

**BROKEN ARROW CITY COUNCIL  
MINUTES  
COUNCIL CHAMBERS  
220 SOUTH FIRST STREET  
BROKEN ARROW, OKLAHOMA 74012  
August 16, 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:** No one was 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 asked if there were any items to be removed from the Consent Agenda; there being none, he asked for a motion.

<b>Motion:</b>	<b>Move to approve the Consent Agenda as presented</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

- A. Approval of meeting minutes of August 2, 2011
- B. Acceptance of the minutes of the Planning Commission meeting held July 28, 2011
- C. Approval of and authorization to execute an Inter-Local Agreement between the City of Broken Arrow and the Broken Arrow Public Schools District for provision of funds to help offset the cost of school crossing guards
- D. Approval of and authorization to execute an Inter-local Agreement between the City of Broken Arrow and the Union School District for provision of one School Resource Officer
- E. Approval of and authorization to execute an Inter-Local Agreement between the City of Broken Arrow and the Union School District for provision of three (3) school crossing guards
- F. Approval of Union Public Schools request to move "No Parking" signs
- G. Approval of and authorization to execute Amendment No. 1 to Architect-Engineer contract with Mehlburger Brawley, Inc., for final design of 23rd Street Improvements between Kenosha and Houston Streets

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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 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 August 2, 2011

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

C. Approval of and authorization to execute an Inter-Local Agreement between the City of Broken Arrow and the Broken Arrow Public Schools District for provision of funds to help offset the cost of school crossing guards

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E. Approval of and authorization to execute an Inter-Local Agreement between the City of Broken Arrow and the Union School District for provision of three 3) school crossing guards

F. Approval of Union Public Schools request to move No Parking" signs

G. Approval of and authorization to execute Amendment No. 1 to Architect-Engineer contract with Mehlburger Brawley, Inc., for final design of 23rd Street Improvements between Kenosha and Houston Streets



- H. Approval of and authorization to execute Oklahoma Department of Transportation (ODOT) Supplemental Engineering Contract #1 - Financing Agreement for Engineering Services Involving 23rd Street Improvements from Kenosha to Houston
- I. Approval of and authorization to execute Work Order Number W02 on the Portland Cement Concrete Street Repair Contract
- J. Approval of and authorization to execute a Contract with Tulsa County for Community Development Block Grant ("CDBG") Program Year 2011 Social Services Funding
- K. Acceptance of the Old Town Streets Final Study
- L. Approval of and authorization to execute Major Quantity Change Order No. MQ01 for additional solid slab sod on Olive Avenue Widening, Washington to Kenosha
- 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 ratification of the Workers' Compensation Court Order on Robert Baird, a Police Department employee and consideration of and possible action on an offer to Joint Petition this case

**Item Minutes:** City Attorney Beth Anne Wilkening said this is an order the City received from the Worker's Compensation Court for police department employee Robert Baird. She stated that the Court found that Mr. Baird sustained an accidental personal injury as a result of cumulative trauma to the Left Arm (Elbow) and Right Arm (Elbow), arising out of and in the course of employment. The Court found Mr. Baird sustained a 15% permanent partial disability to the left arm and 16% permanent partial disability to the right arm, for which claimant is entitled to the compensation set forth. Ms. Wilkening informed Council that Mr. Baird's attorney has made an offer to joint petition this case. She recommended that Council ratify the Worker's Compensation Court Order received by the City.

<b>Motion:</b>	<b>Move to ratify the Worker's Compensation Court Order</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Johnnie Parks
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
<b>Nays:</b>	None

- B. Consideration, discussion, and possible action on parking requirements for places of assembly

**Item Minutes:** City Manager Dave Wooden reminded Council that at the last meeting SB257 was discussed and LifeChurch had questioned the number of parking spots required by the City. He then referred to the Fact Sheet contained in the Agenda Packet and stated that Broken Arrow was the only community in the survey that required more parking for events scheduled less than two hours apart. He said Staff would like to review this in detail, consult with other cities, and do some observations at current LifeChurch locations. Mr. Wooden then asked that Council direct Staff and the Planning Commission to review the parking

H. Approval of and authorization to execute Oklahoma Department of Transportation (ODOT) Supplemental Engineering Contract #1 Financing Agreement for Engineering Services Involving 23rd Street Improvements from Kenosha to Houston

I. Approval of and authorization to execute Work Order Number W02 on the Portland Cement Concrete Street Repair Contract

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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.

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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

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Motion: Move to ratify the Worker's Compensation Court Order

Motion b Richard Carter

Second b Johnnie Parks

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

Nays: None

B. Consideration, discussion, and possible action on parking requirements for places of assembly

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Wooden then asked that Council direct Staff and the Planning Commission to review the parking

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requirements for churches and analyze positive alternatives, and then forward their recommendations to Council.

<b>Motion:</b>	<b>Move to give this back to Staff and the Planning Commission for additional research and to develop recommendation to bring back to Council</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
<b>Nays:</b>	None

- C. Approval of Resolution No. 708 authorizing the City Attorney to enter into a final Journal Entry of Judgment in the matter of Gerald D. Barnes and Katherine C. Barnes v. City of Broken Arrow, et al., Tulsa County District Court Case Number CV-2011-0724

**Item Minutes:** City Manager Dave Wooden said this item closes an easement for a home in the Berwick Fairways subdivision; he said this is the final action which allows the easements to be vacated.

<b>Motion:</b>	<b>Move to approve Resolution 708 and authorize execution</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

- D. Approval of Resolution No. 709 authorizing the City Legal Department to file an action in District Court to obtain a Decree ordering the abatement of a public nuisance regarding the property located at 11423 East 62nd Place, Broken Arrow, Oklahoma 74012

**Item Minutes:** City Manager Dave Wooden said this item is an abatement that has been ongoing since March of this year; several items have been forwarded to the property owner of record, but no response has been received. He explained that this authorizes the City Attorney to file a case and obtain a Court Decree before the City tears down a building, thus protecting the City to the maximum extent possible. Mr. Wooden said Staff recommends that Council approve Resolution 709 and authorize its execution.

<b>Motion:</b>	<b>Move to approve Resolution 709 and authorize execution</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

- E. Approval of Resolution No. 710 adopting a Title VI Plan for the City of Broken Arrow

**Item Minutes:** City Manager Dave Wooden said Title VI is the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. Specifically, Title VI provides that: "No person in the United States shall, on the grounds of race, color or national origin be excluded for participation in or be denied the benefits of or be otherwise subject to discrimination under any program or activity receiving federal financial assistance." Mr. Wooden stated that the City has long-standing policies against discrimination, and after extensive research the Legal Department has recommended that the City Manager's Office be responsible for administration of the Title VI program. Councilor Norman asked if the City's policies prohibit discrimination on the basis of genetics, and City Attorney Beth Anne Wilkening answered that even if such language is not specifically set forth in the Resolution, it is covered by the federal law to which the City adheres.

<b>Motion:</b>	<b>Move to approve Resolution 710 and authorize 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

requirements for churches and analyze positive alternatives, and then forward their recommendations to Council.

Motion: Move to give this back to Staff and the Planning Commission for additional research and to develop recommendation to bring back to Council

Motion b Johnnie Parks

Second b Jill Norman

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

Nays: None

C. Approval of Resolution No. 708 authorizing the City Attorney to enter into a final Journal Entry of Judgment in the matter of Gerald D. Barnes and Katherine C. Barnes v. City of Broken Arrow, et al., Tulsa County District Court Case Number CV-2011-0724

Item Minutes: City Manager Dave Wooden said this item closes an easement for a home in the Berwick Fairways subdivision; he said this is the final action which allows the easements to be vacated.

Motion: Move to approve Resolution 708 and authorize execution

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 approve Resolution 709 and authorize execution

Motion b Jill Norman

Second b Johnnie Parks

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

Nays: None

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Motion: Move to approve Resolution 710 and authorize execution

Motion b Richard Carter

Second b Jill Norman

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

Nays: None 7j

Broken Arrow City Council Page 3 of 6 August 16, 2011



- F. Approval of Resolution No. 711 of the Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine-One-One (911) Emergency Telephone Fee, of Five Percent (5%) for calendar year 2012 pursuant to State Statute and Ordinance

**Item Minutes:** City Manager Dave Wooden said this Resolution establishes the 5% fee to be collected by the City from the phone companies for maintenance of the 911 system for calendar year 2012.

<b>Motion:</b>	<b>Move to approve Resolution 711</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

**10. City Manager's Report**

- A. Standard Operating Procedure for Nuisance Abatements and Statistical Report

**Item Minutes:** City Manager Dave Wooden referred to the Fact Sheet included in the Agenda Packet, highlighting the City's Standard Operating Procedure for nuisance abatements and the Statistics for 2009, 2010, and 2011. Councilor Carter commented that he has worked with the two City Code Enforcement Officers through the years and they have always done an outstanding job of dealing with homeowners and usually getting them to resolve the problems. Vice-Mayor Thurmond also commended Gary Bighorse and Paul Arnold for doing an outstanding job. Mayor Lester asked if the City has any latitude to act more quickly in cases where high grass provides a fire hazard due to the excessive recent heat, and Mr. Wooden said if a case is deemed an emergency, the City has a process set up to allow them to act more quickly.

No action was required or taken.

**11. Preview Ordinances**

**Section Minutes:** There were no preview ordinances.

**12. Ordinances**

**Section Minutes:** City Manager Dave Wooden said no changes have been made to these ordinances since they were previewed at the August 2, 2011 Council meeting.

- A. Adopt Ordinance No. 3169 corrected amending the City of Broken Arrow Land Subdivision Code Section 4.1.w, related to right-of-way dedication at arterial street intersections

<b>Motion:</b>	<b>Move to adopt Ordinance Number 3169</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

- B. Adopt Ordinance No. 3171 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>Motion:</b>	<b>Move to adopt Ordinance Number 3171</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

F. Approval of Resolution No. 711 of the Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine-One-One 911) Emergency Telephone Fee, of Five Percent 5%) for calendar year 2012 pursuant to State Statute and Ordinance

Item Minutes: City Manager Dave Wooden said this Resolution establishes the 5% fee to be collected by the City from the phone companies for maintenance of the 911 system for calendar year 2012.

Motion: Move to approve Resolution 711

Motion b Jill Norman

Second b Johnnie Parks

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

Nays: None

#### 10. City Manager's Report

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Motion: Move to adopt Ordinance Number 3169

Motion b Johnnie Parks

Second b Craig Thurmond

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Nays: None

B. Adopt Ordinance No. 3171 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

Motion: Move to adopt Ordinance Number 3171

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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<b>Motion:</b>	<b>Move to declare an emergency for Ordinance 3171</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

- C. Adopt Ordinance No. 3172 amending Chapter 23, Article I, Section 23-32 of the Broken Arrow Code pertaining to citations 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

<b>Motion:</b>	<b>Move to adopt Ordinance Number 3172</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move for the emergency clause on Ordinance Number 3172</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

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

**Section Minutes:** Councilor Parks commended City Attorney Beth Anne Wilkening and her staff for their counsel regarding the recent appeal to the City to consider an ordinance to ban the sale of an over-the-counter drug commonly used in the manufacture of methamphetamine. He said that recent news supported the City's legal finding that municipalities cannot make such requirements regarding medications sold.

At approximately 6:53 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.

<b>Motion:</b>	<b>Move to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Johnnie Parks
<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 6:58 p.m.

<b>Motion:</b>	<b>Move to take a recess prior to entering into Executive Session</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

Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:03 p.m.

<b>Motion:</b>	Move to go into Executive Session to discuss the item as identified on the agenda and to find that disclosure of the matters discussed therein will seriously impair the ability of the Council to process the pending litigation in the public interest
<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

Motion: Move to declare an emergency for Ordinance 3171

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

C. Adopt Ordinance No. 3172 amending Chapter 23, Article I, Section 23-32 of the Broken Arrow Code pertaining to citations 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 adopt Ordinance Number 3172

Motion b Johnnie Parks

Second b Jill Norman

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

Nays: None

Motion: Move for the emergency clause on Ordinance Number 3172

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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At approximately 6:53 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 meeting and the Broken Arrow Economic Development Authority meeting

Motion b Richard Carter

Second b Johnnie Parks

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

Nays: None

Mayor Lester reconvened the regular Council meeting at approximately 6:58 p.m.

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

Motion b Johnnie Parks

Second b Richard Carter

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 7:03 p.m.

Motion: Move to go into Executive Session to discuss the item as identified on the agenda and to find that disclosure of the matters discussed therein will seriously impair the ability of the Council to process the pending litigation in the public interest

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

August 16, 2011

Broken Arrow City Council

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14. **Executive Session** for the purpose of confidential communications, specifically settlement negotiations, (and taking appropriate action in open session) between the City Council, the City Manager, and the City Attorney for the purpose of discussing David Geiger v. The City of Broken Arrow, et al., United States District Court for the Northern District of Oklahoma Case Number 11CV-179-CVE, under 25 O.S. §307(B)(4); In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

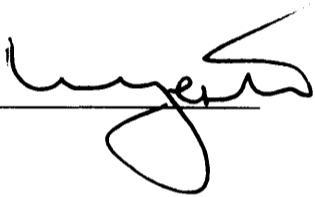
Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:20 p.m., and the room was opened for those in attendance. The Mayor asked if there were any motions to be made in open session, and Vice Mayor Thurmond made the motion below.

<b>Motion:</b>	<b>Move to deny the Plaintiff's offer to settle the case of David Geiger v. The City of Broken Arrow</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

15. **Adjournment**

**Section Minutes:** The meeting adjourned at approximately 7:21 p.m.

<b>Motion:</b>	<b>Move to adjourn</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

\_\_\_\_\_  
  
 Mayor



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

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Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:20 p.m., and the room was opened for those in attendance. The Mayor asked if there were any motions to be made in open session, and Vice Mayor Thurmond made the motion below.

Motion: Move to deny the Plaintiff's offer to settle the case of David Geiger v. The City of Broken Arrow

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

15. Adjournment

Section Minutes: The meeting adjourned at approximately 7:21 p.m.

Motion: Move to adjourn

Motion b Jill Norman

Second b Johnnie Parks

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

Nays: None

Attest:

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Broken Arrow City Council Page 6 of 6 August 16, 2011