

**BROKEN ARROW CITY COUNCIL MINUTES  
COUNCIL CHAMBERS  
220 SOUTH FIRST STREET  
BROKEN ARROW, OKLAHOMA 74012  
May 17, 2011  
6:30 PM**

**1. Call to Order**

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

**2. Invocation**

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

**3. Roll Call**

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

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

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

**5. Consideration of Consent Agenda**

**Section Minutes:** Mayor Lester said Item H needed to be pulled from the Consent Agenda, and asked if there were any other items to be removed. There being none, he asked for a motion.

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|-------------------|---|
| <b>Motion:</b>    | <b>Move to approve the Consent Agenda with the exception for Item H</b> |
| <b>Motion by:</b> | Johnnie Parks   |
| <b>Second by:</b> | Richard Carter  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

- A. Approval of meeting minutes of May 3, 2011
- B. Acceptance of minutes of the Planning Commission meeting held April 28, 2011
- C. Ratification of the Fiscal Year 2010-11 Payroll Calendar
- D. Approval for the Mayor to execute an official ballot from the Oklahoma Municipal Assurance Group (OMAG) to fill three Trustee positions for 3-year terms
- E. Ratification of the amended Nationwide Deferred Compensation 457 Plan and Trust
- F. Approval of and authorization to execute Resolution 694 ratifying the Amendment to Section 125 Cafeteria Plan for members of the IAFF Local # 2551 incorporating the provisions of the Patient Protection and Affordable Care Act
- G. Approval of and authorization to execute Resolution 695 ratifying the Amendment to Section 125 Cafeteria Plan for the City of Broken Arrow incorporating the provisions of the Patient Protection and Affordable Care Act
- H. Approval of and authorization to execute an Arrangement Letter with Hogan Taylor, LLP to conduct the Fiscal Year 2011 Audit
- I. Approval of and authorization to execute an Architect-Engineer agreement with TetraTech for design of Midway Road and 101st Street Improvements at the Armed Forces Reserve Center

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2. Invocation

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

3. Roll Call

Jill Norman, Richard r4 Carter, Craig Thurmond, Lester

Mike

Present. Johnnie Parks, Jill

Thurmond, Mike Lester

Absen None

t:

4. Pledge of Allegiance to the Flag

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

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Motion: Move to approve the Consent Agenda with the exception for Item H

Motion b Johnnie Parks

Second b Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

A. Approval of meeting minutes of May 3, 2011

B. Acceptance of minutes of the Planning Commission meeting held April 28, 2011

C. Ratification of the Fiscal Year 20 10-11 Payroll Calendar

D. Approval for the Mayor to execute an official ballot from the Oklahoma Municipal Assurance Group (OMAG) to fill three Trustee positions for 3-year terms

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1. Approval of and authorization to execute an Architect-Engineer agreement with TetraTech for design of Midway Road and 101st Street Improvements at the Armed Forces Reserve Center

Broken Arrow City Council Page 1 ofd May 17, 2011

- J. Approval of and authorization to place temporary directional signs at designated rights-of-way for the 2011 Parade of Homes and St Jude Dream Home
- K. Approval of bids received, award of the most advantageous bid, and authorization for the City Manager to execute a construction contract with Siemens Industry, Inc. for a Citywide Signal System
- L. Approval of bids received and award the most advantageous bid for the purchase of police car emergency lighting
- M. Approval of bids received and award the most advantageous bid for the purchase of one police pursuit SUV
- N. Approval of PUD 210, QuikTrip #0006, 2.58 acres, CN, northwest corner of Albany Street (61st Street) and Aspen Avenue (145th East Avenue)
- O. Acceptance of a Waterline Easement for two tracts located approximately one quarter mile north of Jasper Street (131st Street South) and west of Elm Place (161st East Avenue) from Indian Springs Baptist Church (S02 T17N R14E) (Project: Indian Springs Baptist Church ST10-116)
- P. Approval of the Claims List

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

- 5H. Approval of and authorization to execute an Arrangement Letter with Hogan Taylor, LLP to conduct the Fiscal Year 2011 Audit

**Section Minutes:** City Attorney Beth Anne Wilkening said a couple of changes were made to this item with regard to the claim resolution; the changes have been approved, and the item before Council is correct.

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| <b>Motion:</b>    | <b>Move to approve Item 5H</b>  |
| <b>Motion by:</b> | Craig Thurmond  |
| <b>Second by:</b> | Richard Carter  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

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

- A. Recognition of the promotion of Brandon Berryhill to the position of Deputy Chief of the City of Broken Arrow Police Department

**Item Minutes:** City Manager Dave Wooden introduced Major Brandon Berryhill who was recently selected to be the new Deputy Chief for the Broken Arrow Police Department. Mr. Wooden described him as an outstanding long-term employee with an exceptional background in police work, and expressed the City's pleasure to have him as the new Deputy Chief for the department. Mayor Lester said Mr. Berryhill was sworn in last week, and praised his dedication and said the City is pleased to be able to promote from within the department. He also recognized Mr. Berryhill's family and introduced the family members.

No action was required or taken.

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

**Section Minutes:** Mr. David Starkey addressed the Council regarding a proposed ordinance requiring a physician's prescription to purchase pseudoephedrine tablets. He said states that have passed similar laws have seen a dramatic drop in methamphetamine labs: a 96% drop in Oregon, a 75% drop in Minnesota, and a 65% drop in just the first six months in Mississippi. He emphasized that this proposed ordinance does not limit the over-the-counter sale of pseudoephedrine in liquid or gel cap form, since those forms are not used in meth labs. Mr. Starkey also said he is employed by the Oklahoma Bureau of Narcotics, whose attorneys have approved the final language of the proposed ordinance.

City Attorney Beth Anne Wilkening pointed out that because this item was not on the agenda, the Council can't take action on it tonight. She then said the Legal Department believes this ordinance is preempted by state law, and expressed concern that the Police Department would be unable to effectively regulate such an ordinance at this time.

- J. Approval of and authorization to place temporary directional signs at designated rights-of-way for the 2011 Parade of Homes and St Jude Dream Home
- K. Approval of bids received, award of the most advantageous bid, and authorization for the City Manager to execute a construction contract with Siemens Industry, Inc. for a Citywide Signal System
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- Section Minutes: City Attorney Beth Anne Wilkening said a couple of changes were made to this item with regard to the claim resolution; the changes have been approved, and the item before Council is correct.
- Motion: Move to approve Item 5H
- Motion b Craig Thurmond
- Second b Richard Carter
- Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
- Nays: None
7. Public Hearings, Appeals, Presentations, Recognitions, Awards and Oaths
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- No action was required or taken.
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- Section Minutes: Mr. David Starkey addressed the Council regarding a proposed ordinance requiring a physician's prescription to purchase pseudoephedrine tablets. He said states that have passed similar laws have seen a dramatic drop in methamphetamine labs: a 96% drop in Oregon, a 75% drop in Minnesota, and a 65% drop in just the first six months in Mississippi. He emphasized that this proposed ordinance does not limit the over-the-counter sale of pseudoephedrine in liquid or gel cap form, since those forms are not used in meth labs. Mr. Starkey also said he is employed by the Oklahoma Bureau of Narcotics, whose attorneys have approved the final language of the proposed ordinance.
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She concluded that if this item were to come before Council at some future date, the Legal Department would recommend that federal and state legislation is warranted in order to get the large pharmacies to comply. She expressed appreciation for Mr. Starkey's efforts, and said the City would support any federal or state changes that would effectuate such an ordinance.

Mayor Lester then recommended that Mr. Starkey work with the state representatives to get this ordinance passed. Mr. Starkey then asked if the Council would consider the ordinance, and Mayor Lester answered that the Council believes state and federal law supersedes anything the City would be able to do.

Ms. Christie Edgar addressed the Council regarding the City's removal of flowers and memorials placed in a right-of-way. She said when she inquired about a permit, she was informed the City does not offer one, and it would be her responsibility to determine which areas are public easements. She then showed Council two photos of an existing memorial which she believes to be in a public easement, and said she would like to determine how something similar can be obtained in this case. Mayor Lester stated that the City does not allow memorials in public easements because there is no way to limit such displays or allow some but not others. City Manager Dave Wooden said if Ms. Edgar would contact his office with an area of interest, he would provide her with a map of public easements in that area.

**9. General Council Business**

- A. Consideration of, possible approval of and authorization to execute Resolution 691, a Resolution of the Broken Arrow City Council, adopting the Fiscal Year 2011-2012 Annual Budget for the City in accordance with the provisions of the Municipal Budget Act

**Item Minutes:** City Manager Dave Wooden said City Council has reviewed the budget at previous meetings and held the required public hearing. He said this resolution to adopt the budget is the last step in the process. Mayor Lester expressed appreciation to the Staff for the work they've done preparing this budget.

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| <b>Motion:</b>    | <b>Move to approve resolution 691 adopting the Fiscal Year 2011-2012 Annual Budget and authorize its execution</b> |
| <b>Motion by:</b> | Richard Carter   |
| <b>Second by:</b> | Jill Norman  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

- B. Consideration of, possible approval of and authorization to execute Resolution No. 698, a Resolution of the Broken Arrow City Council authorizing the City Attorney to sign, execute and file the Agreed Journal Entry of Judgment in The City of Broken Arrow, a Municipal Corporation v. Frank Johnson, et al., Tulsa County District Court Case Number CJ-2011-2236 for the Condemnation of Property located in the West Half of the Northwest Quarter (W/2 NW/4) of Section Twelve (12), Township Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma (505 - 525 North 9th Street)

**Item Minutes:** City Manager Dave Wooden said this item is for the condemnation action on the property for the widening of 9<sup>th</sup> Street or Lynn Lane from Kenosha to Elgin. He said the City had offered \$182,800 to the property owner, and the owner had countered with an offer of \$245,000 plus demolition of two buildings at the City's expense. Mr. Wooden said after numerous discussions with property owner, the City filed for condemnation on April 19<sup>th</sup>; immediately after this action, the owner offered a settlement of \$215,000 with two pads for his dumpsters. Mr. Wooden said given the cost of taking this through court, Staff believes this offer is a good settlement for the City and recommends that Council approve Resolution 698 and authorize its execution.

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| <b>Motion:</b>    | <b>Move to approve Resolution Number 698 and authorize its execution</b> |
| <b>Motion by:</b> | Jill Norman  |
| <b>Second by:</b> | Richard Carter   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

- C. Consideration and ratification of the First Amendment to Contract with the Oklahoma Ordnance Works Authority for sale and purchase of treated and filtered water extending the Contract one year as approved by the Broken Arrow Municipal Authority

She concluded that if this item were to come before Council at some future date, the Legal Department would recommend that federal and state legislation is warranted in order to get the large pharmacies to comply. She expressed appreciation for Mr. Starkey's efforts, and said the City would support any federal or state changes that would effectuate such an ordinance.

Mayor Lester then recommended that Mr. Starkey work with the state representatives to get this ordinance passed. Mr. Starkey then asked if the Council would consider the ordinance, and Mayor Lester answered that the Council believes state and federal law supersedes anything the City would be able to do.

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Item Minutes: City Manager Dave Wooden said City Council has reviewed the budget at previous meetings and held the required public hearing. He said this resolution to adopt the budget is the last step in the process. Mayor Lester expressed appreciation to the Staff for the work they've done preparing this budget.

Motion: Move to approve resolution 691 adopting the Fiscal Year 2011-2012 Annual Budget and authorize its execution

Motion b Richard Carter

Second b Jill Norman

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

B. Consideration of, possible approval of and authorization to execute Resolution No. 698, a Resolution of the Broken Arrow City Council authorizing the City Attorney to sign, execute and file the Agreed Journal Entry of Judgment in The City of Broken Arrow, a Municipal Corporation v. Frank Johnson, et al., Tulsa County District Court Case Number CJ-2011-2236 for the Condemnation of Property located in the West Half of the Northwest Quarter W/2 NW/4) of Section Twelve 12), Township Eighteen 18) North, Range Fourteen 14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma 505 525 North 9th Street)

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Motion: Move to approve Resolution Number 698 and authorize its execution

Motion b Jill Norman

Second b Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

C. Consideration and ratification of the First Amendment to Contract with the Oklahoma Ordnance Works Authority for sale and purchase of treated and filtered water extending the Contract one year as approved by the Broken Arrow Municipal Authority



**Item Minutes:** City Manager Dave Wooden said the Oklahoma Department of Environmental Quality (ODEQ) stated the City had to insure that the contract covered enough time to allow for sufficient water to ensure the City had water during the completion of construction. Mr. Wooden said the City requested an extension from the Oklahoma Ordinance Works Authority and received a one-year extension on the current contract with a clause which allows the City to leave early if the plant is completed early. He stated that this extension along with the water from the City of Tulsa will ensure plenty of water during this time frame, and ODEQ has indicated they will accept this contract as proof of sufficient water supply. Councilor Parks asked if the contract was a year-to-year contract; Mr. Wooden said it was a 20-year contract terminating on December 31, 2012, and this extends it to December 31, 2013.

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| <b>Motion:</b>    | <b>Move to ratify the Broken Arrow Municipal Authority's approval of the First Amendment to Contract for the sale and purchase of treated and filtered water from Oklahoma Ordinance Works Authority</b> |
| <b>Motion by:</b> | Jill Norman  |
| <b>Second by:</b> | Richard Carter   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

- D. Consideration of and possible approval to terminate the Oak Crest Lease Agreement between the City of Broken Arrow, Oklahoma and the Department of Public Safety (DPS), and reject the request of DPS to execute an Addendum to the previous Interlocal Agreement

**Item Minutes:** City Manager Dave Wooden said in 2007 the City entered into a contract to create a Department of Public Safety Office (DPS) testing facility in the City; the City then leased the space and prepared it for the Department of Public Safety based on an agreement that they would maintain the testing facility at that location. He said earlier this year they relocated their primary testing facility which caused a decrease in the customer flow at the Broken Arrow location. He added the City informed DPS that there needed to be an increase in customers or a decrease in cost; otherwise, the City could not continue to pay the rent for the office. Mr. Wooden DPS decided to allow people in Broken Arrow to test at the Oak Crest location, but the City does believe there will be an increase in customer flow sufficient to warrant continuation of the lease. Mr. Wooden said DPS could not afford to pay any rent but the property owner accepted an offer from the City to lower the rent by 50% in order to keep the testing facility at that site; and, if Council agrees, staff will prepare a lease for Council consideration for one-half of the current rent, which is \$17,000 per year.

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| <b>Motion:</b>    | <b>Move to table the Oak Crest lease item until the next Council meeting</b> |
| <b>Motion by:</b> | Craig Thurmond   |
| <b>Second by:</b> | Richard Carter   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester      |
| <b>Nays:</b>      | None   |

- E. Consideration and possible approval of a street rehabilitation priority list of the Downtown Tax Increment Financing District project area

**Item Minutes:** City Manager Dave Wooden said at their last meeting the Downtown Advisory Board finalized a street project priority list which is included on the Fact Sheet contained in the Agenda Packet. He said this list prioritizes the street rehabilitation projects, all to be financed with the current bond and General Fund financing for roads. He added that the only possible exception would be changes on Main Street if they occur, which would be financed by the Tax Increment Financing District funds.

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| <b>Motion:</b>    | <b>Move to approve the street rehabilitation priority list</b>          |
| <b>Motion by:</b> | Johnnie Parks   |
| <b>Second by:</b> | Craig Thurmond  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

- F. Consideration and possible approval of a policy for expenditure of Downtown Tax Increment Financing Funds

**Item Minutes:** City Manager Dave Wooden said this item considers guidelines for the expenditure of Tax Increment Financing District funds for the downtown area, explaining that the Downtown Advisory Board has



Item Minutes: City Manager Dave Wooden said the Oklahoma Department of Environmental Quality (ODEQ) stated the City had to insure that the contract covered enough time to allow for sufficient water to ensure the City had water during the completion of construction. Mr. Wooden said the City requested an extension from the Oklahoma Ordinance Works Authority and received a one-year extension on the current contract with a clause which allows the City to leave early if the plant is completed early. He stated that this extension along with the water from the City of Tulsa will ensure plenty of water during this time frame, and ODEQ has indicated they will accept this contract as proof of sufficient water supply. Councilor Parks asked if the contract was a year-to-year contract; Mr. Wooden said it was a 20-year contract terminating on December 31, 2012, and this extends it to December 31, 2013.

Motion: Move to ratify the Broken Arrow Municipal Authority's approval of the First Amendment to Contract for the sale and purchase of treated and filtered water from Oklahoma Ordinance Works Authority

Motion by Jill Norman

Second by Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

D. Consideration of and possible approval to terminate the Oak Crest Lease Agreement between the City of Broken Arrow, Oklahoma and the Department of Public Safety (DPS), and reject the request of DPS to execute an Addendum to the previous Interlocal Agreement

Item Minutes: City Manager Dave Wooden said in 2007 the City entered into a contract to create a Department of Public Safety Office (DPS) testing facility in the City; the City then leased the space and prepared it for the Department of Public Safety based on an agreement that they would maintain the testing facility at that location. He said earlier this year they relocated their primary testing facility which caused a decrease in the customer flow at the Broken Arrow location. He added the City informed DPS that there needed to be an increase in customers or a decrease in cost; otherwise, the City could not continue to pay the rent for the office. Mr. Wooden said DPS decided to allow people in Broken Arrow to test at the Oak Crest location, but the City does believe there will be an increase in customer flow sufficient to warrant continuation of the lease. Mr. Wooden said DPS could not afford to pay any rent but the property owner accepted an offer from the City to lower the rent by 50% in order to keep the testing facility at that site; and, if Council agrees, staff will prepare a lease for Council consideration for one-half of the current rent, which is \$17,000 per year.

Motion: Move to table the Oak Crest lease item until the next Council meeting

Motion by Craig Thurmond

Second by Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

E. Consideration and possible approval of a street rehabilitation priority list of the Downtown Tax Increment Financing District project area

Item Minutes: City Manager Dave Wooden said at their last meeting the Downtown Advisory Board finalized a street project priority list which is included on the Fact Sheet contained in the Agenda Packet. He said this list prioritizes the street rehabilitation projects, all to be financed with the current bond and General Fund financing for roads. He added that the only possible exception would be changes on Main Street if they occur, which would be financed by the Tax Increment Financing District funds.

Motion: Move to approve the street rehabilitation priority list

Motion by Johnnie Parks

Second by Craig Thurmond

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

F. Consideration and possible approval of a policy for expenditure of Downtown Tax Increment Financing Funds  
Item Minutes: City Manager Dave Wooden said this item considers guidelines for the expenditure of Tax  
Increment Financing District funds for the downtown area, explaining that the Downtown Advisory Board has  
Broken Arrow City Council Page 4 of T May 17, 2011

received numerous requests that reflect a perception of these funds as maintenance funds rather than capital income funds. As a result, they have drafted seven rules which are listed in the Fact Sheet contained in the Agenda Packet. Mr. Wooden stated that he believes this is an excellent list and a great policy for these funds, adding that the Downtown Advisory Board.

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| <b>Motion:</b>    | <b>Move to approve the policy for expenditure of Tax Increment Financing Funds for the downtown area</b> |
| <b>Motion by:</b> | Richard Carter   |
| <b>Second by:</b> | Craig Thurmond   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester                                  |
| <b>Nays:</b>      | None   |

G. Consideration and possible approval of an Arts/Entertainment District name

**Item Minutes:** City Manager Dave Wooden explained that the Downtown Advisory Board had a subcommittee that met to consider names for the Downtown Arts and Entertainment District and they have submitted to Council the two they considered to be the best. Mr. Wooden said since this information was published on the City's website, he has received numerous phone calls asking if the City can hire a company to assist with the final naming and branding for this district. After discussing the issue with members of the Downtown Advisory Board, Mr. Wooden recommends sending this item back to the Downtown Advisory Board so that they can prepare a request for proposal for a firm to come in and assist with the naming and branding for the downtown area. Councilor Thurmond stated that he is in complete agreement with this recommendation and considers this issue to be very important.

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| <b>Motion:</b>    | <b>Move to send this item back to the Downtown Advisory Board</b>       |
| <b>Motion by:</b> | Craig Thurmond  |
| <b>Second by:</b> | Jill Norman   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

H. Consideration of and possible appointment of Kelly Rash to the Downtown Advisory Board

**Item Minutes:** City Manager Dave Wooden explained that at the last meeting the Council approved the nomination of Kelly Rash to the Downtown Advisory Board and this item requested approval of the appointment of Ms. Rash. The term will expire on October 1, 2013. Mayor Lester commented that Kelly Rash is a great choice for this position.

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| <b>Motion:</b>    | <b>Move to appoint Kelly Rash to the Downtown Advisory Board</b>        |
| <b>Motion by:</b> | Jill Norman   |
| <b>Second by:</b> | Johnnie Parks   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

I. Consideration and possible appointment of Lee Whelpley as a member of the Planning Commission for a three-year term

**Item Minutes:** City Manager Dave Wooden said Mr. Whelpley was nominated at the last meeting to fill vacant position number five on the Planning Commission, the seat vacated by Councilor Parks, and this item requests approval of Mr. Whelpley's appointment.

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| <b>Motion:</b>    | <b>Move to approve the appointment of Lee Whelpley to fill position number five on the Planning Commission</b> |
| <b>Motion by:</b> | Richard Carter   |
| <b>Second by:</b> | Jill Norman  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

10. **City Manager's Report**

**Section Minutes:** There was no City Manager's report.

received numerous requests that reflect a perception of these funds as maintenance funds rather than capital income funds. As a result, they have drafted seven rules which are listed in the Fact Sheet contained in the Agenda Packet. Mr. Wooden stated that he believes this is an excellent list and a great policy for these funds, adding that the Downtown Advisor Board.

Motion: Move to approve the policy for expenditure of Tax Increment Financing Funds for the downtown area

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

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Motion: Move to send this item back to the Downtown Advisory Board

Motion b Craig Thurmond

Second b Jill Norman

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

H. Consideration of and possible appointment of Kelly Rash to the Downtown Advisory Board

Item Minutes: City Manager Dave Wooden explained that at the last meeting the Council approved the nomination of Kelly Rash to the Downtown Advisory Board and this item requested approval of the appointment of Ms. Rash. The term will expire on October 1, 2013. Mayor Lester commented that Kelly Rash is a great choice for this position.

Motion: Move to appoint Kelly Rash to the Downtown Advisory Board

Motion b Jill Norman

Second b Johnnie Parks

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

I. Consideration and possible appointment of Lee Whelpley as a member of the Planning Commission for a three-year term

Item Minutes: City Manager Dave Wooden said Mr. Whelpley was nominated at the last meeting to fill vacant position number five on the Planning Commission, the seat vacated by Councilor Parks, and this item requests approval of Mr. Whelpley's appointment.

Motion: Move to approve the appointment of Lee Whelpley to fill position number five on the Planning Commission

Motion b Richard Carter

Second b Jill Norman

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

10. City Manager's Report

Section Minutes: There was no City Manager's report.

Broken Arrow City Council Page 5 of E May 17, 2011

**11. Preview Ordinances**

**Section Minutes:** Preview Ordinances 11A and 11B were taken together.

City Attorney Beth Anne Wilkening said the first preview ordinance is a request by Mr. Harp to build a home on his lot that would otherwise not fit because of the platted easement and that the utility companies have no objection to partially closing this easement by way of ordinance.

Ms. Wilkening said the second preview ordinance addresses an issue brought up by Lanny Dampf in Animal Control. She said it's considered cruel to leave feral cats in a cage in excess of three days, and this amendment will allow the three days to see if captured feral cats would calm down, and if not, allow the measures deemed necessary to take care of them.

Councilor Norman asked if any other options have been considered for Item B. Mr. Lanny Dampf, Animal Shelter Supervisor, responded that several different options have been considered. He said the trap, spay and neuter program may work in a country setting but he doesn't think a growing city of this size can sustain a feral cat colony due to competition for food and the cat migration into residential and retail areas. Mr. Dampf also said the City utilizes local rescue groups, advertisement in the Broken Arrow Ledger and other avenues to help these animals that are deemed "feral", but these have not provided a resolution for the problem. Councilor Carter commented that he feels sorry for the animals but agrees that it is not possible for most of them to be rehabilitated or adopted.

- A. An ordinance partially closing a utility easement dedicated to the public located on Lot 1 Block 2, approximately one half mile north of Washington Street (91st Street South) and on the east side of South Garnett Road, in The Villages at Wood Creek, III, a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma, according to the recorded plat thereof; and providing for reservation of rights within the closed easement (17 T18N R14E)(The Villages at Wood Creek)
- B. An ordinance amending Chapter 5, Article II, Section 5-38 of the Broken Arrow Code pertaining to Destruction or sale of impounded animals; sterilization of adopted dog or cat; repealing all ordinances to the contrary; and declaring an emergency

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

**11. Ordinances**

- A. Adopt Ordinance No. 3153 - An Ordinance closing a 20' Waterline Easement and a 17.5' Utility Easement in the Southwest Corner of Lot one (1), Block one (1) Indian Springs Baptist Church Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma; and repealing all ordinances to the contrary. (Indian Springs Baptist Church ST10-116)

**Item Minutes:** City Attorney Beth Anne Wilkening said JC Engineering is requesting closure of a water line easement and a utility easement in order to facilitate development of a church property. She said a new water line easement and utility easement are being dedicated by separate instrument to ensure compliance with current development requirements, and since its preview in March, the ordinance remains with no substantial changes.

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| <b>Motion:</b>    | <b>Move to adopt Ordinance Number 3153</b>                              |
| <b>Motion by:</b> | Craig Thurmond  |
| <b>Second by:</b> | Richard Carter  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

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

**Section Minutes:** There were no remarks or inquiries by governing body members.

## 11. Preview Ordinances

Section Minutes: Preview Ordinances 11 A and 11 B were taken together.

City Attorney Beth Anne Wilkening said the first preview ordinance is a request by Mr. Harp to build a home on his lot that would otherwise not fit because of the platted easement and that the utility companies have no objection to partially closing this easement by way of ordinance.

Ms. Wilkening said the second preview ordinance addresses an issue brought up by Lanny Dampf in Animal Control. She said it's considered cruel to leave feral cats in a cage in excess of three days, and this amendment will allow the three days to see if captured feral cats would calm down, and if not, allow the measures deemed necessary to take care of them.

Councilor Norman asked if any other options have been considered for Item B. Mr. Lanny Dampf, Animal Shelter Supervisor, responded that several different options have been considered. He said the trap, spay and neuter program may work in a country setting but he doesn't think a growing city of this size can sustain a feral cat colony due to competition for food and the cat migration into residential and retail areas. Mr. Dampf also said the City utilizes local rescue groups, advertisement in the Broken Arrow Ledger and other avenues to help these animals that are deemed feral", but these have not provided a resolution for the problem. Councilor Carter commented that he feels sorry for the animals but agrees that it is not possible for most of them to be rehabilitated or adopted.

A. An ordinance partially closing a utility easement dedicated to the public located on Lot I Block 2, approximately one half mile north of Washington Street 91st Street South) and on the east side of South Garnett Road, in The Villages at Wood Creek, III, a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma, according to the recorded plat thereof; and providing for reservation of rights within the closed easement 17 T18N R14E)(The Villages at Wood Creek)

B. An ordinance amending Chapter 5, Article II, Section 5-38 of the Broken Arrow Code pertaining to Destruction or sale of impounded animals; sterilization of adopted dog or cat; repealing all ordinances to the contrary; and declaring an emergency

Motion: Move to set the preview ordinances for possible adoption at the next Council meeting

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

## 11. Ordinances

A. Adopt Ordinance No. 3153 An Ordinance closing a 20' Waterline Easement and a 17.5' Utility Easement in the Southwest Corner of Lot one 1), Block one 1) Indian Springs Baptist Church Addition, an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma; and repealing all ordinances to the contrary. Indian Springs Baptist Church ST 10-116)

Item Minutes: City Attorney Beth Anne Wilkening said JC Engineering is requesting closure of a water line easement and a utility easement in order to facilitate development of a church property. She said a new water line easement and utility easement are being dedicated by separate instrument to ensure compliance with current development requirements, and since its preview in March, the ordinance remains with no substantial changes.

Motion: Move to adopt Ordinance Number 3153

Motion b Craig Thurmond

Second b Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

## 12. Remarks and Inquiries by Governing Body Members

Section Minutes: There were no remarks or inquiries by governing body members.

Broken Arrow City Council Page 6 of I

May 17, 2011





At approximately 7:13 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting.

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| <b>Motion:</b>    | <b>Move to recess into the Broken Arrow Municipal Authority followed by the Broken Arrow Economic Development Authority meeting.</b> |
| <b>Motion by:</b> | Craig Thurmond   |
| <b>Second by:</b> | Jill Norman  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

Mayor Lester reconvened the regular Council meeting at approximately 7:16 p.m.

Mayor Lester then asked for a motion to take a short break in order to clear the room prior to entering into Executive Session.

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| <b>Motion:</b>    | <b>Move to take a recess prior to entering into Executive Session</b>   |
| <b>Motion by:</b> | Richard Carter  |
| <b>Second by:</b> | Craig Thurmond  |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:22 p.m.

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| <b>Motion:</b>    | Move to enter into Executive Session                                    |
| <b>Motion by:</b> | Craig Thurmond  |
| <b>Second by:</b> | Johnnie Parks   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester |
| <b>Nays:</b>      | None  |

13. **Executive Session** for the purpose of confidential communications for the purpose of discussing the terms of the employment and evaluation of David L. Wooden and taking appropriate action as necessary in open session, under 25 O.S. § 307 (B)(1); and on matters and negotiations concerning the CWA employee group and taking appropriate action as necessary in open session, under 25 O.S. § 307(B)(2). 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.

Mayor Lester reconvened the regular session of the City Council meeting at approximately 8:15 p.m., and the room was opened for those in attendance.

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| <b>Motion:</b>    | Move to authorize the City's bargaining team to continue to negotiate with the Communications Workers of America for a contract for fiscal year 2012 with an effective date from July 1, 2011, through October 31, 2011. |
| <b>Motion by:</b> | Craig Thurmond   |
| <b>Second by:</b> | Richard Carter   |
| <b>Ayes:</b>      | Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester  |
| <b>Nays:</b>      | None   |

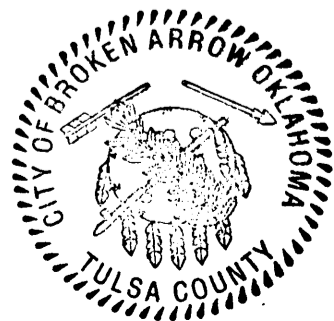
14. **Adjournment**

**Section Minutes:** The meeting adjourned at approximately 8:16 p.m.

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

\_\_\_\_\_  
 Mayor  
 Broken Arrow City Council

Attest:  
 \_\_\_\_\_  
 City Clerk



At approximately 7:13 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting.

Motion: Move to recess into the Broken Arrow Municipal Authority followed by the Broken Arrow Economic Development Authority meeting.

Motion b Craig Thurmond

Second b Jill Norman

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

Mayor Lester reconvened the regular Council meeting at approximately 7:16 p.m.

Mayor Lester then asked for a motion to take a short break in order to clear the room prior to entering into Executive Session.

Motion: Move to take a recess prior to entering into Executive Session

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:22 p.m.

Motion: Move to enter into Executive Session

Motion b Craig Thurmond

Second b Johnnie Parks

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

13. Executive Session for the purpose of confidential communications for the purpose of discussing the terms of the employment and evaluation of David L. Wooden and taking appropriate action as necessary in open session, under 25 O.S. 307 B)(1); and on matters and negotiations concerning the CWA employee group and taking appropriate action as necessary in open session, under 25 O.S. 307(B)(2). 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.

Mayor Lester reconvened the regular session of the City Council meeting at approximately 8:15 p.m., and the room was opened for those in attendance.

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Motion b Craig Thurmond

Second b Richard Carter

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

14. Adjournment

Section Minutes: The meeting adjourned at approximately 8:16 p.m.

Motion: Move to adjourn

Motion b Craig Thurmond

Second b Jill Norman

Ayes: Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester

Nays: None

Attest:

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