

BROKEN ARROW CITY COUNCIL MINUTES
May 20, 2008

DRAFT

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, May 20, 2008, at 6:30 p.m.

1. Call to Order

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

2. Invocation

Section Minutes: Pastor John Wilke of Immanuel Lutheran delivered the invocation.

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: Councilman Carter led those present in the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Councilman Thurmond requested that Item K be removed due to a conflict, and Mayor McCaleb said he would like to remove Item D for some comments.

- A. Approval of the regular meeting minutes of May 6, 2008
- B. Approval of the special meeting minutes of May 12, 2008
- C. Acceptance of minutes of the Planning Commission meeting held April 24, 2008
- D. Ratification of a proclamation declaring May 10, 2008 as "Jerry Ferguson Day", in Broken Arrow
- E. Approval of Resolution No. 523, authorizing the City Attorney to agree to entry of judgment in the case of the City of Broken Arrow, Oklahoma v. Travis Freeman, et al., Tulsa County District Court Case Number CJ-2008-1124 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry for the Court's approval
- F. Approval of request to place temporary directional signs at specific points within the rights-of-ways for specified times and dates for the 2008 Parade of Homes
- G. Approval of and authorization to execute a contract between the City of Broken Arrow and Vintage Housing, Inc. for provision of \$450,000 of CDBG funds to assist in land acquisition for Kenosha Landing, an elderly congregate housing project
- H. Approval of and authorization to execute Work Order No. W03 to the Portland Cement Concrete Street Repair Contract for new sidewalks along El Paso and Main Streets, a Vision 2025 Gateways and Streetscapes Project
- I. Approval of PT08-104, Conditional Final Plat of Stone Ridge Town Center, 69.07 acres, 18 lots, CH/PUD 130B, northwest corner of Albany Street (61st Street) and Elm Place (161st East Avenue)

- J. Approval of bids received and award of the most advantageous bid to Exacom Inc., for a Digital Logging Recording System for Communications
- K. Approval of Final Acceptance and donation of Indian Springs Villas public improvements: Water Distribution System; Sanitary Sewer Collection System; and Storm Water Conveyance System
- L. Approval of Final Acceptance and donation of The Reserve at Bradford Park, Phase I, public improvements: Water Distribution System; Sanitary Sewer Collection System; and Storm Water Conveyance System
- M. Approval of Final Acceptance and donation of Forest Creek Patio Homes, Phase I, public improvements: Water Distribution System; Sanitary Sewer Collection System; and Storm Water Conveyance System
- N. Approval of the Claims List

Motion:	Move to approve the Consent Agenda with the exception of Items 5D and 5K.
Motion by:	Mike Lester
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

6. Consideration of Items Removed from Consent Agenda

5D. Ratification of a proclamation declaring May 10, 2008 as "Jerry Ferguson Day", in Broken Arrow

Section Minutes: Mayor McCaleb and Councilman Carter expressed appreciation for Mr. Ferguson's generosity in sponsoring programs to benefit the community. Councilman Carter said that Mr. Ferguson has been a good citizen to the community.

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

Councilman Thurmond left the meeting room.

5K. Approval of Final Acceptance and donation of Indian Springs Villas public improvements: Water Distribution System; Sanitary Sewer Collection System; and Storm Water Conveyance System

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

Section Minutes: Councilman Thurmond was absent for the vote, returning to the meeting immediately thereafter.

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 31, 2008 as "FitFest 2008" day, in Broken Arrow

Item Minutes: Mayor McCaleb explained that the Southeast Tulsa Rotary Club coordinated "FitFest 2008" and the purpose of the event is to encourage exercise and fitness among children. He said the event would be held from 1:00 p.m. to 5:00 p.m. Saturday, May 31, 2008 at the Union High School campus. The Mayor read the Proclamation aloud.

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

- B. Presentation: Consideration and possible authorization for the Mayor to execute and present a proclamation declaring - June 6, 2008 as "American Cancer Society's Relay For Life of Broken Arrow"

Item Minutes: Mayor McCaleb said the American Cancer Society's annual "Relay For Life of Broken Arrow" fundraiser will be held from 6:00 pm Friday, June 6, 2008 to 6:00 am Saturday, June 7, 2008 at South Intermediate High School. He asked Ms. Allison Dunn to come forward to accept the Proclamation which he read aloud.

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

- C. Presentation: Consideration and possible authorization for the Mayor to execute and present a proclamation declaring - June 2008 as "Broken Arrow Reading Month"

Item Minutes: Mayor McCaleb said it was time once again for the Tulsa City-County Library System's 'Summer Reading Program'. He said the purpose of the program was to encourage young people to read throughout the summer and to inspire a life-long love of reading and library use. The Mayor said this Proclamation recognizes June as Broken Arrow Reading Month and also recognizes a challenge from other Tulsa County communities to see who can have the largest increase in reader participation this summer.

The Mayor said that Ms. Kim Johnson and Ms. Ann Gaebe from the Tulsa City-County Library were present to accept the Proclamation. Ms. Johnson thanked the City and community for their strong support and said that Broken Arrow consistently had excellent and increasing participation in the Summer Reading Program. Ms. Gaebe handed out samples of the prizes children will receive.

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

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

Item Minutes: The Mayor said that Section 20 of City Ordinance No. 802 requires that the City Council hold a scheduled performance evaluation session at the first City Council meeting in May of each year. The Mayor said that Mr. John Bowen, representative from Cox, was unable to attend the May 6th Council meeting but was present this evening to present the Cox annual report. Mr. Bowen and Council reviewed the information consistent with the Fact Sheet presented in the Agenda packet. Mr. Bowen presented information regarding the upcoming technology changes and new services that would be available.

Mayor McCaleb asked if technological changes would affect the schools or other educational programs. Mr. Bowen said there would not be any changes in the coming year. Vice Mayor Lester asked what Cox had learned from loss of service experiences during the December 2007 ice storm. Mr. Bowen said that steps were taken to double battery life in its backup systems but he pointed out that major storms can cause prolonged periods of widespread power outages that outlast batteries, challenge generators, and are outside of anyone's control. There were no further questions or comments from Council.

No action was taken or required.

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

Section Minutes: Ms. Janet Viel and Ms. Jeannie Martin represented the Blue Star Mothers who wanted to bring attention to the Bands of Freedom Concert, a benefit concert to honor our troops and their families, scheduled on July 4th at 5:00 p.m. at First Baptist Church, Broken Arrow, gates open at 3:00 p.m.

9. General Council Business

- A. Consideration and possible approval of Westwind drainage improvement actions

Item Minutes: Assistant City Manager, Dave Wooden, presented this item consistent with the Fact Sheet provided in the Agenda packet.

Motion:	Move to approve and authorize implementation of the proposed actions.
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

- B. Consideration and possible approval of a policy for handling beaver dams and other blockage problems in creeks, and authorization to implement the policy

Item Minutes: Mr. Wooden presented this item consistent with the Fact Sheet provided in the Agenda packet.

Motion:	Move to approve and authorize implementation of this policy.
Motion by:	Richard Carter
Second by:	Philip Tucker
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 Lynn Lane Development Partners, LLC for installation of a traffic signal located at East Lansing Street and 9th Street (Lynn Lane)

Item Minutes: Michael Skates, Director of Development Services, presented this item consistent with the Fact Sheet provided in the Agenda packet.

Dave Wooden responded to Council inquiries noting the main problem is the off-ramp from the Broken Arrow Expressway and the need for an interlock between that signal and this signal so traffic does not get backed-up. He said that traffic counts on the east side of Lansing indicated this signal is needed.

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

D. Consideration, possible approval of and authorization to execute the Double Eagle Superfund Site Small Party Settlement Agreement

Item Minutes: City Attorney, Beth Anne Wilkening, presented the item noting the United States Government and the State of Oklahoma filed a cost recovery action under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) against Union Pacific Railroad and others for cleanup of the Double Eagle Refinery site. She said that Union Pacific was the owner of this area, was fined millions of dollars, and was now seeking contributions from other potentially responsible parties. Ms. Wilkening added that Union Pacific identified the City as a potentially responsible party because the City contracted for motor oil removal services with Waste Oil Services who had deposited motor oil on the site.

Ms. Wilkening continued saying that attorneys for Union Pacific contacted City representatives requesting that the City pay the sum of \$37,500.00 as its share of the cleanup costs. She said the City retained the firm of Hall, Estill to review this matter and because there is no immunity available to the City in these types of situations, and because of the potential for enormous legal bills, it was recommended that the Council authorize payment of the sum of \$37,500.00, so long as Union Pacific agreed to indemnify the City and hold it harmless for any and all covered costs including any and all past, present and future claims, liabilities or demands covered by this action. Ms. Wilkening said that Item 9D presents the Double Eagle Superfund Site Small Party Settlement Agreement and memorializes this agreement.

In response to Council inquiries regarding protecting the City from this type of situation in the future, Mr. Wooden stated the City is now re-using its own waste oil, that excess waste oil is being sold to a company which takes it to a refinery for processing and it is then re-used. Mr. Wooden said that the City is protected as much as it can be by its contracts.

Motion:	Move to approve and execute the Double Eagle Superfund Site Small Party Settlement Agreement.
Motion by:	Craig Thurmond
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

E. Consideration and possible approval of the Emergency Operation Plan Amendments

Item Minutes: Ms. Wilkening presented this item consistent with the Fact Sheet provided in the Agenda packet.

City Manager, Jim Twombly, noted the two emergency situations we had in the past year have brought to light the need to update the plan.

Motion:	Move to approve amendments to the Emergency Operation Plan.
Motion by:	Mike Lester
Second by:	Richard Carter
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

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

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilman Tucker inquired about the usage information included in the new utility billing system. A short discussion ensued regarding the format and readability of the new statements, and the use of the bank lock box service for processing the payments.

14. Executive Session

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

15. Adjournment

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

The meeting was adjourned at the noted time of 7:32 p.m.

Mayor

City Clerk