening said that Ordinance 3216 was essentially unchanged since the Ordinance preview of the last Council meeting.

Councilor Jonnie Parks asked the Police Chief, David Boggs, if there had been any outstanding issues since this law had gone into effect because it had transpired in such a short time period. Chief Boggs answered that there were no outstanding issues.

<b>Motion:</b>	<b>Move to adopt Ordinance 3216</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve Emergency Clause for Ordinance 3216</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Mike Lester, Richard Carter and Craig Thurmond
<b>Nays:</b>	None

**13. Remarks and Inquiries by Governing Body Members**

**Section Minutes:** Mayor Thurmond said he wanted to take the opportunity to welcome Mr. Thom Moton, the new City Manager. He said that the council members were pleased to have him here with the City.

**Executive Session**

**Section Minutes:** There was no Executive Session. No action was required or taken.

**15. Adjournment**

**Section Minutes:** The meeting adjourned at approximately 6:51 p.m.

Attest:

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Mayor

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City Clerk