

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
February 16, 2010**

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 an Invocation.

3. Roll Call

Present:	Craig Thurmond, Richard Carter, Wade McCaleb and Mike Lester
Absent:	Philip Tucker

4. Pledge of Allegiance to the Flag

Section Minutes: Boy Scout Troop 903 led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Mayor Lester asked if there were any items to remove from the Consent Agenda for discussion. There being none, the Mayor asked for a motion.

Motion:	Move to approve the Consent Agenda as presented
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- A. Approval of regular meeting minutes of February 2, 2010
- B. Approval of special joint City Council, Broken Arrow Economic Development Authority and Economic Development Corporation meeting minutes of February 4, 2010
- C. Acceptance of the minutes of the Planning Commission meeting held January 28, 2010.
- D. Approval of and authorization to publish notice of availability of annual audit
- E. Approval of a Resolution accepting the beneficial interest in the trust created by the amended and restated declaration of Trust of Tulsa County Criminal Justice Authority dated October 20, 1995, as amended by the First Amendment to Amended and Restated Declaration of Trust dated January 22, 2010
- F. Approval of a Use Agreement with the Broken Arrow Adult Softball Association (BAASA)
- G. Approval of a Use Agreement with the Broken Arrow Girls Softball League
- H. Approval of a Use Agreement with the Broken Arrow Youth Baseball Association
- I. Approval of Amendment No. 2 to the contract for Portland Cement Concrete Street Repairs
- J. Approval of sole source purchase of equipment and software to enable the City to use critical Financial, Community Service and Public Safety software after a disaster or hardware failure
- K. Approval of bids received and award the most advantageous bid for LED lighting fixtures and installation to Midtown Lighting Electric
- L. Approval of bids received and award the most advantageous bid for the purchase of seven snow plows to Southwest Trailers
- M. Acceptance of Public Improvement for Quik Trip #94R
- N. Approval of the Claims List

6. Consideration of Items Removed from Consent Agenda

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

February 16, 2010

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 an Invocation.

3. Roll Call

Craig Thurmond. Richard Carter. Wade McCaleb and Mike Lester

Present:

Absent: Philip Tucker

4.

Pledge of Allegiance to the Flag

Section Minutes: Boy Scout Troop 903) led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Mayor Lester asked if there were any items to remove from the Consent Agenda for discussion. There being none, the Mayor asked for a motion.

Motion: Move to approve the Consent Agenda as presented

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

A. Approval of regular meeting minutes of February 2, 2010

B. Approval of special joint Cite Council. Broken Arrow Economic Development Authority and Economic Development Corporation meeting minutes of February 4, 20 10

C. Acceptance of the minutes of the Planning Commission meeting held January 28, 2010.

D. Approval of and authorization to publish notice of availability of annual audit

E. Approval of a Resolution accepting the beneficial interest in the trust created by the amended and restated declaration of Trust of Tulsa County Criminal Justice Authority dated October 20, 1995. as amended by the First Amendment to Amended and Restated Declaration of Trust dated January 22, 20 10

F. Approval of a Use Agreement with the Broken Arrow Adult Softball Association BAASA)

G. Approval of a Use Agreement with the Broken Arrow Girls Softball League

H. Approval of a Use Agreement with the Broken Arrow Youth Baseball Association

I. Approval of Amendment No. 2 to the contract for Portland Cement Concrete Street Repairs

J. Approval of sole source purchase of equipment and software to enable the City to use critical Financial. Community Service and Public Safety software after a disaster or hardware failure

K. Approval of bids received and award the most advantageous bid for LED lighting fixtures

and installation to Midtown Lighting Electric

L. Approval of bids received and award the most advantageous bid for the purchase of seven snow plows to Southwest Trailers

M. Acceptance of Public Improvement for Quik Trip #94R

N. Approval of the Claims List

6. Consideration of Items Removed from Consent Agenda

Broken Arrow Cit Council Agenda Page I of 5 I ebruar 16, 2010

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

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

- A. Public hearing on complaints or objections that may be made concerning the apportionment of lots regarding the waterline improvements on 140th Street Assessment District

Item Minutes: Mayor Lester recused himself from participation in this Item and left the room.

Councilor McCaleb asked City attorney, Ms. Beth Anne Wilkening, to present the background to this item. Ms. Wilkening reviewed the information provided in the Fact Sheet. She said the public hearing originally scheduled for December 15, 2009, had to be re-scheduled to February 16, 2010, due to a lack of a quorum, and explained that an Amended Public Improvement Assessment Roll was filed with the City Clerk's Office on December 30, 2009. Ms. Wilkening added that letters explaining the process, the 140th Street Assessment District Legal Notice of Public Hearing and the Amended Assessment Roll were mailed to all residents on January 22, 2010, which was well in advance of the statutory notice requirements; and, publication in a newspaper of general circulation was also accomplished in accordance with state law.

Ms. Wilkening stated that the City Clerk received no complaints or objections regarding the apportionment of the lots and Assessment Roll. Ms. Wilkening said that she received a request from Mr. Pope, the applicant, that all assessments from his four (4) properties be placed on the real property identified as 11402 South 140th East Avenue. She said this seems to be a reasonable request since Mr. Pope and several property owners requested that the costs be distributed amongst them in order to avoid creating financial hardship for other residents. Ms. Wilkening said the next step in the process will be presentation for the Council's consideration at the next meeting of a Resolution Confirming the Assessment and Apportionment.

Councilor McCaleb declared the public hearing open. He asked if anyone wished to speak. There were no requests to speak.

Councilor McCaleb repeated that the public hearing was open and asked if anyone wished to speak. No one came forward to speak.

Councilor McCaleb said he declared the public hearing open for the third and final time, and asked if anyone wished to speak. There were no requests to speak.

Councilor McCaleb stated that there were no requests to speak. He declared the public hearing closed.

No action was required or taken. Mayor Lester returned to the room.

- B. Proclamation recognizing Jack and Bonnie Ross for community service

Item Minutes: Mayor Lester requested that the Proclamation be passed to the next meeting on March 2, 2010 because the Ross' were unable to attend the meeting this evening.

Motion:	Move to pass the Proclamation recognizing Jack and Bonnie Ross for community service to the March 2, 2010 meeting
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

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

Section Minutes: No citizens signed up to speak.

9. General Council Business

- A. Consideration and possible approval of a Memorandum of Understanding with FlightSafety for economic assistance to relocate their firm in the City

Item Minutes: City Manager, Mr. Dave Wooden, presented this item. He said a proposed Memorandum of Understanding (MOU) between the City and FlightSafety was attached to the Fact Sheet contained in the agenda packet. Mr. Wooden explained that the MOU is based on the plant and operations center being located on approximately 17 acres on the southwest corner of Kenosha and 9th Street; and, the

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

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

A. Public hearing on complaints or objections that may be made concerning the apportionment of lots regarding the waterline improvements on 140th Street Assessment District

Item Minutes: Mayor Lester recused himself from participation in this Item and left the room.

Councilor McCaleb asked City attorney, Ms. Beth Anne Wilkening, to present the background to this item. Ms. Wilkening reviewed the information provided in the Fact Sheet. She said the public hearing originally scheduled for December 15, 2009, had to be re-scheduled to February 16, 2010, due to a lack of a quorum, and explained that an Amended Public Improvement Assessment Roll was filed with the City Clerk's Office on December 30, 2009. Ms. Wilkening added that letters explaining the process, the 140th Street Assessment District Legal Notice of Public Hearing and the Amended Assessment Roll were mailed to all residents on January 22, 2010, which was well in advance of the statutory notice requirements; and, publication in a newspaper of general circulation was also accomplished in accordance with state law.

Ms. Wilkening stated that the City Clerk received no complaints or objections regarding the apportionment of the lots and Assessment Roll. Ms. Wilkening said that she received a request from Mr. Pope, the applicant, that all assessments from his four 4) properties be placed on the real property identified as 11402 South 140th East Avenue. She said this seems to be a reasonable request since Mr. Pope and several property owners requested that the costs be distributed amongst them in order to avoid creating financial hardship for other residents. Ms. Wilkening said the next step in the process will be presentation for the Council's consideration at the next meeting of a Resolution Confirming the Assessment and Apportionment.

Councilor McCaleb declared the public hearing open. He asked if anyone wished to speak. There were no requests to speak.

Councilor McCaleb repeated that the public hearing was open and asked if anyone wished to speak. No one came forward to speak.

Councilor McCaleb said he declared the public hearing open for the third and final time, and asked if anyone wished to speak. There were no requests to speak.

Councilor McCaleb stated that there were no requests to speak. He declared the public hearing closed.

No action was required or taken. Mayor Lester returned to the room.

B. Proclamation recognizing Jack and Bonnie Ross for community service

Item Minutes: Mayor Lester requested that the Proclamation be passed to the next meeting on March 2, 2010 because the Ross' were unable to attend the meeting this evening.

Motion: Move to pass the Proclamation recognizing Jack and Bonnie Ross for community service to the March 2, 2010 meeting

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

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

Section Minutes: No citizens signed up to speak.

9. General Council Business

A. Consideration and possible approval of a Memorandum of Understanding with FlightSafety for economic assistance to relocate their firm in the City

Item Minutes: City Manager. Mr. Dave Wooden. presented this item. He said a proposed Memorandum of Understanding (MOU) between the City and FlightSafety was attached to the Fact Sheet contained in the agenda packet. Mr. Wooden explained that the MOU is based on the plant and operations center being located on approximately 17 acres on the southwest corner of Kenosha and 9th Street: and. the Broken Arrow City Council Agenda Page 2 of 5 Februar 16, 2010

repayment schedule is based on 15 years and the assumption that a Tax Increment Finance District incorporating both sales tax and property tax will be established over the square mile bounded by Kenosha on the north, Elm Place on the west, Houston Street on the south and 9th Street on the east. Mr. Wooden said that should FlightSafety be forced to close this facility there is a repayment schedule that allows them to either pay off the remaining debt or turn the plant and operations center over to the City as payment for the remaining debt.

Mr. Wooden stated there are some agreed upon corrections to the Memorandum of Understanding as follows:

Page 2, Article I, section A, Line 1: Added: "Subject to FlightSafety's obtaining other financial incentives, which have been disclosed to the City...."

Page 2, Article I, section A, end of Line 18: Added "subject to FlightSafety's approval."

Page 3, Article II, section B, No. 1: Deleted "and required detention ponds in the required areas".

Page 5, Article V, section A, end of Line 3: corrected scrivener's error by adding closing quotation marks to parenthetical clause (said date, the "Commencement Date")

Page 5, Article V, section A, No. 9: Changed word "failure" to "closure"

Page 5, Article V, section C, end of Line 8: Changed number 550 to 500

Councilor Carter moved to approve as corrected.

Motion:	Move to approve as corrected the Memorandum of Understanding with FlightSafety for economic assistance to relocate their firm in the City
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Craig Thurmond, Mike Lester
Nays:	None

- B. Approval of and authorization to execute Resolution No. 641 to adopt the 5-Year Update to the Broken Arrow Multi-Hazard Mitigation Plan

Item Minutes: Mr. Kenneth Schwab, Director of Engineering and Construction, summarized the information contained in the Fact Sheet provided in the agenda packet. He said that over the past several months, the Broken Arrow Mitigation Staff Technical Committee has collected and analyzed data for the five-year update to the Broken Arrow Multi-Hazard Mitigation Plan; and, that the 2010 five-year update to the plan was performed by staff with input from the public and from the Broken Arrow Multi-Hazard Mitigation Citizens Advisory Committee. Mr. Schwab stated that the five-year plan update is keeping within the requirements of the Stafford Disaster Relief and Emergency Assistance Act. He said that the Citizens Advisory Committee recommended approval on February 4, 2010, and the Planning Commission reviewed the 5-Year Update at their meeting of February 11, 2010 and recommends approval.

Motion:	Move to approve and authorize execution of Resolution No. 641 to adopt the 5-Year Update to the Broken Arrow Multi-Hazard Mitigation Plan
Motion by:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

10. City Manager's Report

- A. None

11. Preview Ordinances

Section Minutes: The preview ordinances were taken together, and Ms. Wilkening summarized the information contained in the Fact Sheets.

Motion:	Move to pass the preview ordinances to the March 2, 2010 meeting and set for adoption
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

repayment schedule is based on 15 years and the assumption that a Tax Increment Finance District incorporating both sales tax and property tax will be established over the square mile bounded by Kenosha on the north. Elm Place on the west. Houston Street on the south and 9th Street on the east. Mr. Wooden said that should FlightSafety be forced to close this facility there is a repayment schedule that allows them to either pay off the remaining debt or turn the plant and operations center over to the City as payment for the remaining debt.

Mr. Wooden stated there are some agreed upon corrections to the Memorandum of Understanding as follows:

Page 2. Article I. section A. Line I: Added: Subject to FlightSafetv's obtaining other financial incentives. which have been disclosed to the City...."

Page 2. Article I. section A. end of Line 18: Added subject to FlightSafetv's approval."

Page 3. Article II. section B. No. I: Deleted and required detention ponds in the required areas".

Page 5. Article V. section A. end of Line 3: corrected scrivener's error by adding closing quotation marks to parenthetical clause said date. the Commencement Date")

Page 5. Article V. section A. No. 9: Changed word failure" to closure"

Page 5. Article V. section C. end of Line 8: Changed number 550 to 500

Councilor Carter moved to approve as corrected.

Motion: Move to approve as corrected the Memorandum of Understanding with FlightSafety for economic assistance to relocate their firm in the City

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Craig Thurmond. Mike Lester

Nays: None

B. Approval of and authorization to execute Resolution No. 641 to adopt the 5-Year Update to the Broken Arrow Multi-Hazard Mitigation Plan

Item Minutes: Mr. Kenneth Schwab. Director of Engineering and Construction. summarized the information contained in the Fact Sheet provided in the agenda packet. He said that over the past several months. the Broken Arrow Mitigation Staff Technical Committee has collected and analyzed data for the five-year update to the Broken Arrow Multi-Hazard Mitigation Plan: and. that the 2010 five-year update to the plan was performed by staff with input from the public and from the Broken Arrow Multi-Hazard Mitigation Citizens Advisory Committee. Mr. Schwab stated that the five-year plan update is keeping within the requirements of the Stafford Disaster Relief and Emergency Assistance Act. He said that the Citizens Advisory Committee recommended approval on February 4. 2010. and the Planning Commission reviewed the 5-Year Update at their meeting of February I I. 20 10 and recommends approval.

Motion: Move to approve and authorize execution of Resolution No. 641 to adopt the 5-Year Update to the Broken Arrow Multi-Hazard Mitigation Plan

Motion b Wade McCaleb

Second b Craig Thurmond

Ayes: Wade McCaleb. Craig Thurmond. Richard Carter. Mike Lester

Nays: None

10. City Manager's Report

A. None

11. Preview Ordinances

Section Minutes: The preview ordinances were taken together. and Ms. Wilkening summarized the information contained in the Fact Sheets.

Motion: Move to pass the preview ordinances to the March 2, 2010 meeting and set for adopt on

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

Broken Arrow City Council Agenda Page 3 ol'> Februarn 16, 2010

- A. An ordinance amending Chapter 5, Article I, Section 5-11 of the Broken Arrow Code pertaining to Restriction on location of stables, kennels, coops, etc.; repealing all ordinances to the contrary; and declaring an emergency.
- B. An ordinance amending Chapter 23, Article II, Section 23-94 of the Broken Arrow Code pertaining to Evidence of driving while under the influence of or while impaired by alcohol or other intoxicating substances; repealing all ordinances to the contrary; and declaring an emergency.

12. Ordinances

- A. None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilor McCaleb said that Trash Bash 2010 is scheduled on April 17 and the Beautification Committee will have the event on its agenda.

At approximately 6:45 p.m., Mayor McCaleb asked for a motion to recess into the Broken Arrow Municipal Authority (BAMA) meeting. He said the Broken Arrow Economic Development Authority (BAEDA) meeting is cancelled this evening.

Motion:	Move to recess in order to enter into BAMA
Motion by:	Wade McCaleb
Second by:	Richard Carter
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

At approximately 6:46 p.m., Mayor Lester reconvened the regular session of the Council meeting. Mayor Lester 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 short break prior to entering into Executive Session
Motion by:	Wade McCaleb
Second by:	Richard Carter
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

At approximately 6:55 p.m., Mayor Lester reconvened the regular Council session.

Motion:	Move to enter into Executive Session
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- 14. Executive Session for the purpose of confidential communications and possible action in open session between the City Council, the City Manager, and the City Attorney on matters concerning the IAFF and FOP employee groups under 25 O.S. § 307(B)(2); and litigation involving the City of Broken Arrow v. David and Lorri Center, Tulsa County District Court Case Number: CJ-2007-07888 under 25 O.S. § 307(B)(4). The Council is advised that disclosure will seriously impair the ability of the public body to process this pending litigation and claim 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.**

At approximately 7:12 p.m., Mayor Lester reconvened the regular Council session and the room was opened for public attendance.

Motion:	Move to authorize the City Attorney to settle the City of Broken Arrow v. Center for the amount of \$112,000.00
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

15. Adjournment

A. An ordinance amending Chapter 5. Article I. Section 5-I I of the Broken Arrow Code pertaining to Restriction on location of stables. kennels. coops. etc.: repealing all ordinances to the contrary: and declaring an emergency.

B. An ordinance amending Chapter 23). Article II. Section 23-94 of the Broken Arrow Code pertaining to Evidence of driving while under the influence of or while impaired by alcohol or other intoxicating substances: repealing all ordinances to the contrary: and declaring an emergency.

12. Ordinances

A. None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilor McCaleb said that Trash Bash 2010 is scheduled on April 17 and the Beautification Committee will have the event on its agenda.

At approximately 6:45 p.m.. Mayor McCaleb asked for a motion to recess into the Broken Arrow Municipal Authority (BAMA) meeting. He said the Broken Arrow Economic Development Authority (BAEDA) meeting is cancelled this evening.

Motion: Move to recess in order to enter into BAMA

Motion b Wade McCaleb

Second b Richard Carter

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

At approximately 6:46 p.m.. Mayor Lester reconvened the regular session of the Council meeting. Mayor Lester 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 short break prior to entering into Executive Session

Motion b Wade McCaleb

Second b Richard Carter

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

At approximately 6:55 p.m.. Mayor Lester reconvened the regular Council session.

Motion: Move to enter into Executive Session

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

14. Executive Session for the purpose of confidential communications and possible action in open session between the City Council, the City Manager, and the City Attorney on matters concerning the IAFF and FOP employee groups under 25 O.S. 307(B)(2); and litigation involving the City of Broken Arrow v. David and Lorri Center, Tulsa County District Court Case Number: CJ-2007-07888 under 25 O.S. 307(B)(4). The Council is advised that disclosure will seriously impair the ability of the public body to process this pending litigation and claim 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.

At approximately 7:12 p.m., Mayor Lester reconvened the regular Council session and the room was opened for public attendance.

Motion: Move to authorize the City Attorney to settle the City of Broken Arrow N. Center for the amount of \$112,000.00

Motion b Richard Carter

Second b Craig Thurmond

Ayes: Richard Carter. Craig Thurmond. Wade McCaleb. Mike Lester

Nays: None

15. Adjournment

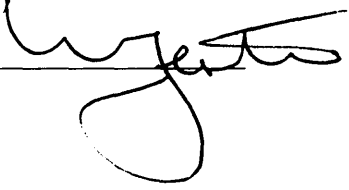
Broken Arrow Cith Council Agenda Page 4 ot'5 Fehruar 16. 20 IO

Section Minutes: The meeting adjourned at approximately 7:12 p.m.

Motion:	Move to adjourn
Motion by:	Craig Thurmond
Second by:	Wade McCaleb
Ayes:	Craig Thurmond, Wade McCaleb, Richard Carter, Mike Lester
Nays:	None

Attest:

Mayor



City Clerk



Section Minutes: The meeting adjourned at approximately 7:12 p.m.

Motion: Move to adjourn

Motion b Craig Thurmond

Second b Wade McCaleb

Ayes: Craig Thurmond, Wade McCaleb, Richard Carter, Mike Lester

Nays: None

Broken Arrow City Council Agenda Page 5 of 5 February 16, 2010