

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
August 2, 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: Chaplain Richard Manganero delivered 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: Vice-Mayor Thurmond 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:	Jill Norman
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- A. Approval of meeting minutes of July 19, 2011
- B. Acceptance of the minutes of the Planning Commission meeting held July 14, 2011
- C. Ratification of a construction contract with Magnum Construction, Inc., for Fire Station No. 2, and ratification of Statement of Contract Award to other than low bidder
- D. Approval of and authorization to execute a Memorandum of Understanding between the City of Broken Arrow, City of Tulsa and the State of Oklahoma Department of Public Safety implementing an Inter Sub-System interface to facilitate seamless interoperable communications
- E. Approval of a Special Events Permit for Broken Arrow High School's Annual Homecoming Parade on Thursday, September 22, 2011 at 4:00 p.m.
- F. Approval of a special events request for a road closing on Aspen, from Tucson to Austin, for a 5K Run and Fun Run, sponsored by "Hey Ref!" and organizer Scott Brandt on September 10, 2011, from 7:30 a.m. until 9:00 a.m.
- G. Approval of and authorization to execute a professional consulting services Agreement with BKL, Inc., for planning and design of the Public Safety Complex
- H. Approval of and authorization to execute a professional consulting services Agreement with Mehlburger Brawley, Inc., for engineering of the Events Park infrastructure

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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 b Jill Norman

Second b Richard Carter

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

Nays: None

A. Approval of meeting minutes of July 19, 2011

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Broken Arrow City Council Page 1 of 5 August 2, 2011

- I. Approval of and authorization to execute Major Change No. MC01 and Minor Quantity Change Q01 to Citywide Signal System, for addition of integration and testing for four additional signals and a 24-port switch at the 101st Street Water Tower
- J. Approval of bids received and award of the most advantageous bid for the purchase of traffic signal cabinets and controllers
- K. Approval of PUD 211, Discount Tire, 0.92 acres, 1 Lot, CH, southeast corner of Kenosha Street (71st Street) and 9th Street (Lynn Lane/177th East Avenue)
- L. Approval of conditional final plat, The Highlands IV at Forest Ridge, PT11-107, 36.78 acres, 88 lots, R-3, one-half mile south of Houston Street (81st Street), one-half mile east of 65th Street (Oneta Road/241st East Avenue)
- M. Acceptance of a Utility Easement from Broken Arrow Public Schools on a property, H. Cecil Rhoades Elementary School, located approximately one half mile west of 9th Street (Lynn Lane Road) and just south of Kenosha Street (71st East Avenue) (S11 T18N R14E)
- R. Approval of the Claims List

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: Mayor Lester said no one signed up to address the Council.

9. General Council Business

- A. Consideration and possible approval of SP 257, Specific Use Permit, LifeChurch.tv, 5.82 acres, 1 lot, CG, north of Kenosha Street (71st Street), east of 23rd Street (County Line Road/193rd East Avenue) at 2500 East Kenosha Street

Item Minutes: City Planner Farhad Daroga said this item is a request for a special use permit for a 5.8 acre parcel near the northeast corner of Kenosha and County Line Road. He said the proposal is for a place of assembly for a church, and was recommended for approval by the Planning Commission at their July 14th meeting. Mr. Daroga said although several surrounding property owners raised concerns about the availability of parking, the church will meet the City code for required number of parking spaces based on its seating capacity.

Michael Stacy, architect for this project, and Kevin Penrey, Operations Leader for LifeChurch, then addressed the Council. Mr. Penrey said the facts are presented well in the application; they are pleased with the recommendation by Staff and the Planning Commission. He referenced a letter in the Agenda Packet from the owner of the Johnny Carino's restaurant chain as an example of the type of relationship this church maintains with adjacent retail properties. He assured Council that the property will be improved and predicted increased sales for nearby retail and restaurant sites.

Mr. Stacy then asked Council to consider a variance to the City's requirement that there be at least an hour between the end of one service and the beginning of the next, expressing concern that this will force them into a service schedule that will result in the vast majority of participants attending one service. He said their services are exactly 60 minutes, and they empty their parking lots in 12 to 15 minutes. Mr. Stacy also stated that the church will abide by this requirement if a variance is not granted. Vice-Mayor Thurmond asked if the City requires other churches to have an hour between services; City Manager Dave Wooden said yes, it's been a long-standing requirement, but Staff will look at it and come back to Council with a recommendation. Mayor Lester asked Mr. Penrey if off-duty police officers are utilized to facilitate the movement of traffic, and Mr. Penrey said yes, they do so at every location. Mr. Stacy commented that the one-hour requirement would make it necessary to increase the parking capacity, which is a challenge due to limited space at the site.

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Mayor Lester said two citizens had written in support of this permit application, but do not wish to speak, and two others do wish to speak. Kevin Bledsoe, Real Estate Project Manager for Quik Trip, then addressed the Council in support of this application, and presented to Council a letter written by Quik Trip's Real Estate Manager. He said the letter expressed confidence in the ability of LifeChurch to move traffic quickly between services, and stated that Quik Trip doesn't have any objection to being a direct neighbor to them. Mayor Lester asked if Quik Trip had any concerns about parking, and Mr. Bledsoe answered no. Mark Burleson, resident of the neighborhood directly south of the site, next addressed the Council in support of LifeChurch's application, stating that he believes the church will be an asset to the local business, entertainment and dining establishments.

John Hickey, attorney and part-owner of the Tiger Plaza Shopping Center, expressed concern about the impact this application, if granted, will have on Tiger Plaza, and stated that a request for a continuance had been submitted to allow time to evaluate the economic impact of having a church within 300 feet of property lines. He estimated property values would diminish by 1 to 2 million dollars and the shopping center would suffer a substantial reduction in rent. Stating that Tiger Plaza has suffered as a result of Albertson's vacating that property, he said that having a church in that proximity would limit their ability to market lot 3 to restaurants due to the Alcoholic Beverage Laws Enforcement Commission requirements. Mr. Hickey asked that the special use permit be denied. Mayor Lester pointed out that a restaurant that makes less than 50% of their revenue from alcohol sales would be permitted to locate there; Mr. Hickey said that the statute reads that their sales have to be predominately food. Mr. Hickey said having a church at this location gives the Alcoholic Beverage Laws Enforcement Commission the right to regularly audit a restaurant's sales, discouraging restaurants from putting themselves in that position.

Motion:	Move to approve SP 257 subject to conditions approved by the Planning Commission and with the caveat that City Manager Dave Wooden will look into condition number one
Motion by:	Craig Thurmond
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- B. Review and Acceptance of the proposed Broken Arrow City Council Ward Boundaries and authorize staff to proceed with the necessary adoption process

Item Minutes: City Manager Dave Wooden said the recent census showed the City Council Wards to be out of balance. Referring to legal requirements and boundary maps detailed in the Agenda Packet, he presented the proposed new ward boundaries and said Development Services and the Indian Nations Council of Governments have gone through all of the legal steps associated with this, making certain that these new ward boundaries meet all the legal requirements. He added that no City Councilor would be put out of their current district by this change, and said Staff recommends that Council approve the proposed districts as shown, accept the ward boundaries, and authorize the Staff to proceed with the necessary adoption process.

Motion:	Move to accept the proposed ward boundaries as shown in the attached maps and authorize Staff to proceed with the necessary adoption process
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- C. Consideration and authorization for the Mayor to appoint a ranking member of the Police Department, the Animal Control Supervisor and five (5) individuals with expertise in the field of wild and exotic animals to serve on the Exotic Animal Review Committee

Item Minutes: City Manager Dave Wooden said this item is in accordance with the recent changes made to the Exotic Animal Ordinance. He said the nominees for this board, which will be set up to review the applications, are: Lanny Dampf, Animal Control Supervisor; Major Mark Irwin, senior member of the Police Department; Dr. Paul Welch, DVM; Dr. Mark Setser, DVM, Sarah Wilson, Pet Stop owner, Bill Rutherford, owner of Wild Bill Sanctuary; and Lori Ensings-Scroggins, owner of Safari's Sanctuary. Mr. Wooden said staff recommends that Council approve the appointments of Lanny Dampf, Major Mark Irwin, Dr. Paul Welch, Dr. Mark Setser, Sarah Wilson, Bill Rutherford, and Lori Ensings-Scroggins to the Exotic Animal Review Committee.

Mayor Lester said two citizens had written in support of this permit application, but do not wish to speak, and two others do wish to speak. Kevin Bledsoe, Real Estate Project Manager for Quik Trip, then addressed the Council in support of this application, and presented to Council a letter written by Quik Trip's Real Estate Manager. He said the letter expressed confidence in the ability of LifeChurch to move traffic quickly between services, and stated that Quik Trip doesn't have any objection to being a direct neighbor to them. Mayor Lester asked if Quik Trip had any concerns about parking, and Mr. Bledsoe answered no. Mark Bureson, resident of the neighborhood directly south of the site, next addressed the Council in support of LifeChurch's application, stating that he believes the church will be an asset to the local business, entertainment and dining establishments.

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Motion: Move to approve SP 257 subject to conditions approved by the Planning Commission and with the caveat that City Manager Dave Wooden will look into condition number one

Motion b Craig Thurmond

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 the proposed ward boundaries as shown in the attached maps and authorize Staff to proceed with the necessary adoption process

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

C. Consideration and authorization for the Mayor to appoint a ranking member of the Police Department, the Animal Control Supervisor and five (5) individuals with expertise in the field of wild and exotic animals to serve on the Exotic Animal Review Committee

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DVM; Dr. Mark Setser, DVM, Sarah Wilson, Pet Stop owner, Bill Rutherford, owner of Wild Bill Sanctuary; and Lori Ensigs-Scroggins, owner of Safari's Sanctuary. Mr. Wooden said staff recommends that Council approve the appointments of Lanny Dampf, Major Mark Irwin, Dr. Paul Welch, Dr. Mark Setser, Sarah Wilson, Bill Rutherford, and Lori Ensigs-Scroggins to the Exotic Animal Review Committee.

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August 2, 2011

Motion:	Move to approve the appointment of these listed individuals to the Exotic Animal Review Committee
Motion by:	Johnnie Parks
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- D. Consideration of and possible approval of the appointment of three (3) attorneys to fill the attorney memberships and five (5) lay memberships on the Judicial Nominating Committee

Item Minutes: City Manager Dave Wooden said it's time to receive nominations for the judicial positions in Broken Arrow. He said letters were mailed to presidents of the Wagoner and Tulsa County Bar Associations; the Tulsa County Bar Association president Paul Brunton nominated attorneys Jeff Steen and Mark Harper. The committee is also composed of five lay members, all of which are up for re-appointment; Mr. Wooden said Staff believes these members have done an excellent job in the past and recommends their re-appointment along with appointment of the attorneys mentioned earlier. Councilor Parks asked Mr. Wooden if all of the nominees listed have agreed to serve on this committee, and Mr. Wooden confirmed that they have agreed to do so.

Motion:	Move to approve the appointment of attorneys Jeff Steen, Mark Harper, and Kyle Killam for the attorney positions on the Judicial Nominating Committee and to approve the appointment of Donald Roulete, Tom Chatterton, Carolyn Isbell-Carr, Chuck Stophel, and Archer Honea to the lay member positions on the Judicial Nominating Committee
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

- E. Consideration of and possible approval of appointment of Lee Whelpley to the Downtown Advisory Board

Item Minutes: City Manager Dave Wooden reminded the Council that at the last meeting they nominated Lee Whelpley to be the Planning Commission representative to the Downtown Advisory Board, and said Staff recommends approval of his appointment.

Motion:	Move to approve the appointment of Lee Whelpley to the Downtown Advisory Board
Motion by:	Johnnie Parks
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: Preview Ordinances A and B were taken together. City Manager Dave Wooden said these two ordinances pertain to citations and arrests for traffic violations, eliminating the provisions that individuals receiving citations are to appear in municipal court within 10 days, and repealing all ordinances to the contrary. He said the state has changed their law, now requiring five days, and the City must comply with state law and change these two ordinances.

- A. An ordinance amending Chapter 1, General Provisions, Section 1-13 of the Broken Arrow Code pertaining to Enforcement of City Codes specifically eliminating the provision that individuals receiving citations are to appear in Municipal Court within ten days; repealing all ordinances to the contrary; and declaring an emergency
- B. An ordinance amending Chapter 23, Article I, Section 23-32 of the Broken Arrow Code pertaining to Citation and arrests for traffic violations and eliminating the provision that individuals receiving citations are to appear in Municipal Court within ten days; repealing all ordinances to the contrary; and declaring an emergency

Motion: Move to approve the appointment of these listed individuals to the Exotic Animal Review Committee

Motion b Johnnie Parks

Second b Richard Carter

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

Nays: None

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Motion: Move to approve the appointment of attorneys Jeff Steen, Mark Harper, and

Kyle Killam for the attorney positions on the Judicial Nominating Committee

and to approve the appointment of Donald Roulete, Tom Chatterton, Carolyn

Isbell-Carr, Chuck Stophel, and Archer Honea to the lay member positions on

the Judicial Nominating Committee

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 approve the appointment of Lee Whelpley to the Downtown Advisory Board

Motion b Johnnie Parks

Second b Richard Carter

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Nays: None

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B. An ordinance amending Chapter 23, Article 1, Section 23-32 of the Broken Arrow Code pertaining to Citation and arrests for traffic violations and eliminating the provision that individuals receiving citations are to appear in Municipal Court within ten days; repealing all ordinances to the contrary; and declaring an emergency

Broken Arrow City Council Page 4 of 5 August 2, 2011

Motion:	Move to approve the preview ordinances and set for adoption at the next Council meeting
Motion by:	Jill Norman
Second by:	Johnnie Parks
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

12. Ordinances

- A. Adopt Ordinance Number 3170, an ordinance partially closing a utility easement dedicated to the public in a tract of land situated in H. Cecil Rhoades Elementary School, 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

Item Minutes: City Manager Dave Wooden said this ordinance, closing a portion of an easement at Cecil Rhoades Elementary School, was previewed by the Council at the last meeting. He said Staff recommends that Council adopt Ordinance Number 3170.

Motion:	Move to adopt Ordinance Number 3170
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilor Carter said he was approached by a citizen who expressed concern about the sanitation crew working in this excessive heat, and asked if it were necessary for the City to prohibit such workers from wearing shorts in this kind of weather. Mr. Wooden said Parks Department employees are allowed to wear shorts, but sanitation workers wearing shorts are vulnerable to injury to bare legs by picking up bags with sharp objects in them. Mr. Wooden said Risk Management and Safety personnel went over this issue a few years ago and advised more frequent breaks and more water in extreme heat, but no shorts. He said sanitation workers frequently cut their jeans in the course of doing their work.

Mayor Lester then asked Mr. Wooden for an update on the City's water usage. Mr. Wooden said the City's usage has been approaching its peak capacity at 24 to 25 million gallons per day. He said 27 million gallons per day is the absolute maximum, at which point water pressure drops in the entire system. Mr. Wooden said if relief is not provided soon in the form of a rain shower, the City will be asking for voluntary restraint on water usage. Councilor Carter asked about water line breaks; Mr. Wooden said there have been daily breaks on 8-inch and 10-inch water lines, but the water department has been able to keep up with them, limiting outages to several hours. He said he expects more significant problems with leaks when rain occurs and causes the ground to expand.

14. Executive Session

Section Minutes: There was no Executive Session.

15. Adjournment

Section Minutes: The meeting adjourned at approximately 7:08 p.m.

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

 Mayor



Attest:

 City Clerk

r

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

Motion b Jill Norman

Second b Johnnie Parks

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

Na s: None

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Motion: Move to adopt Ordinance Number 3170

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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15. Adjournment

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Motion: Move to adjourn

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Second b Richard Carter

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

Na s: None

w

Mayor

Attest:

City Clerk

Broken ow City Council w P 5 of 5 August 2, 2011

d. LSA CC-

efli1