

**BROKEN ARROW CITY COUNCIL MINUTES  
COUNCIL CHAMBERS  
220 SOUTH FIRST STREET  
BROKEN ARROW, OKLAHOMA 74012  
September 6, 2011**

**6:30 PM**

**1. Call to Order**

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

**2. Invocation**

**Section Minutes:** There was no one present to deliver an Invocation.

**3. Roll Call**

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

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

**Section Minutes:** Councilor Norman 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>	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 the meeting minutes of August 16, 2011
- B. Acceptance of minutes of the Planning Commission meeting held August 11, 2011
- C. Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2011-2012
- D. Approval of and authorization to execute Budget Amendment Number 3 for Fiscal Year 2011-2012
- E. Approval of the Workers' Compensation Court Order for Rodney Castleman, a Street and Stormwater Department employee
- F. Approval of the Workers' Compensation Court Order for John Sullivan, a Utilities Department employee
- G. Approval of and authorization to execute Amendment No. 1 to Architect-Engineer contract with BKL, Inc., for assistance during construction of Fire Station No. 2 located on the west side of Aspen Avenue (145th E. Ave.) north of Liberty Parkway (South Loop Creek Turnpike)
- H. Approval of and authorization to execute a Use Agreement between the City of Broken Arrow and Broken Arrow Seniors, Inc. for use of Main Place for the Senior Program and Senior Nutritional Program

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**3. Roll Call**

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Present: resent:

Johnnie on~~~e Parks, Norman, Richard Carter, a~ Thurmond and and Mike e Lester  
ParksJill Jill Norman, Richard CarterCraig Thurmond

Absent:

None

Absent: None

Pledge of Allegiance to the Flag

Section Minutes: Councilor Norman 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 b Johnnie Parks

Second b Richard Carter

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

Nays: None

A. Approval of the meeting minutes of August 16, 2011

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C. Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2011-2012

D. Approval of and authorization to execute Budget Amendment Number 3 for Fiscal Year 2011-2012

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H. Approval of and authorization to execute a Use Agreement between the City of Broken Arrow and Broken Arrow Seniors, Inc. for use of Main Place for the Senior Program and Senior Nutritional Program

Broken Arrow City Council Agenda Page 1 of 8 September 6, 2011

- I. Approval of and authorization to execute a Use Agreement between the City of Broken Arrow and the Broken Arrow Soccer Club (BASC) for use of the Indian Springs Sports Complex for the youth soccer program
- J. Approval of bids received and award the most advantageous bid to Custom Services Inc. for the purchase and installation of three replacement rooftop HVAC package units at the Police Department facility
- K. Approval of bids received and award the most advantageous bid to P&K Equipment for the purchase of a 4WD utility tractor for the Parks Department
- L. Approval of PUD 191A/BAZ 1868, Oakland Place, 8.70 acres, one third mile west of Aspen Avenue (145th East Avenue), one quarter mile north of Kenosha Street (71st Street), north of the intersection of Elder Place and Oakland Place
- M. Approval of Conditional final plat, Sterling Heights II Addition, PT11-103, 9.09 acres, 1 lot, PUD 98A, A-1, one-third mile south of New Orleans Street (101st Street), east of Aspen Avenue (145th East Avenue)
- N. Approval of Final Acceptance for the Public Improvements for Air Hygiene, located at 1600 W. Tacoma
- O. Approval of the Claims List

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

**Section Minutes:** There were no items removed from the Consent Agenda and no action was required or taken.

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

- A. Proclamation declaring support of the National September 11 Moment of Remembrance, and encouraging all to pause for one minute of remembrance at 12:00 p.m. Central Daylight Time on September 11, 2011

**Item Minutes:** City Manager Dave Wooden, stated that this Proclamation was to request and authorize a moment of remembrance for September 11 by sounding the sirens at noon central standard time for 1 minute. Mayor Lester read the Proclamation aloud.

<b>Motion:</b>	<b>Move to approve and authorize execution of the Proclamation</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Jill Norman
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Craig Thurmond, Mike Lester, Richard Carter
<b>Nays:</b>	None

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

**Section Minutes:** Mayor Lester said there was one person who requested to speak and called Ms. Deborah Jackson to the podium. Ms. Jackson stated that the Rooster Mart on Main Street is selling tobacco products to children ages 12 and up. She stated that her sons said that they and other neighborhood children had purchased tobacco products at the Rooster Mart. Mayor Lester asked Ms. Jackson if she had reported the matter to the police, and she said that she did. The Mayor stated that the matter would be looked into.

**9. General Council Business**

- A. Ratification of a Lease Agreement between the City of Broken Arrow and Independent School District No. 3 of Tulsa County, Oklahoma, a/k/a, Broken Arrow Public Schools, for Real Property located at 112 South Main Street, Broken Arrow, Oklahoma

**Item Minutes:** Mr. Wooden stated that the Broken Arrow Public Schools owns the old Franklin Hospital located at 112 South Main Street, in downtown Broken Arrow. He said the School District agreed to lease this property to the City for the sum of \$1,150.00 per month and the City will be allowed to

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Motion: Move to approve and authorize execution of the Proclamation

Motion by Richard Carter

Second by Jill Norman

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

Nays: None

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

Section Minutes: Mayor Lester said there was one person who requested to speak and called Ms. Deborah Jackson to the podium. Ms. Jackson stated that the Rooster Mart on Main Street is selling tobacco products to children ages 12 and up. She stated that her sons said that they and other neighborhood children had purchased tobacco products at the Rooster Mart. Mayor Lester asked Ms. Jackson if she had reported the matter to the police, and she said that she did. The Mayor stated that the matter would be looked into.

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Broken Arrow City Council Agenda Page 2 of 8 September 6, 2011

renovate the building in order to prepare it for location of a military museum. Mr. Wooden stated that the location and the facility are ideal for the museum and should draw considerable local interest once operational. Mr. Wooden said that he previously executed the lease agreement and staff recommends that the Council ratify this Agreement.

<b>Motion:</b>	<b>Move to approve Ratification of a Lease Agreement between the City of Broken Arrow and Independent School District No. 3 of Tulsa County, Oklahoma, a/k/a, Broken Arrow Public Schools, for Real Property located at 112 North Main Street, Broken Arrow, Oklahoma</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

- B. Consideration and possible approval of assignment of an Agreement between the City of Broken Arrow and Charles Sanders Homes, Inc. located ½ mile south of Washington Street on the East side of Aspen Avenue to the Broken Arrow Municipal Authority

**Item Minutes:** City Manager Dave Wooden explained that the attached Agreement was executed in March of 2006, and provided for Charles Sanders Homes to engineer and construct a 23.5 acre regional detention facility in the east branch of the Haikey Creek Basin. He said that records submitted to the Development Services Department support that construction was in accordance with the provisions of the Competitive Bidding Act. Mr. Wooden added that a significant portion of this area was located in the flood plain, and Mr. Sanders was required to obtain a Letter of Map Revision (LOMR) through FEMA; and, the LOMR was recently approved. Mr. Wooden said that the City agreed to pay a portion of the engineering and construction of this facility in exchange for the design and construction of this regional detention facility and its dedication for public use; and, as additional consideration, the City agreed to transfer 3.48 acres to Charles Sanders Homes. Mr. Wooden said all land transfers were previously accomplished as approved by the Council. He added that all of the necessary documents have been submitted and reviewed for reimbursement, and in accordance with the terms of the contract, payment in the amount of \$305,461.00 is recommended. Mr. Wooden added that funding for this payment is included in Budget Amendment Number 2 that is being considered elsewhere on this agenda and the transfer of the Agreement will be addressed on the Broken Arrow Municipal Authority agenda.

<b>Motion:</b>	<b>Move to approve approval of assignment of an Agreement between the City of Broken Arrow and Charles Sanders Homes, Inc. located ½ mile south of Washington Street on the East side of Aspen Avenue to the Broken Arrow Municipal Authority</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

- C. Consideration and possible approval of Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number 11CV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval

**Item Minutes:** City Attorney Beth Anne Wilkening stated that the above-styled case was filed by David Geiger, a suspect who allegedly sustained injuries during his arrest for Actual Physical Control and Resisting Arrest; and, after being transported to the jail, the Plaintiff tripped and fell face forward sustaining a large laceration to his forehead. She stated that the Plaintiff originally filed this action in both federal and state court, and although the City takes the position that the Plaintiff's injuries were the result of his own negligence and combativeness, legal fees continue to mount due to the fact that

renovate the building in order to prepare it for location of a military museum. Mr. Wooden stated that the location and the facility are ideal for the museum and should draw considerable local interest once operational. Mr. Wooden said that he previously executed the lease agreement and staff recommends that the Council ratify this Agreement.

Motion: Move to approve Ratification of a Lease Agreement between the City of Broken Arrow and Independent School District No. 3 of Tulsa County, Oklahoma, a/k/a, Broken Arrow Public Schools, for Real Property located at 112 North Main Street, Broken Arrow, Oklahoma

Motion b Johnnie Parks

Second b Richard Carter

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

Nays: None

B. Consideration and possible approval of assignment of an Agreement between the City of Broken Arrow and Charles Sanders Homes, Inc. located 1/2 mile south of Washington Street on the East side of Aspen Avenue to the Broken Arrow Municipal Authority

Item Minutes: City Manager Dave Wooden explained that the attached Agreement was executed in March of 2006, and provided for Charles Sanders Homes to engineer and construct a 23.5 acre regional detention facility in the east branch of the Haikey Creek Basin. He said that records submitted to the Development Services Department support that construction was in accordance with the provisions of the Competitive Bidding Act. Mr. Wooden added that a significant portion of this area was located in the flood plain, and Mr. Sanders was required to obtain a Letter of Map Revision (LOMR) through FEMA; and, the LOMR was recently approved. Mr. Wooden said that the City agreed to pay a portion of the engineering and construction of this facility in exchange for the design and construction of this regional detention facility and its dedication for public use; and, as additional consideration, the City agreed to transfer 3.48 acres to Charles Sanders Homes. Mr. Wooden said all land transfers were previously accomplished as approved by the Council. He added that all of the necessary documents have been submitted and reviewed for reimbursement, and in accordance with the terms of the contract, payment in the amount of \$305,461.00 is recommended. Mr. Wooden added that funding for this payment is included in Budget Amendment Number 2 that is being considered elsewhere on this agenda and the transfer of the Agreement will be addressed on the Broken Arrow Municipal Authority agenda.

Motion: Move to approve approval of assignment of an Agreement between the City of Broken Arrow and Charles Sanders Homes, Inc. located /2 mile south of Washington Street on the East side of Aspen Avenue to the Broken Arrow Municipal Authority

Motion b Craig Thurmond

Second b Jill Norman

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

Nays: None

C. Consideration and possible approval of Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number IICV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate

settlement including a Journal Entry incorporating this Resolution for the Court's approval  
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Broken Arrow City Council Agenda Page 3 of 8 September 6, 2011

both the City and the Officer were named. Ms. Wilkening added that Scott Wood, attorney at law, was retained to represent the officer. Ms. Wilkening explained to Council that the Plaintiff's counsel offered to settle this case for the sum of \$20,000.00; and, due to the severity of the Plaintiff's injuries, even though exacerbated by his intoxicated condition and momentum, and the attorney's fees and costs associated with defense, the Legal Department recommends consideration of this Resolution. She said that as a condition of settlement, the action naming the officer will be dismissed with prejudice. Ms. Wilkening said the attached Resolution authorizes the entry of a judgment in this matter, as well as direction to prepare and file documentation necessary to effectuate the terms of the settlement. She added that this matter was also placed on Executive Session in case Council wishes to discuss it prior to approval or denial of this Resolution. Mayor Lester stated that Council was in agreement that discussion in Executive Session was not necessary and Council would consider and take action on this Resolution at this time.

Mayor Lester said that he wanted the officer to understand the settlement did not in any way reflect on his performance of his duty, and that there was no wrongdoing. Ms. Wilkening said the officer understands that the settlement is due strictly a business decision.

<b>Motion:</b>	<b>Move to approve Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number 11CV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval</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

- D. Consideration and possible approval of Resolution No. 713, a Resolution of the Broken Arrow City Council approving the Preliminary Construction Plans, Specifications and Estimates of Probable Cost for the Improvements to the Utility System by extending the water and sewer lines through the proposed subdivision of Highlands IV and to the properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street, and providing for compliance with the provisions of 11 O.S. § 37-212

**Item Minutes:** City Manager Mr. Dave Wooden stated that City staff was approached by the Broken Arrow Public School District, requesting consideration for the formation of a Utility Improvement Assessment District to extend a water line and sewer line to their property from Highlands III across the proposed Highlands IV. Mr. Wooden said that extension of a City water line and sewer line into this area would provide water and sewer service that currently stops at the south plat line of Highlands III; and, the proposed improvement would extend City water and sewer service to citizens in the proposed Highlands IV, the School District and to City property, enhance public safety through installation of fire hydrants and improve quality of service by providing a loop for the water system to a new water line along Oneta Road and 91st Street; and, the possible area affected by the waterline and sewer line improvements is approximately 123 acres of which approximately 27.42 acres is Highlands IV, approximately 86 acres is the School property and approximately 10 acres is the City property. Mr. Wooden stated that, in accordance with state law, Council determined on July 5, 2011 that the Assessment District is necessary and directed the City Engineer to prepare and file preliminary plans and preliminary estimate of cost of improvement and assessment plat showing area to be assessed. Mr. Wooden said that on September 1, 2011, the City Engineer filed preliminary plans and preliminary estimate of cost of improvement and assessment plat showing area to be assessed.

Mr. Wooden stated that the next step in the process is for the Council to pass a Resolution declaring the necessity of the proposed improvements, adopting and approving the municipal engineer's preliminary plans showing a preliminary estimate of the cost of these improvements, as well as an



both the City and the Officer were named. Ms. Wilkening added that Scott Wood, attorney at law, was retained to represent the officer. Ms. Wilkening explained to Council that the Plaintiffs counsel offered to settle this case for the sum of \$20,000.00; and, due to the severity of the Plaintiffs injuries, even though exacerbated by his intoxicated condition and momentum, and the attorney's fees and costs associated with defense, the Legal Department recommends consideration of this Resolution. She said that as a condition of settlement, the action naming the officer will be dismissed with prejudice. Ms. Wilkening said the attached Resolution authorizes the entry of a judgment in this matter, as well as direction to prepare and file documentation necessary to effectuate the terms of the settlement. She added that this matter was also placed on Executive Session in case Council wishes to discuss it prior to approval or denial of this Resolution. Mayor Lester stated that Council was in agreement that discussion in Executive Session was not necessary and Council would consider and take action on this Resolution at this time.

Mayor Lester said that he wanted the officer to understand the settlement did not in any way reflect on his performance of his duty, and that there was no wrongdoing. Ms. Wilkening said the officer understands that the settlement is due strictly a business decision.

Motion: Move to approve Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number 11CV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval

Motion b Richard Carter

Second b Craig Thurmond

Ayes:

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

Nays: fNone 7J

D. Consideration and possible approval of Resolution No. 713, a Resolution of the Broken Arrow City Council approving the Preliminary Construction Plans, Specifications and Estimates of Probable Cost for the Improvements to the Utility System by extending the water and sewer lines through the proposed subdivision of Highlands IV and to the properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street, and providing for compliance with the provisions of 11 O.S. 37-212

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Mr. Wooden stated that the next step in the process is for the Council to pass a Resolution declaring the necessity of the proposed improvements, adopting and approving the municipal engineer's preliminary plans showing a preliminary estimate of the cost of these improvements, as well as an  
Broken Arrow City Council Agenda Page 4 of 8 September 6, 2011

assessment plat showing the area to be assessed. He explained that the attached Resolution accomplishes this in accordance with state law; and, it also sets these matters for public hearing on October 18, 2011, and directs the Clerk to provide notice in accordance with State law.

<b>Motion:</b>	<b>Move to approve Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number 11CV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval</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

- E. Consideration of and possible selection and approval of voting and alternate voting delegates for the National League of Cities Annual Business Meeting on November 12, 2011

**Item Minutes:** Mr. Wooden explained that the National League of Cities (NLC) requires each member city to designate a voting delegate and an alternate to vote on business matters at its annual business meeting. He said that the Fact Sheet provided in the agenda packet indicates that Vice Mayor Craig Thurmond is recommended to serve as the Alternate Delegate with the Mayor as the Voting Delegate. Mayor Lester stated that he would like to recommend Vice Mayor Thurmond as the Voting Delegate and that he would serve as the Alternate.

<b>Motion:</b>	<b>Move to approve selection of voting and alternate voting delegates with the change that Vice Mayor Craig Thurmond be the Voting Delegate and Mayor Mike Lester be the Alternate Voting Delegate</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

## 10. City Manager's Report

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

## 11. Preview Ordinances

**Section Minutes:** City Attorney Beth Anne Wilkening presented the preview ordinances. She stated that item 11A dealt with the labor agreement with the Communication Workers' of America which Council approved in July 2011. She stated that the contract provided for an improvement to the vacation leave benefit. She said improvement was to provide the accrual rate that begins at the beginning of the 18th year of serve to start at the beginning of the 15th year of service; and, all other accrual rates remain unchanged. Ms. Wilkening stated that this ordinance will extend this benefit to all non-union employees.

Ms. Wilkening stated that the preview ordinance under item 11B dealt with Chapter 15 of the Broken Arrow Municipal Code addresses public nuisances, and specifically, it adopts the International Property Maintenance Code 2009 (IPMC), which is the code that addresses existing structural and premises conditions such as structural integrity, safety and sanitation. Ms. Wilkening reviewed the proposed revisions to the ordinance as stated in the Fact Sheet contained in the agenda packet.

Ms. Wilkening reviewed the preview ordinance under item 11C explaining that temporary storage containers (POD type containers) are not addressed in the City's current Zoning Ordinance. She said that over the last two to three years, the use of these storage containers has increased, and the number of inquiries regarding these containers has increased. She added that the Planning Commission previewed this item on July 14, 2011 and July 28, 2011.

assessment plat showing the area to be assessed. He explained that the attached Resolution accomplishes this in accordance with state law; and, it also sets these matters for public hearing on October 18, 2011, and directs the Clerk to provide notice in accordance with State law.

Motion: Move to approve Resolution No. 712, a Resolution authorizing the City Attorney to confess judgment on behalf of the City without admitting liability in the United States District Court for the Northern District of Oklahoma, David Geiger v. City of Broken Arrow, et al., Case Number 11CV-179CVE and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

E. Consideration of and possible selection and approval of voting and alternate voting delegates for the National League of Cities Annual Business Meeting on November 12, 2011

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Motion: Move to approve selection of voting and alternate voting delegates with the change that Vice Mayor Craig Thurmond be the Voting Delegate and Mayor Mike Lester be the Alternate Voting Delegate

Motion b Richard Carter

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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POD type containers) are not addressed in the City's current Zoning Ordinance. She said that over the last two to three years, the use of these storage containers has increased, and the number of inquiries regarding these containers has increased. She added that the Planning Commission previewed this item on July 14, 2011 and July 28, 2011.

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Ms. Wilkening said that the preview ordinance under item 11D proposes changes to the Zoning Ordinance as proposed by the Planning Commission regarding pavement of parking surfaces and driveways in residential and agricultural districts. She said the proposed standards are separated for platted and unplatted areas, will require paved surfaces for all parking spaces in residential and agricultural districts, and will require that driveways longer than 50 feet in unplatted areas to be partially paved.

Council considered the preview ordinances together.

<b>Motion:</b>	<b>Move to set the preview ordinances for adoption at the next Council meeting</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. An Ordinance amending Chapter 2, Article IX Employee Rules and Regulations, Section 2-152 of the Broken Arrow Code Pertaining to Vacation Leave; Repealing all Ordinances to the Contrary; and Declaring an Emergency
- B. An ordinance amending the Broken Arrow Nuisance Code, Chapter 15; and adopting the 2009 International Property Maintenance Code as the Property Maintenance and Existing Structures Code
- C. An ordinance changing the Zoning Ordinance (Ordinance No. 2931), Temporary Uses and Structures, Section 3.4.B, (creating/new) 5. (page 32)
- D. An ordinance changing the Zoning Ordinance (Ordinance No. 2931), Section 5.4 Development Standards, 5.4.K, Parking in Residential Zoned Districts

**12. Ordinances**

- A. Adoption of Ordinance No. 3173 amending the zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1850, BAZ 1853, BAZ 1854, BAZ 1855 granting CG and IL zoning and PUD 205, PUD 205A and PUD 205B and SP 103 classification to be placed upon the tract which is located on the southwest corner of Kenosha Street and 9th Street (Lynn Lane); repealing all ordinances or parts of ordinances in conflict herewith; and declaring an emergency

**Item Minutes:** City Manager Dave Wooden presented the information provided in the Fact Sheet contained in the agenda packet as follows: Rezoning case BAZ 1850 (RM, CN, and CG to CG and IL), along with PUD 205, were approved by the City Council on August 3, 2010, subject to the property being platted. The existing Specific Use Permit, SP 103, remained on the property. On October 5, 2010, the City Council approved BAZ 1853, BAZ 1854, and BAZ 1855 changing the zoning on property immediately south of BAZ 1850 from R-3 to IL, subject to the property being platted. PUD 205A, a major amendment to PUD 205 that encompassed the property associated with BAZ 1853 - 1855, was also approved on October 5, 2010, subject to the property being platted. Another major amendment, PUD 205B, was approved on the property on June 20, 2011, subject to the property being platted. The property, which contains 38.15 acres, is located on the southwest corner of Kenosha Street and 9th Street (Lynn Lane). On July 25, 2011, the Hillside Park plat was recorded in Tulsa County.

<b>Motion:</b>	<b>Move to approve Ordinance No. 3173</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

The vote on the Emergency clause follows below:

Ms. Wilkening said that the preview ordinance under item I I D proposes changes to the Zoning Ordinance as proposed by the Planning Commission regarding pavement of parking surfaces and driveways in residential and agricultural districts. She said the proposed standards are separated for platted and unplatted areas, will require paved surfaces for all parking spaces in residential and agricultural districts, and will require that driveways longer than 50 feet in unplatted areas to be partially paved.

Council considered the preview ordinances together.

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

Motion b Johnnie Parks

Second b Richard Carter

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

Nays: None

A. An Ordinance amending Chapter 2, Article IX Employee Rules and Regulations, Section 2-152 of the Broken Arrow Code Pertaining to Vacation Leave; Repealing all Ordinances to the Contrary; and Declaring an Emergency

B. An ordinance amending the Broken Arrow Nuisance Code, Chapter 15; and adopting the 2009 International Property Maintenance Code as the Property Maintenance and Existing Structures Code

C. An ordinance changing the Zoning Ordinance Ordinance No. 2931), Temporary Uses and Structures, Section 3.4.B, creating/new) 5. page 32)

D. An ordinance changing the Zoning Ordinance Ordinance No. 2931), Section 5.4 Development Standards, 5.4.K, Parking in Residential Zoned Districts

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Motion: Move to approve Ordinance No. 3173

Motion b Jill Norman

Second b Richard Carter

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

Nays: None

The vote on the Emergency clause follows below:

Broken Arrow City Council Agenda Page 6 of 8 September 6, 2011





<b>Motion:</b>	<b>Move to approve the Emergency Clause for Ordinance No. 3173</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. Adoption of Ordinance No. 3174 amending Chapter 2, Article III Sale of Surplus or Obsolete Supplies, Materials, and Equipment, Sections 2-39, 2-41, and 2-42 of the Broken Arrow Code and Specifically providing for language providing for disposal of surplus property and allowing for disposal of surplus property pursuant to an agreement with due consideration; repealing all ordinances to the contrary; and declaring an emergency

**Item Minutes:** Ms. Wilkening stated that the City occasionally runs into situations involving supplies, materials and equipment, which need to be declared surplus, but are not necessarily suitable for sale, particularly under a competitive bidding process. She said that a current example is the need to remove excess soil from a city location where it is no longer needed, and the cost of removal would exceed the value of the soil. She said in a situation such as the one mentioned, staff would like the opportunity to explore a contract which would provide for exchange of the surplus supply, material or equipment for due consideration such as a service or provision of another supply, material or piece of equipment. Ms. Wilkening explained that this ordinance revision would allow for that so long as the City Council approves the agreement.

<b>Motion:</b>	<b>Move to approve Ordinance No. 3174</b>
<b>Motion by:</b>	Jill Norman
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Craig Thurmond, Richard Carter, Mike Lester
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve the Emergency Clause for Ordinance No. 3174</b>
<b>Motion by:</b>	Johnnie Parks
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Johnnie Parks, Jill Norman, Craig Thurmond, Richard Carter, Mike Lester
<b>Nays:</b>	None

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

**Section Minutes:** Councilor Parks said that he needed to correct his motion for Item 9A. He said the hospital is on North Main but the documents state South Main, and his motion stated "South" also. He said the motion should state "North" and documents should state "North" Main. Mr. Wooden said Councilor Parks was correct and this scrivener's error on the documents will be corrected.

Councilor Parks also informed everyone that it is time to take applications for the 2011-2012 Youth City Council. He said that applications are on line for prospective Youth City Councilors, and the applications must be received at the City by October 7, 2011. Councilor Parks added that selections would be made about a week later and each Councilor would make a selection from their Ward or At-Large.

At approximately 7:01 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 7:04 p.m.

Motion: Move to approve the Emergency Clause for Ordinance No. 3173

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

B. Adoption of Ordinance No. 3174 amending Chapter 2, Article III Sale of Surplus or Obsolete Supplies, Materials, and Equipment, Sections 2-39, 2-41, and 2-42 of the Broken Arrow Code and Specifically providing for language providing for disposal of surplus property and allowing for disposal of surplus property pursuant to an agreement with due consideration; repealing all ordinances to the contrary; and declaring an emergency

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Motion: Move to approve Ordinance No. 3174

Motion b Jill Norman

Second b Craig Thurmond

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

Nays: None

Motion: Move to approve the Emergency Clause for Ordinance No. 3174

Motion b Johnnie Parks

Second b Richard Carter

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

Nays: None

13. Remarks and Inquiries by Governing Body Members

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Motion: Move to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authori 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 7:04 p.m.

Broken Arrow City Council Agenda Page 7 of 8 September 6, 2011

<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 7:09 p.m.

<b>Motion:</b>	Move to go into Executive Session to discuss negotiations with the IAFF and the FOP employee groups
<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. **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); and on matters concerning negotiations regarding the FOP and IAFF employee groups under 25 O.S. § 307(B)(2); 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 7:41 p.m., and the room was opened for those in attendance.

The matter concerning 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 was considered and action was taken in open session under Agenda Item 9C, and was not discussed in the Executive Session.

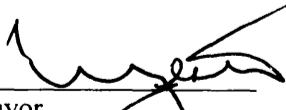
The Mayor asked if there were any motions to be made in open session, and Vice Mayor Thurmond made the motion below.

<b>Motion:</b>	<b>Move to authorize staff to proceed with negotiations with the IAFF and FOP employee groups</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 7:42 p.m.

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

  
 Mayor  
 Broken Arrow City Council Agenda

Attest:  
  
 City Clerk



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 7:09 p.m.

Motion: Move to go into Executive Session to discuss negotiations with the IAFF and the

FOP employee groups

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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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 authorize staff to proceed with negotiations with the IAFF and

FOP employee groups

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 7:42 p.m.

Motion: Move to approve

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

Mayor

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City Council Agenda Page 8 of 8 O

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September 6, 2011