

BROKEN ARROW CITY COUNCIL MINUTES

May 6, 2008

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, May 6, 2008, at 6:30 p.m.

1. Call to Order

Section Minutes: Mayor McCaleb called the meeting to order at 6:30 p.m.

2. Invocation

Section Minutes: There was no Invocation delivered as no one was present.

3. Roll Call

| | |
|-----------------|--|
| Present: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Absent: | None |

4. Pledge of Allegiance to the Flag

Section Minutes: Vice Mayor Lester led the Pledge of Allegiance.

5. Consideration of Consent Agenda

- A. Approval of the regular meeting minutes of April 15, 2008
- B. Acceptance of minutes of a Planning Commission meeting held April 10, 2008
- C. Approval of and authorization to execute Budget Amendment No. 7 for Fiscal Year 2007-2008
- D. Approval of option to distribute proceeds to qualified participants from a settlement fund established between the Massachusetts Financial Services Company and the Securities and Exchange Commission
- E. Approval of and authorization to execute Architect/Engineer Contract No. ST0812 with Carter & Burgess, Inc., for traffic study and street improvements evaluation
- F. Approval of and authorization for the City's Trustee to execute an amendment to the Metropolitan Environmental Trust Charter, adding the city of Coweta as a member
- G. Approval of and authorization to execute the Amendment to Access Agreement between the City of Broken Arrow and Northeastern State University (NSU)
- H. Ratification of amendments made to the Pipeline Crossing Agreement with Union Pacific Railroad Company
- I. Approval of request for partial vacation of plat for Aspen Park Village and authorization to execute 'Partial Vacation of the Plat and Partial Termination of Deed of Dedication and Restrictive Covenants of Aspen Park Village'
- J. Approval of BACP 93, White Church Crossing, 75.00 acres, A-1, Levels 2, 3, and 4 to Levels 1 and 4, southwest corner of Tucson Street (121st Street) and Olive Avenue (129th East Avenue)
- K. Approval of PUD 188 and BAZ 1799, Old Town Villas, 0.64 acres, R-3 to DF, southeast corner of Date Avenue and Elgin Street, at 411 West Elgin Street
- L. Approval of bids received and award of the most advantageous bid to Action Target, Inc., for a targeting system for the Police Firing Range

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3. Roll Call

Present: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Absent: None

4. Pledge of Allegiance to the Flag

Section Minutes: Vice Mayor Lester led the Pledge of Allegiance.

5. Consideration of Consent Agenda

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E. Approval of and authorization to execute Architect/Engineer Contract No. ST0812 with Carter & Burgess, Inc., for traffic study and street improvements evaluation

F. Approval of and authorization for the City's Trustee to execute an amendment to the Metropolitan Environmental Trust Charter, adding the city of Coweta as a member

G. Approval of and authorization to execute the Amendment to Access Agreement between the City of Broken Arrow and Northeastern State University NSU)

H. Ratification of amendments made to the Pipeline Crossing Agreement with Union Pacific Railroad Company

I. Approval of request for partial vacation of plat for Aspen Park Village and authorization to execute Partial Vacation of the Plat and Partial Termination of Deed of Dedication and Restrictive Covenants of Aspen Park Village'

J. Approval of BACP 93, White Church Crossing, 75.00 acres, A-1, Levels 2, 3, and 4 to Levels 1 and 4, southwest corner of Tucson Street 121st Street) and Olive Avenue 129th East Avenue)

K. Approval of PUD 188 and BAZ 1799, Old Town Villas, 0.64 acres, R-3 to DF, southeast corner of Date Avenue and Elgin Street, at 411 West Elgin Street

L. Approval of bids received and award of the most advantageous bid to Action Target, Inc., for a targeting system for the Police Firing Range

- M. Approval of bids received and award the most advantageous bid to Cruisers Division Southwest, for police car emergency lighting equipment
- N. Approval of bids received and award of the most advantageous bid to Wright Line, LLC for three (3) dispatch consoles
- O. Approval of quotes received and award of the most advantageous quote to Midstate Traffic, for installation of five signal piers
- P. Acceptance of a Temporary Construction Easement from Terry R. and Virginia Carol Griffin, husband and wife (S8 T18N R14E) (Project #ST0524)
- Q. Acceptance of two Drainage Easements from the City of Broken Arrow (S36 T19N R14E) (Project #ST0529)
- R. Acceptance a Sewer Line Easement from Spring Land, LLC (S4 T17N R14E) [Project: Spring Creek Offsite sewer]
- S. Acceptance an Utility Easement from Gary and Jonye Lamont (S23 T18N R14E) (Project: BAZ- 1779)
- T. Acceptance of a Deed of Dedication from the City of Broken Arrow (S36 T19N R14E) (Project #ST0529)
- U. Approval of and authorization to execute three (3) General Warranty Deeds From The City Of Broken Arrow to Charles Sanders Homes, Inc. for property located in the Aspen Pond Development east of Aspen Avenue (145th East Avenue) and south of Washington Street (91st Street)
- V. Acceptance of a General Warranty Deed from Terry R. and Virginia Carol Griffin (S8 T18N R14E) (Project ST0524) (N&S Olive Widening Houston to Kenosha)
- W. Acceptance of six (6) General Warranty Deeds from Charles Sanders Homes, Inc. for property located in the Aspen Pond Development east of Aspen Avenue (145th East Avenue) and south of Washington Street (91st Street)
- X. Acceptance of a General Warranty Deed from Bob C. Hansen Revocable Trust (S9 T18N R14E) (Project #ST0524)
- Y. Acceptance of a General Warranty Deed from Joe Byron and Tammy K. Trotter (S18 T18N R15E) (Project # 9814A)
- Z. Approval of the Claims List

Section Minutes: Vice Mayor Lester requested that Item E be removed from the Consent Agenda for further discussion.

Mayor McCaleb asked for a Motion to approve the Consent Agenda except Item E.

| | |
|-------------------|--|
| Motion: | Move to approve the Consent Agenda with the exception of Item E. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

6. Consideration of Items Removed from Consent Agenda

- 5E. Approval of and authorization to execute Architect/Engineer Contract No. ST0812 with Carter & Burgess, Inc., for traffic study and street improvements evaluation

M. Approval of bids received and award the most advantageous bid to Cruisers Division Southwest, for police car emergency lighting equipment

N. Approval of bids received and award of the most advantageous bid to Wright Line, LLC for three 3) dispatch consoles

O. Approval of quotes received and award of the most advantageous quote to Midstate Traffic, for installation of five signal piers

P. Acceptance of a Temporary Construction Easement from Terry R. and Virginia Carol Griffin, husband and wife S8 T18N R14E) Project #ST0524)

Q. Acceptance of two Drainage Easements from the City of Broken Arrow S36 T19N R14E) Project #ST0529)

R. Acceptance a Sewer Line Easement from Spring Land, LLC S4 T17N R14E) Project: Spring Creek Offsite sewer]

S. Acceptance an Utility Easement from Gary and Jonye Lamont S23 T18N R14E) Project: BAZ- 1779)

T. Acceptance of a Deed of Dedication from the City of Broken Arrow S36 T19N R14E) Project #ST0529)

U. Approval of and authorization to execute three 3) General Warranty Deeds From The City Of Broken Arrow to Charles Sanders Homes, Inc. for property located in the Aspen Pond Development east of Aspen Avenue 145th East Avenue) and south of Washington Street 91st Street)

V. Acceptance of a General Warranty Deed from Terry R. and Virginia Carol Griffin S8 T18N R14E) Project ST0524) N&S Olive Widening Houston to Kenosha)

W. Acceptance of six 6) General Warranty Deeds from Charles Sanders Homes, Inc. for property located in the Aspen Pond Development east of Aspen Avenue 145th East Avenue) and south of Washington Street 91st Street)

X. Acceptance of a General Warranty Deed from Bob C. Hansen Revocable Trust S9 T18N R14E) Project #ST0524)

Y. Acceptance of a General Warranty Deed from Joe Byron and Tammy K. Trotter S18 T18N R15E) Project # 9814A)

Z. Approval of the Claims List

Section Minutes: Vice Mayor Lester requested that Item E be removed from the Consent Agenda for further discussion.

Mayor McCaleb asked for a Motion to approve the Consent Agenda except Item E.

Motion: Move to approve the Consent Agenda with the exception of Item E.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

6. Consideration of Items Removed from Consent Agenda

5E. Approval of and authorization to execute Architect/Engineer Contract No. ST0812 with Carter & Burgess, Inc., for traffic study and street improvements evaluation

Item Minutes: Vice Mayor Lester requested clarification regarding this traffic study and what it will include within its scope. Dave Wooden, Assistant City Manager, provided additional information noting the study was made up of two parts. First, it recommended the most efficient way for the City to widen its roads and meet the requirements of future traffic loading. He said that a Future Conditions Analysis would examine potential development along the various roadways and give an estimate of when the roadways would need to be improved. Mr. Wooden said this study will give the City a set of standards on how best to improve the roadways and would also provide a set of recommendations on when roadways should be improved.

In response to Council inquiries, Mr. Wooden noted the study was designed to review and recommend the policies and procedures the City could use in determining when, where, and how improvements are made. He said that traffic counts and estimates on future development will be included, and the City's entire network will be included in the study.

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| Motion: | Move to approve Item 5E. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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

A. Presentation: Consideration and possible authorization for the Mayor to execute and present a proclamation declaring - May 17, 2008 as "American Diabetes Association's Tour de Cure Day", in Broken Arrow

Item Minutes: No one was present to accept the proclamation.

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| Motion: | Move to approve the proclamation and authorize the Mayor to execute. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

B. Presentation: Consideration of and possible action concerning Cox Communications' annual performance evaluation

Item Minutes: Mayor McCaleb said that Cox representative, Mr. Bowen, was not able to attend this meeting and asked for a Motion to Table until the City Council meeting on May 20, 2008.

| | |
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| Motion: | Move to table until the May 20, 2008 meeting. |
| Motion by: | Richard Carter |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

Item Minutes: Mayor McCaleb said he would move to the Youth Council Annual Report and return to the presentation of the Certificates after their report.

D. Presentation: Youth City Council Annual Report

Item Minutes: Members of the Youth City Council presented their Annual Report as presented in the report made part of the Agenda packet.

Mayor McCaleb asked for a Motion to receive the Youth City Council Annual Report. He thanked all on the Youth City Council and complimented them on 100% attendance.

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Item Minutes: Vice Mayor Lester requested clarification regarding this traffic study and what it will include within its scope. Dave Wooden, Assistant City Manager, provided additional information noting the study was made up of two parts. First, it recommended the most efficient way for the City to widen its roads and meet the requirements of future traffic loading. He said that a Future Conditions Analysis would examine potential development along the various roadways and give an estimate of when the roadways would need to be improved. Mr. Wooden said this study will give the City a set of standards on how best to improve the roadways and would also provide a set of recommendations on when roadways should be improved.

In response to Council inquiries, Mr. Wooden noted the study was designed to review and recommend the policies and procedures the City could use in determining when, where, and how improvements are made. He said that traffic counts and estimates on future development will be included, and the City's entire network will be included in the study.

Motion: Move to approve Item 5E.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

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

A. Presentation: Consideration and possible authorization for the Mayor to execute and present a proclamation declaring May 17, 2008 as American Diabetes Association's Tour de Cure Day", in Broken Arrow

Item Minutes: No one was present to accept the proclamation.

Motion: Move to approve the proclamation and authorize the Mayor to execute.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

B. Presentation: Consideration of and possible action concerning Cox Communications' annual performance evaluation

Item Minutes: Mayor McCaleb said that Cox representative, Mr. Bowen, was not able to attend this meeting and asked for a Motion to Table until the City Council meeting on May 20, 2008.

Motion: Move to table until the May 20, 2008 meeting.

Motion by: Richard Carter

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Item Minutes: Mayor McCaleb said he would move to the Youth Council Annual Report and return to the presentation of the Certificates after their report.

D. Presentation: Youth City Council Annual Report

Item Minutes: Members of the Youth City Council presented their Annual Report as presented in the report made part of the Agenda packet.

Mayor McCaleb asked for a Motion to receive the Youth City Council Annual Report. He thanked all on the Youth City Council and complimented them on 100% attendance.

| | |
|-------------------|--|
| Motion: | Move to receive the report. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

C. Presentation: Certificates of Achievement to the Youth City Council Members

Mayor McCaleb returned to this Item upon completion of the Youth Council's Annual Report. He presented Certificates of Achievement to each member of the 2008 Youth City Council.

The Mayor asked for a Motion to issue the Certificates of Achievement.

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| Motion: | Move to approve issuing the Certificates of Achievement. |
| Motion by: | Craig Thurmond |
| Second by: | Mike Lester |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

8. **Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services (approximately 7:00 p.m.)**

Section Minutes: Charles Allen, 1704 E. Reno Street, said that there was still a lot of storm debris in the Adams Creek basin and flooding was occurring even in their West Wind area which was upstream. Mr. Allen said the downstream flooding was well known, and he asked for help in the upstream areas as well. He said he spoke with Mr. Jeff Bigby about six weeks ago and Mr. Bigby said he would take a look at it. Mr. Allen said that Mr. Bigby had not gotten back to him.

Mr. Wooden said there were two problems. One was the trees downed by the storm in December 2007. He said there was also a beaver dam upstream and the City was working with the developer in that location to improve the channel.

Mr. Wooden said that the creek was on the schedule for crews to remove trees and limbs but the work was dependent on weather conditions allowing crews and heavy equipment into the area.

Additional residents of West Wind addition who addressed Council regarding problems with Adams Creek debris, flooding in their neighborhood, and the back flow of water into the cul-de-sac were as follows: Lynne Oliver, Lee Ann and Randall Martin, Janice Greco-Lucchina, Joe Bryant, Lori Burns, and Franko Munoz.

9. **General Council Business**

A. Consideration, possible approval of, and authorization to execute a Legal Services Agreement with Kiser Law Firm, PLLC, for services related to the possible sale and issuance of the City's Sales Tax Revenue Note Series 2008 in the principal amount of \$2,500,000

Section Minutes: City Manager, Jim Twombly, gave background on the item noting that Kiser Law Firm has been Bond Counsel to the City for many years and this item is in connection with the Sales Tax Revenue Note in the next agenda item.

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| Motion: | Move to approve the Legal Services Agreement with Kiser Law Firm, PLLC. |
| Motion by: | Craig Thurmond |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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Motion: Move to receive the report.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

C. Presentation: Certificates of Achievement to the Youth City Council Members

Mayor McCaleb returned to this Item upon completion of the Youth Council's Annual Report. He presented Certificates of Achievement to each member of the 2008 Youth City Council.

The Mayor asked for a Motion to issue the Certificates of Achievement.

Motion: Move to approve issuing the Certificates of Achievement.

Motion by: Craig Thurmond

Second by: Mike Lester

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services approximately 7:00 p.m.)

Section Minutes: Charles Allen, 1704 E. Reno Street, said that there was still a lot of storm debris in the Adams Creek basin and flooding was occurring even in their West Wind area which was upstream.

Mr. Allen said the downstream flooding was well known, and he asked for help in the upstream areas as well. He said he spoke with Mr. Jeff Bigby about six weeks ago and Mr. Bigby said he would take a look at it. Mr. Allen said that Mr. Bigby had not gotten back to him.

Mr. Wooden said there were two problems. One was the trees downed by the storm in December 2007. He said there was also a beaver dam upstream and the City was working with the developer in that location to improve the channel.

Mr. Wooden said that the creek was on the schedule for crews to remove trees and limbs but the work was dependent on weather conditions allowing crews and heavy equipment into the area.

Additional residents of West Wind addition who addressed Council regarding problems with Adams Creek debris, flooding in their neighborhood, and the back flow of water into the cul-de-sac were as follows: Lynne Oliver, Lee Ann and Randall Martin, Janice Greco-Lucchina, Joe Bryant, Lori Burns, and Franko Munoz.

9. General Council Business

A. Consideration, possible approval of, and authorization to execute a Legal Services Agreement with Kiser Law Firm, PLLC, for services related to the possible sale and issuance of the City's Sales Tax Revenue Note Series 2008 in the principal amount of \$2,500,000

Section Minutes: City Manager, Jim Twombly, gave background on the item noting that Kiser Law Firm has been Bond Counsel to the City for many years and this item is in connection with the Sales Tax Revenue Note in the next agenda item.

Motion: Move to approve the Legal Services Agreement with Kiser Law Firm, PLLC.

Motion by: Craig Thurmond

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

- B. Consideration and possible approval of Resolution No. 524 - a resolution authorizing the issuance of the City's Sales Tax Revenue Note, Series 2008, in the principal amount of \$2,500,000 for the purpose of financing capital improvements to the City; waiving competitive bidding and authorizing said note to be sold on a negotiated basis; approving and authorizing execution of a note indenture providing for the issuance and securing the payment of said note; authorizing and directing the execution of the note and related documents; and containing other provisions relating thereto

Section Minutes: Mr. Twombly gave background noting this is in relation to the Agreement with Auburndale-Halifax for improvements at the Shops at Broken Arrow for public infrastructure.

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| Motion: | Move to approve and authorize execution of Resolution No. 524. |
| Motion by: | Richard Carter |
| Second by: | Mike Lester |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

- C. Consideration, possible approval of and authorization to execute a contract between the City Of Broken Arrow and Two T's Broken Arrow, LLC, for Excess Capacity Sanitary Sewer Improvement to a 68-acre site located at the northeast corner of Kenosha Street (71st Street) and 37th Street (209th Street)

Section Minutes: Mr. Twombly gave background noting this is in relation to the development of Northeast Crossroads and will provide future sanitary sewer service to approximately 980 acres of land for development.

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| Motion: | Move to approve the contract and authorize execution. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

- D. Consideration of and authorization for the Mayor to execute an official ballot of the Oklahoma Municipal Assurance Group, to fill three Trustee positions, for 3-year terms

Section Minutes: Mr. Twombly gave background on the item consistent with the fact sheet included in the agenda packet.

Council discussion involved allowing the Mayor to make the selection on the ballot.

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| Motion: | Move to approve giving the Mayor the authority to select the three trustees and completing the ballot. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

- E. Consideration and possible acceptance of the arbitration decision involving the Communication Workers of America and the City of Broken Arrow, a request for funding of arbitration decision, approval of any other matter requiring the approval of the City Council and authorization for the Mayor to sign the contract

Section Minutes: Mr. Twombly presented the item consistent with the fact sheet included in the agenda packet.

Attorney Ron Shinn, who represented the City during negotiations, presented the arbitration decision consistent with the Interest Arbitration Award contained in the agenda packet.

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B. Consideration and possible approval of Resolution No. 524 a resolution authorizing the issuance of the City's Sales Tax Revenue Note, Series 2008, in the principal amount of \$2,500,000 for the purpose of financing capital improvements to the City; waiving competitive bidding and authorizing said note to be sold on a negotiated basis; approving and authorizing execution of a note indenture providing for the issuance and securing the payment of said note; authorizing and directing the execution of the note and related documents; and containing other provisions relating thereto

Section Minutes: Mr. Twombly gave background noting this is in relation to the Agreement with Auburndale-Halifax for improvements at the Shops at Broken Arrow for public infrastructure.

Motion: Move to approve and authorize execution of Resolution No. 524.

Motion by: Richard Carter

Second by: Mike Lester

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

C. Consideration, possible approval of and authorization to execute a contract between the City Of Broken Arrow and Two T's Broken Arrow, LLC, for Excess Capacity Sanitary Sewer Improvement to a 68-acre site located at the northeast corner of Kenosha Street 71st Street) and 37th Street 209th Street)

Section Minutes: Mr. Twombly gave background noting this is in relation to the development of Northeast Crossroads and will provide future sanitary sewer service to approximately 980 acres of land for development.

Motion: Move to approve the contract and authorize execution.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

D. Consideration of and authorization for the Mayor to execute an official ballot of the Oklahoma Municipal Assurance Group, to fill three Trustee positions, for 3-year terms

Section Minutes: Mr. Twombly gave background on the item consistent with the fact sheet included in the agenda packet.

Council discussion involved allowing the Mayor to make the selection on the ballot.

Motion: Move to approve giving the Mayor the authority to select the three trustees and completing the ballot.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

E. Consideration and possible acceptance of the arbitration decision involving the Communication Workers of America and the City of Broken Arrow, a request for funding of arbitration decision,

approval of any other matter requiring the approval of the City Council and authorization for the Mayor to sign the contract

Section Minutes: Mr. Twombly presented the item consistent with the fact sheet included in the agenda packet.

Attorney Ron Shinn, who represented the City during negotiations, presented the arbitration decision consistent with the Interest Arbitration Award contained in the agenda packet.

| | |
|-------------------|---|
| Motion: | Move to accept the arbitration decision and to authorize the additional funding needed to implement the decision; and, to approve all other matters required to implement the arbitration decision and authorize the Mayor to sign the final contract. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

10. City Manager's Report

Section Minutes: There were no items to consider and no action was taken.

11. Preview Ordinances

Section Minutes: There were no items to consider and no action was taken.

12. Ordinances

- A. Ordinance No. 2967 - an ordinance amending Article I, In General, Chapter 23, Section 23-26, Reserved, of the Broken Arrow Code to be amended to Grounds for Towing of Vehicle from Roadway; repealing all ordinances to the contrary; and declaring an emergency

Section Minutes: The Mayor introduced the item, and the City Attorney, Beth Anne Wilkening, noted there were no changes to the ordinance since it was previewed at the April 15, 2008 Council meeting.

| | |
|-------------------|--|
| Motion: | Move to approve Ordinance No. 2967. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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| Motion: | Move to adopt the Emergency Clause of Ordinance No. 2967. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Mayor McCaleb announced the City has been challenged by other Mayors for a Library Reading Contest, and said would work with Kim Johnson at the Broken Arrow Library on this event. He added that the Tulsa City-County Library Summer Reading program was beginning for youth, and he challenged all Council members to visit the library and read four books this summer.

In response to the Mayor's inquiry, Ms. Wilkening stated she is in the process of researching whether the law has changed to allow the City to give preference to businesses within the City when accepting bids.

Councilman Tucker announced this is Teacher Appreciation Week.

| | |
|-------------------|---|
| Motion: | Move to recess to enter into Broken Arrow Municipal Authority meeting. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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Motion: Move to accept the arbitration decision and to authorize the additional funding needed to implement the decision; and, to approve all other matters required to implement the arbitration decision and authorize the Mayor to sign the final contract.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

10. City Manager's Report

Section Minutes: There were no items to consider and no action was taken.

11. Preview Ordinances

Section Minutes: There were no items to consider and no action was taken.

12. Ordinances

A. Ordinance No. 2967 an ordinance amending Article I, In General, Chapter 23, Section 23-26, Reserved, of the Broken Arrow Code to be amended to Grounds for Towing of Vehicle from Roadway; repealing all ordinances to the contrary; and declaring an emergency

Section Minutes: The Mayor introduced the item, and the City Attorney, Beth Anne Wilkening, noted there were no changes to the ordinance since it was previewed at the April 15, 2008 Council meeting.

Motion: Move to approve Ordinance No. 2967.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to adopt the Emergency Clause of Ordinance No. 2967.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Mayor McCaleb announced the City has been challenged by other Mayors for a Library Reading Contest, and said would work with Kim Johnson at the Broken Arrow Library on this event. He added that the Tulsa City-County Library Summer Reading program was beginning for youth, and he challenged all Council members to visit the library and read four books this summer. In response to the Mayor's inquiry, Ms. Wilkening stated she is in the process of researching whether the law has changed to allow the City to give preference to businesses within the City when accepting bids.

Councilman Tucker announced this is Teacher Appreciation Week.

Motion: Move to recess to enter into Broken Arrow Municipal Authority meeting.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:08 p.m.

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|-------------------|---|
| Motion: | Move to take a short break before returning for Executive Session. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:18 pm.

| | |
|-------------------|--|
| Motion: | Move to enter into Executive Session. |
| Motion by: | Craig Thurmond |
| Second by: | Mike Lester |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

14. **Executive Session** for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City Attorney for the purpose of conferring on matters concerning the purchase and appraisal of real property located at Kenosha Street and Dennis under 25 O.S. § 307(B)(3); negotiations with employees and representatives of employee groups, specifically the Fraternal Order of Police, and the IAFF under 25 O.S. § 307(B)(2); and pending litigation concerning United States of America v. Union Pacific Railroad Company (Double Eagle Refinery Superfund Site, Oklahoma City, OK), United States District Court for the Western District of Oklahoma, Case No. 5:06-CV-0887-C, City of Broken Arrow v. Travis Freeman, et al., Tulsa County District Court Case Number CJ-2008-112, George F. Linihan, Jr. v. City of Broken Arrow, Wagoner County District Court Case Number CJ-2007-1336, City of Broken Arrow v. Frances Marie Couch Trustee of the Frances Marie Couch Revocable Trust dated April 11, 2000, et al., Tulsa County District Court Case Number CJ-2007-4825, City of Broken Arrow, Oklahoma v. Stephen Stiger Couch, et al., Tulsa County District Court Case Number CJ-2008-0038, and City of Broken Arrow, Oklahoma v. Margaret Couch, et al., Tulsa County District Court Case Number CJ-2007-4822 all under 25 O.S. § 307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:57 pm.

| | |
|-------------------|---|
| Motion: | Move to authorize the Assistant City Manager to continue to investigate the possibility of the purchase of real property located at Kenosha Street and Dennis. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

| | |
|-------------------|---|
| Motion: | Move to authorize the assistant City Manager to submit a letter to the FOP requesting to proceed to arbitration. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:08 p.m.

Motion: Move to take a short break before returning for Executive Session.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:18 pm.

Motion: Move to enter into Executive Session.

Motion by: Craig Thurmond

Second by: Mike Lester

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

14. Executive Session for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City Attorney for the purpose of conferring on matters concerning the purchase and appraisal of real property located at Kenosha Street and Dennis under 25 O.S. 307(B)(3); negotiations with employees and representatives of employee groups, specifically the Fraternal Order of Police, and the IAFF under 25 O.S. 307(B)(2); and pending litigation concerning United States of America v. Union Pacific Railroad Company Double Eagle Refinery Superfund Site, Oklahoma City, OK), United States District Court for the Western District of Oklahoma, Case No. 5:06-CV-0887-C, City of Broken Arrow v. Travis Freeman, et al., Tulsa County District Court Case Number CJ-2008-112, George F. Linihan, Jr. v. City of Broken Arrow, Wagoner County District Court Case Number CJ-2007-1336, City of Broken Arrow v. Frances Marie Couch Trustee of the Frances Marie Couch Revocable Trust dated April 11, 2000, et al., Tulsa County District Court Case Number CJ-2007-4825, City of Broken Arrow, Oklahoma v. Stephen Stiger Couch, et al., Tulsa County District Court Case Number CJ-2008-0038, and City of Broken Arrow, Oklahoma v. Margaret Couch, et al., Tulsa County District Court Case Number CJ-2007-4822 all under 25 O.S. 307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Section Minutes: The Mayor reconvened the regular session at the noted time of 8:57 pm.

Motion: Move to authorize the Assistant City Manager to continue to investigate the possibility of the purchase of real property located at Kenosha Street and Dennis.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to authorize the assistant City Manager to submit a letter to the FOP

requesting to proceed to arbitration.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

| | |
|-------------------|--|
| Motion: | Move authorize settlement in the amount of \$37,500.00 in the case of United States of America vs. Union Pacific Railroad and to authorize execution of a Double Eagle Superfund Site Small Party Settlement Agreement. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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|-------------------|---|
| Motion: | Move authorize settlement in the amount of \$146,000.00 in the case of the City of Broken Arrow vs. Travis Freeman, et al. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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|-------------------|---|
| Motion: | Move to reject the settlement agreement in the case of George Linihan, Jr. vs. City of Broken Arrow. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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|-------------------|--|
| Motion: | Move to authorize settlement in the amount of \$23,042.00 in the case of the City of Broken Arrow vs. Frances Marie Couch, et al. |
| Motion by: | Mike Lester |
| Second by: | Richard Carter |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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|-------------------|---|
| Motion: | Move to authorize settlement in the amount of \$44,083.00 in the case of the City of Broken Arrow vs. Margaret Couch, et al. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

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|-------------------|---|
| Motion: | Move to authorize settlement in the amount of \$23,000.00 in the case of the City of Broken Arrow vs. Stephen Stiger Couch, et al. |
| Motion by: | Mike Lester |
| Second by: | Philip Tucker |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

15. Adjournment

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|-------------------|--|
| Motion: | Move to adjourn. |
| Motion by: | Mike Lester |
| Second by: | Craig Thurmond |
| Ayes: | Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb |
| Nays: | None |

The meeting was adjourned at the noted time of 9:00 p.m.

Mayor

City Clerk

Motion: Move authorize settlement in the amount of \$37,500.00 in the case of United States of America vs. Union Pacific Railroad and to authorize execution of a Double Eagle Superfund Site Small Party Settlement Agreement.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move authorize settlement in the amount of \$146,000.00 in the case of the City of Broken Arrow vs. Travis Freeman, et al.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to reject the settlement agreement in the case of George Linihan, Jr. vs. City of Broken Arrow.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to authorize settlement in the amount of \$23,042.00 in the case of the City of Broken Arrow vs. Frances Marie Couch, et al.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to authorize settlement in the amount of \$44,083.00 in the case of the City of Broken Arrow vs. Margaret Couch, et al.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Motion: Move to authorize settlement in the amount of \$23,000.00 in the case of the City of Broken Arrow vs. Stephen Stiger Couch, et al.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

15. Adjournment

Motion: Move to adjourn.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

The meeting was adjourned at the noted time of 9:00 p.m.

Mayor

City Clerk