

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
June 20, 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

Present:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Absent:	None

4. Pledge of Allegiance to the Flag

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

5. Consideration of Consent Agenda

Section Minutes: Mayor Lester asked if there were any items to be removed from the Consent Agenda; there being none, he asked for a motion.

Motion:	Move to approve the Consent Agenda as presented
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- A. Approval of meeting minutes of June 6, 2011
- B. Acceptance of minutes of the Planning Commission meeting held May 26, 2011
- C. Approval of the Payroll and Employee Benefit Calendar for Fiscal Year 2011-12
- D. Approval of and authorization to execute Budget Amendment Number 13 for Fiscal Year 2011
- E. Approval of Extension via Addendum to Interlocal Agreement between the City of Broken Arrow, Oklahoma and the State of Oklahoma, ex rel., Department of Public Safety
- F. Approval of and authorization to execute an Amendment to Oak Crest Shopping Center Lease between United Properties, Inc. and the City of Broken Arrow, Oklahoma, to be occupied by the Department of Public Safety
- G. Approval of the Third Renewal of the Personal Services Contract for Professional Services between the City of Broken Arrow and Claims Management Resources
- H. Approval of a request by Rhema Bible College to host the 2011 "Rockets Over Rhema " fireworks show and for the closure of Kenosha from Elm to Aspen from 9:30 p.m. until 11:30 p.m. and Pecan Place, South of Kenosha at 4:30pm, on Sunday, July 3,2011

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Motion: Move to approve the Consent Agenda as presented

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

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Broken Arrow City Council Page 1 of 6 June 20, 2011

- I. Approval of bids received and award the most advantageous bid to provide office supplies on a city wide basis
- J. Approval of bids received and award most advantageous bid to L-3 MPRI for the purchase of a Driving Simulator
- K. Approval of bids received and award of the most advantageous bid to XVR-E Semble for the purchase of an Incident Command Simulator
- L. Approval of bids received, award of the lowest and best bid, and authorize execution of a construction contract with Davis Elliott, Inc., for Broken Arrow Expressway Lighting Phase 3 and 4
- M. Approval of bids received, award of the most advantageous bid to Truman Arnold Co. and authorize execution of a contract for the purchase of gasoline and diesel fuel
- N. Approval of BACP 118, 40.0 acres, 1 lot, Level 6 to Level 7, on the northwest corner of Omaha Street (51st Street) and Evans Road (225th East Avenue), one-half mile west of the Creek Turnpike
- O. Approval of PUD 205B, Hillside Park, 41.44 acres, PUD 205, CG, IL and SP 103, southwest corner of 9th Street (Lynn Lane/177th East Avenue) and Kenosha Street (71st Street)
- P. Acceptance of a Deed of Dedication, from Public Service Company of Oklahoma on a property located approximately one-quarter mile west of 65th Street (Evans Road) and North of Kenosha Street (71st Street) (S4 T18N R15E)
- Q. Acceptance of a Sidewalk Easement from McDonald's USA, LLC on a property located east of the Northeast corner of Albany (61st Street) and 9th Street (Lynn Lane) (S36 T19N R14E)
- R. Approval of conditional final plat of Aspen Creek Towne Centre I, PT11-102, 6.05 acres, 2 lots, A-1 to CG, one-half mile north of Tucson Street (121st Street), west of Aspen Avenue (145th East Avenue)
- S. Approval of Final Acceptance for the Public Improvement at CVS Pharmacy @ Tuscan Plaza located and North 9th Street and Albany Street
- T. Approval of Final Acceptance for the Public Improvements at Tiger Hill Flight Safety located at 9th Street and Kenosha

6. Consideration of Items Removed from Consent Agenda

Section Minutes: There were no items removed from the Consent Agenda.

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

Section Minutes: There were no public hearings, appeals, presentations, recognitions, awards, and oaths.

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

Section Minutes: No one signed up to address the Council on general topics related to city business or services.

9. General Council Business

- A. Consideration and possible approval of BACP 117, 160+ acres, 3 lots, Level 6 to Public Recreation and Public/Semi-Public, northeast corner of the Creek Turnpike and New Orleans Street (101st Street)

Item Minutes: City Manager Dave Wooden said this item is a request to change the 160 acres owned by the City from Level 6 to Public Recreation and Public/ Semi-Public use. He referred to a map included in the Fact Sheet in the Agenda Packet which shows this property to be just east of the Creek Turnpike and north of New Orleans Street, and said the city's new Maintenance Center would be located in the semi-public area with the remainder of the property designated for the Events Park.

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P. Acceptance of a Deed of Dedication, from Public Service Company of Oklahoma on a property located approximately one-quarter mile west of 65th Street Evans Road) and North of Kenosha Street 71st Street) S4TI8NRI5E)

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9. General Council Business

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Motion:	Move to approve BACP 117 as recommended by Planning Commission and Staff
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- B. Consideration and possible approval of Florence Street (111th Street) closure between Oak Street and Aspen Avenue (145th East Avenue) for construction of a drainage structure

Item Minutes: City Manager Dave Wooden said this item is part of the construction for the widening of Aspen Avenue from New Orleans Street to Florence Street and requests approval of the closure of Florence east of Aspen from Oak Street to Aspen Avenue for replacement of a drainage structure. Mr. Wooden added that the contractor plans to begin this work immediately after the July 4th holiday and estimates completion at two weeks. Vice-Mayor Thurmond asked if the contractor understands that he has to be done in two weeks so the street can be re-opened, and Mr. Wooden said yes.

Motion:	Move to approve the closure of Florence Street between Oak and Aspen to through traffic for a period of two weeks for replacement of the drainage structure
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- C. Consideration and possible approval of allocation of Broken Arrow Performing Arts Center Foundation grant funding as recommended by the Broken Arrow Convention and Visitor Bureau

Item Minutes: City Manager Dave Wooden said when the Convention and Visitors Bureau met on June 13th to review their semi-annual grants for the period of July through December 2011, it approved a grant for the Broken Arrow Performing Arts Center Foundation of \$70,000.00 for the 2011-2012 Spotlight Series. He referred to the list of events scheduled for the Spotlight Series in the Fact Sheet included in the Agenda Packet. Mayor Lester asked if there was any discussion as to whether or not the Convention and Visitors Bureau plans to approve grants for this purpose on an ongoing basis, and Mr. Wooden said there are no ongoing grants at this time. He explained that each year the Bureau must justify each grant. Mayor Lester then commented that with the Events Park and other things coming up, he'd be reluctant to commit these funds long-term. Councilor Norman asked if other people had applied for this grant; Mr. Wooden answered that a whole series of grants went forward, but most were less than \$25,000 and as such fall under his authority to approve; this one had to come before the Council because of its size.

Motion:	Move to accept Staff's recommendation to approve the allocation of funds for the Broken Arrow Performing Arts Center Foundation of \$70,000
Motion by:	Johnnie Parks
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- D. Consideration and possible approval to deactivate the Broken Arrow Development Authority (BADA), an Urban Renewal Authority of the City of Broken Arrow, Oklahoma

Item Minutes: City Manager Dave Wooden reminded the Council that it enacted the Broken Arrow Development Authority under Resolution 513 to deal with a blighted area within the city. He said the citizens in that portion of the city provided a tremendous response in addressing the problems; as a result, no further action is contemplated at this time, and Staff recommends that Council deactivate the Broken Arrow Development Authority until such time as it is again needed. Mr. Wooden also recommended that each member be provided a letter of thanks for their service from the city, signed by the mayor.

Motion: Move to approve BACP 117 as recommended by Planning Commission and Staff

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

B. Consideration and possible approval of Florence Street (111th Street) closure between Oak Street and Aspen Avenue (45th East Avenue) for construction of a drainage structure

Item Minutes: City Manager Dave Wooden said this item is part of the construction for the widening of Aspen Avenue from New Orleans Street to Florence Street and requests approval of the closure of Florence east of Aspen from Oak Street to Aspen Avenue for replacement of a drainage structure. Mr. Wooden added that the contractor plans to begin this work immediately after the July 4th holiday and estimates completion at two weeks. Vice-Mayor Thurmond asked if the contractor understands that he has to be done in two weeks so the street can be re-opened, and Mr. Wooden said yes.

Motion: Move to approve the closure of Florence Street between Oak and Aspen to through traffic for a period of two weeks for replacement of the drainage structure

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

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Motion: Move to accept Staffs recommendation to approve the allocation of funds for the Broken Arrow Performing Arts Center Foundation of \$70,000

Motion b Johnnie Parks

Second b Jill Norman

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

Nays: None

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Broken Arrow City Council Page 3 of 6 June 20, 2011

Motion:	Move to deactivate the Broken Arrow Development Authority and have a letter sent out thanking the members
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- E. Approval of and authorization for the Mayor to execute written requests to the Presidents of the Tulsa County and Wagoner County Bar Associations for recommendations of individuals to the Judicial Nominating Committee; and for each Council Member to nominate one lay-member to the Committee

Item Minutes: City Attorney Beth Anne Wilkening said the action to be taken at this meeting is actually limited to authorizing the Mayor to execute letters to the Presidents of the Bar Associations of Tulsa and Wagoner County. She said that once those letters are sent and some recommendations received, the item will be brought back to Council to consider nominations of individuals to serve. Ms. Wilkening explained that the contracts of the current sitting judges, both of whom have done a very fine job, expire in October, and City Ordinance requires that this item be brought back to Council every two years.

Motion:	Move to authorize the Mayor to execute the letters
Motion by:	Jill Norman
Second by:	Johnnie Parks
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- F. Approval of bids received and authorize award of construction contract to Magnum Construction, Inc., for Fire Station No. 2, and find that the best interests of the residents of the City of Broken Arrow are served by award to the second low bidder

Item Minutes: City Manager Dave Wooden said the contract for Fire Station Number 2 was advertised May 9th and 16th, and bids were opened on June 7th. He said the city received six bids; the low bidder was Lowry & Hemphill Construction Co., Inc., at \$3,032,000, the second low bidder was Magnum Construction, Inc., at \$3,049,000, and the engineer's estimate was \$2,985,100. Mr. Wooden said Lowry & Hemphill Construction is currently working on two projects for the city, both of which have experienced delays and are currently behind schedule. He stated that this company relies primarily on sub-contractors, thus requiring the city to spend more time administering and dealing with this type of contract than it would for a firm that has their own workforce. In addition, Mr. Wooden said the city has received notice that some of the sub-contractors performing work or providing materials for this company have not been paid. Based on these issues and an evaluation of the contracts the city has had with Lowry & Hemphill, he said Staff recommends that the contract be awarded to the second low bidder, Magnum Construction, and that Council find that Magnum Construction is the lowest responsible bidder. Mr. Wooden further stated that in line with requirements, the reasons why the lowest bid was not accepted will be published in the newspaper along with the contract award.

Richard Lowry of Lowry & Hemphill then addressed the Council. He noted that there have been two pre-lien notices and one bond claim, all three issues by one sub-contractor who failed to invoice Lowry & Hemphill in a timely manner. In turn, he said Lowry & Hemphill could not invoice the City of Broken Arrow in a timely manner, causing a delay of as much as 60 days, necessitating the filing of a pre-lien notice in order to protect rights. Mr. Lowry then referred to the "Construction Cost Evaluation", specifically item number 5 entitled, "Requests for Information". He explained that by contract, they are obligated to ask the questions. He also stated that Lowry & Hemphill does perform the work in-house when it is more cost effective to do so. Mr. Lowry asked the Council to turn to their sense of fairness in regards to these two items.

Mayor Lester noted that Lowry & Hemphill's "Requests for Information" are greater in number than those of other firms, and asked Mr. Lowry if his firm looks at the plans and asks questions during the estimation process. Mr. Lowry said yes, his firm does due diligence but when there are omissions in the plans, those questions cannot be asked at the estimating stage of the process.

Motion: Move to deactivate the Broken Arrow Development Authority and have a letter sent out thanking the members

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

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Motion: Move to authorize the Mayor to execute the letters

Motion b Jill Norman

Second b Johnnie Parks

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

Nays: None

F. Approval of bids received and authorize award of construction contract to Magnum Construction, Inc., for Fire Station No. 2, and find that the best interests of the residents of the City of Broken Arrow are served by award to the second low bidder

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City Manager Dave Wooden then pointed out to Council that in addition to answering Lowry & Hemphill's "Requests for Information", the cost of engineering during construction is much higher in their projects. Mr. Wooden said rather than make any decision, Lowry & Hemphill wants the City to make decisions for them, which presents a serious issue as far as administration is concerned. He said Lowry & Hemphill produces a good product when they finally complete it but it costs so much to administer that the Staff still recommends the contract be awarded to Magnum Construction, believing it will provide a good product at less cost to the city.

Mr. Lowry then addressed to Council again, claiming that the Lowry & Hemphill bid is still the lowest bid. Councilor Parks commented that this is a tough item. He said he studied the issue over the weekend and also visited with the City Attorney. He stated that he agrees with Staff's recommendation.

Motion:	Move to approve bids received and award the most advantageous bid and authorize the execution of a construction contract with Magnum Construction Inc. for Fire Station No. 2 and specifically find that the best interests of the residents of Broken Arrow are served by awarding to the second low bidder
Motion by:	Craig Thurmond
Second by:	Richard Carter
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.

11. Preview Ordinances

Section Minutes: There were no Preview Ordinances.

12. Ordinances

A. Adopt Ordinance No. 3165, 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

Item Minutes: City Attorney Beth Anne Wilkening said this item was previewed two meetings ago. Since that time, she said a letter was received from People for the Ethical Treatment of Animals expressing support for this ordinance. Ms. Wilkening said this ordinance will allow the city to put down an animal after three days if there's no indication of ownership. She further explained that the purpose is to provide a humane response to animals that are not intended to be kept in captivity. She said there have been no revisions to the ordinance since it was previewed.

Councilor Norman commented that she visited the Animal Shelter and found that feral cats are the least of the issues. She expressed hope that the new shelter will provide help to the animals that are brought in, and offered to follow up on some of the other issues that need to be addressed at the Animal Shelter.

Motion:	Move to adopt Ordinance Number 3165
Motion by:	Jill Norman
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

Motion:	Move to adopt the Emergency Clause for Ordinance Number 3165
Motion by:	Johnnie Parks
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

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Motion b Craig Thurmond

Second b Richard Carter

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Nays: None

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Motion: Move to adopt Ordinance Number 3165

Motion b Jill Norman

Second b Richard Carter

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

Nays: None

Motion: Move to adopt the Emergency Clause for Ordinance Number 3165

Motion b Johnnie Parks

Second b Jill Norman

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

Nays: None

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13. Remarks and Inquiries by Governing Body Members

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

At approximately 7:02 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting. The Broken Arrow Economic Development Authority meeting was cancelled.

Motion:	Move to recess into the Broken Arrow Municipal Authority meeting
Motion by:	Craig Thurmond
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council meeting at approximately 7:05 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 by:	Richard Carter
Second by:	Jill Norman
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 7:10 p.m.

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

14. Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney, and the Human Resources Director for the purpose of discussing the CWA and IAFF employee union groups and fiscal year 2012 negotiations, under 25 O.S. §307(B)(2) and taking appropriate action in open session. 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 7:24 p.m., and the room was opened for those in attendance.

There were no motions. No action was required or taken.

15. Adjournment

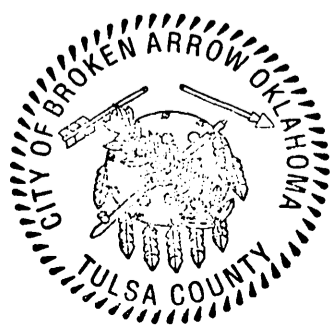
Section Minutes: The meeting adjourned at approximately 7:24 p.m.

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


 Mayor
 Broken Arrow City Council

Attest:

 City Clerk



13. Remarks and Inquiries by Governing Body Members

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

At approximately 7:02 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting. The Broken Arrow Economic Development Authority meeting was cancelled.

Motion: Move to recess into the Broken Arrow Municipal 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 7:05 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 Jill Norman

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 7:10 p.m.

Motion: Move to enter into Executive Session

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

14. Executive Session for the purpose of confidential communications between the City Council, the City Manager, the City Attorney, and the Human Resources Director for the purpose of discussing the CWA and IAFF employee union groups and fiscal year 2012 negotiations, under 25 O.S. 307(B)(2) and taking appropriate action in open session. 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 7:24 p.m., and the room was opened for those in attendance.

There were no motions. No action was required or taken.

15. Adjournment

Section Minutes: The meeting adjourned at approximately 7:24 p.m.

Motion: Move to adjourn

Motion b Johnnie Parks

Second b Jill Norman

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

Nays: None,

Mayor

June 20, 201

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