

**BROKEN ARROW CITY COUNCIL MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
July 20, 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: The invocation was delivered by Scott Keele of the Broken Arrow Church of Christ, who is also one of the City's police chaplains.

Roll Call

Present:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Absent:	Wade McCaleb

4. Pledge of Allegiance to the Flag

Section Minutes: Mayor Mike Lester 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. There being none, he asked for a motion.

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

- A. Approval of regular meeting minutes of July 6, 2010
- B. Acceptance of the minutes of the Planning Commission meeting held June 24, 2010
- C. Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2010-2011
- D. Approval of and authorization to execute Amendment No. 2 to an A-E contract with Cobb Engineering Company to design an Interchange at the intersection of the Creek Turnpike and Aspen Avenue
- E. Approval of the contract renewal with the Metropolitan Tulsa Transit Authority to provide public transportation services for Fiscal Year 2010-11
- F. Approval of and authorization to execute a contract with Sungard Public Sector, Inc. to provide software maintenance services for the period August 1, 2010 to July 31, 2011
- G. Approval of and authorization to execute contract with Oneok for third party gas supply
- H. Approval of and authorization to execute an Inter-local Agreement with Union School District for the provision of school crossing guards
- I. Review bids received and award the most advantageous for the purchase of equipment for quint fire truck and pumper fire truck
- J. Consideration and possible approval of BAZ 1847, 20.23 acres, R-2 to CG, northeast corner of Aspen Avenue (145th East Avenue) and the Creek Turnpike
- K. Consideration and possible approval of BAZ 1848, 25.48 acres, A-1 to CG, northwest corner of Aspen Avenue (145th East Avenue) and the Creek Turnpike
- L. Acceptance of dedication of utility easement from E.A. Schermerhorn, B.K. Schermerhorn, Starlight Investments, LLC, J. Alan Davis and Joan Zappe Davis on a property located in the southeast quarter of section Thirty Five (35), Township Nineteen (19) North, Range Fourteen (14) East, in the City of Broken Arrow, County of Tulsa County, State of Oklahoma
- M. Acceptance of dedication of utility easement from White Earth, LLC located on a property in the Southeast Quarter of Section Thirty Five (35), Township Nineteen (19), Range Fourteen (14)
- N. Acceptance of dedication of utility easements from White Earth, LLC located on a property in the Southeast Quarter of Section Thirty Five (35), Township Nineteen (19), Range Fourteen (14)
- O. Acceptance of a utility easement from Johanna Woods LLC (S31 T19N R 15E) (Project: Adams Creek NW Sewer Improvements #S0405)

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Roll Call

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Jill Norman, Richard Carter, Craig Thurmond, Lester

Present: Jill Norman, Richard Carter,

Absent: Wade McCaleb

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Section Minutes: Mayor Mike Lester led the Pledge of Allegiance to the Flag.

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

Motion: Move to approve the Consent Agenda as presented

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

A. Approval of regular meeting minutes of July 6, 2010

B. Acceptance of the minutes of the Planning Commission meeting held June 24, 2010

C. Approval of and authorization to execute Budget Amendment Number 2 for Fiscal Year 2010-2011

D. Approval of and authorization to execute Amendment No. 2 to an A-E contract with Cobb Engineering Company to design an Interchange at the intersection of the Creek Turnpike and Aspen Avenue

E. Approval of the contract renewal with the Metropolitan Tulsa Transit Authority to provide public transportation services for Fiscal Year 2010-11

F. Approval of and authorization to execute a contract with Sungard Public Sector, Inc. to provide software maintenance services for the period August 1, 2010 to July 31, 2011

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H. Approval of and authorization to execute an Inter-local Agreement with Union School District for the provision of school crossing guards

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Broken Arrow City Council Page 1 of 4 July 20, 2010

P. Acceptance of a temporary construction easement from Johanna Woods LLC (S31T19N R15E)

Q. Acceptance of public Improvements for Tulsa Technology Center

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: Mayor Lester tabled this item until later in the meeting because the recipient was not yet present.

Mayor Lester returned to this item following Section 12. Determining that the recipient was still not present, he asked for a motion to approve and execute the proclamation. Councilor Norman stated that she would deliver the Proclamation.

A. Proclamation recognizing and commending Alex Walker for community service

Item minutes: Mayor Lester stated the factual information as contained in the Fact Sheet provided in the agenda packet.

Motion:	Move to approve and execute a proclamation recognizing and commending Alex Walker for community service
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

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

Section Minutes: Mr. Walter Sorrell addressed the Council regarding his water bill. He found the "account activity" section of the bill to be confusing, and stated that the water department employees had difficulty explaining it to him. He suggested that changes should be made in order to eliminate the confusion.

Mayor Lester told Mr. Sorrell that the Council would look into the matter and that he would get back in touch with Mr. Sorrell.

9. General Council Business

A. Consideration of and possible approval of Resolution 656 requesting programming of FFY2014 Tulsa Urbanized Area Surface Transportation Funds for 23rd Street Improvements between Kenosha and Houston Streets

Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in t agenda packet. He stated that the improvements include the widening of 23rd street from Kenosha to Houston streets and the straightening of the bridge over Highway 51. Mr. Wooden added that this resolution provides for the additional funding required to complete the construction beyond what has already been approved, and recommended that the Council approve the resolution and authorize its execution.

Motion:	Move to approve and authorize execution of Resolution Number 656
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

B. Consideration of and possible approval of Resolution 657 approving Amendment No. 2 to the City of Broken Arrow Architecture/Engineer Contract Number ST0915 between Cobb Engineering Co. and the City of Broken Arrow and authorizing the City Manager to execute this Amendment

Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in the agenda packet.

Motion:	Move to approve Resolution Number 657
Motion by:	Jill Norman
Second by:	Richard Carter
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

C. Discussion of and potential action on amendments to Chapter 10, Article I, Section 10-3, which pertains to the manufacture, sale and use of Fireworks

Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in the agenda packet and described this item as a discussion point for the Council concerning the Fireworks Program. He pointed out that the Fireworks Program continues to be an outstanding activity for the city, with the number of complaints being down again this year and there being no fires associated with fireworks this year. Although this program is working well, Mr. Wooden stated that there are some minor items that need to be addressed, with the primary item being how far a person can move from their personal property and still discharge fireworks based on their fireworks permit. Currently the permit holder is restricted to discharging fireworks within 100 feet of the permit display; Mr. Wooden noted that some complaints have been received about permit holders discharging fireworks several lots away from their property and adjacent to someone else's property.

6.
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9.

P. Acceptance of a temporary construction easement from Johanna Woods LLC S3IT19N R15E)

Q. Acceptance of public Improvements for Tulsa Technology Center

R. Approval of the Claims List

Consideration of Items Removed from Consent Agenda

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

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

Section Minutes: Mayor Lester tabled this item until later in the meeting because the recipient was not yet present.

Mayor Lester returned to this item following Section 12. Determining that the recipient was still not present, he asked for a motion to approve and execute the proclamation. Councilor Norman stated that she would deliver the Proclamation.

A. Proclamation recognizing and commending Alex Walker for community service

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Motion: Move to approve and execute a proclamation recognizing and commending

Alex Walker for community service

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

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

Section Minutes: Mr. Walter Sorrell addressed the Council regarding his water bill. He found the account activity" section of the bill to be confusing, and stated that the water department employees had difficulty explaining it to him. He suggested that changes should be made in order to eliminate the confusion.

Mayor Lester told Mr. Sorrell that the Council would look into the matter and that he would get back in touch with Mr. Sorrell.

General Council Business

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Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in the agenda packet. He stated that the improvements include the widening of 23rd street from Kenosha to Houston streets and the straightening of the bridge over Highway 51. Mr. Wooden added that this resolution provides for the additional funding required to complete the construction beyond what has already been approved, and recommended that the Council approve the resolution and authorize its execution.

Motion: Move to approve and authorize execution of Resolution Number 656

Motion b Richard Carter

Second b Craig Thurmond

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

Nays: None

B. Consideration of and possible approval of Resolution 657 approving Amendment No. 2 to the City of Broken Arrow Architecture/Engineer Contract Number ST0915 between Cobb Engineering Co. and the City of Broken Arrow and authorizing the City Manager to execute this Amendment

Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in the agenda packet.

Motion: Move to approve Resolution Number 657

Motion b Jill Norman

Second b Richard Carter

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

Nays: None

C. Discussion of and potential action on amendments to Chapter 10, Article I, Section 10-3, which pertains to the manufacture, sale and use of Fireworks

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Broken Arrow City Council Page 2 of 4

July 20, 2010

Mayor Lester confirmed that he has received several complaints of this nature and suggested that the 100-foot designation be decreased to 50 or 60 feet, which would allow the permit holder to discharge fireworks within one lot on either side of their property. He stated that this may eliminate some these problems, and acknowledged that this may require people to be a little more diligent in planning their fireworks activities. The Mayor confirmed with City Attorney Beth Anne Wilkening that there were no problems making such a change from a legal standpoint.

Mr. Wooden added that although the Fireworks Program was established by a vote of the people, this issue is an implementing portion of the program, and such adjustments can be made by the Council without a vote of the people. Councilor Thurmond commented that a 60-foot limit seemed realistic, allowing the permit holder to discharge fireworks within a range of 120 feet. Councilor Carter agreed. Mr. Wooden then stated that according to the Council's desire, the proper change would be made to the regulation and it would be brought before the Council for approval at the next meeting.

No action was taken or required.

- D. Approval of nomination of Mark Frie to the Convention and Visitors Bureau to fill the unexpired term of James Gordon, whose term expires September 30, 2010

Item Minutes: City Manager Dave Wooden stated the factual information as contained in the Fact Sheet provided in the agenda packet. He explained that the vacancy on the Convention and Visitors Bureau was created when appointee James Gordon's job position was relocated to Tulsa shortly after his appointment, making it difficult for him to attend the meetings and necessitating his removal from the board due to absenteeism. Mr. Wooden then stated that Mayor Lester has recommended Mr. Mark Frie for nomination to fill this vacancy, adding that the appointment of Mr. Frie to the Board would occur at the next Council meeting. Councilor Carter commented that Mr. Frie sounds like a very good candidate for this position.

Motion:	Move to approve the nomination of Mark Frie to the Convention and Visitors Bureau to fill the unexpired term of James Gordon, whose term expires September 30, 2011
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

10. City Manager's Report

Section Minutes: There was no city manager's report.

11. Preview Ordinances

Section Minutes: The Preview Ordinances 11A, 11B, and 11C were taken together. City Attorney Beth Anne Wilkening stated the factual information as contained in the Fact Sheet provided in the agenda packet.

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

- A. An ordinance amending Article II, Section 24-207 of the Broken Arrow Code, Billing: when due and payable; penalty for delinquency; discontinuing service for failure to pay
- B. An ordinance amending Article VI, Section 24-606 of the Broken Arrow Code, Charges associated with discontinuance of service; and repealing all ordinances to the contrary.
- C. An ordinance amending Chapter 2, Article IX, Sections 2-148, 2-150, 2-151, 2-152, 2-153, 2-155, 2-157, 2-168, and 2-169, of the Broken Arrow Code pertaining to Employee Rules and Regulations; repealing all ordinances to the contrary; and declaring an emergency

12. Ordinances

Section Minutes: The Ordinances 12A and 12B were taken together. City Attorney Beth Anne Wilkening stated the factual information as contained in the Fact Sheet provided in the agenda packet. She also recommended that these items be referred to by their numbers, 12A being 3116 and 12B being 3115.

- A. An Ordinance closing a utility easement in a tract of land lying in the Southeast Quarter of Section 35, Township 19 North, Range 14 East of the Indian Meridian, in Tulsa County, Oklahoma
- B. An Ordinance closing a utility easement in a tract of land lying in the Southeast Quarter of Section 35, Township 19 North, Range 14 East of the Indian Meridian, in Tulsa County, Oklahoma

Motion:	Move to adopt ordinances 3115 and 3116
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

Mayor Lester returned to item 7. [See Item 7]

Mayor Lester confirmed that he has received several complaints of this nature and suggested that the 100-foot designation be decreased to 50 or 60 feet, which would allow the permit holder to discharge fireworks within one lot on either side of their property. He stated that this may eliminate some these problems, and acknowledged that this may require people to be a little more diligent in planning their fireworks activities. The Mayor confirmed with City Attorney Beth Anne Wilkening that there were no problems making such a change from a legal standpoint.

Mr. Wooden added that although the Fireworks Program was established by a vote of the people, this issue is an implementing portion of the program, and such adjustments can be made by the Council without a vote of the people. Councilor Thurmond commented that a 60-foot limit seemed realistic, allowing the permit holder to discharge fireworks within a range of 120 feet. Councilor Carter agreed. Mr. Wooden then stated that according to the Council's desire, the proper change would be made to the regulation and it would be brought before the Council for approval at the next meeting. No action was taken or required.

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Motion: Move to approve the nomination of Mark Frie to the Convention and Visitors Bureau to fill the unexpired term of James Gordon, whose term expires September 30, 2011

Motion b Richard Carter

Second b Jill Norman

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

Nays: one

10. City Manager's Report

Section Minutes: There was no city manager's report.

11. Preview Ordinances

Section Minutes: The Preview Ordinances 11 A, 11 B, and 11 C were taken together. City Attorney Beth Anne Wilkening stated the factual information as contained in the Fact Sheet provided in the agenda packet.

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

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

A. An ordinance amending Article II, Section 24-207 of the Broken Arrow Code, Billing: when due and payable; penalty for delinquency; discontinuing service for failure to pay

B. An ordinance amending Article VI, Section 24-606 of the Broken Arrow Code, Charges associated with discontinuance of service; and repealing all ordinances to the contrary.

C. An ordinance amending Chapter 2, Article IX, Sections 2-148, 2-150, 2-151, 2-152, 2-153, 2-155, 2-157, 2-168, and 2-169, of the Broken Arrow Code pertaining to Employee Rules and Regulations; repealing all ordinances to the contrary; and declaring an emergency

12. Ordinances

Section Minutes: The Ordinances 12A and 12B were taken together. City Attorney Beth Anne Wilkening stated the factual information as contained in the Fact Sheet provided in the agenda packet. She also recommended that these items be referred to by their numbers, 12A being 3116 and 12B being 3115.

A. An Ordinance closing a utility easement in a tract of land lying in the Southeast Quarter of Section 35, Township 19 North, Range 14 East of the Indian Meridian, in Tulsa County, Oklahoma

B. An Ordinance closing a utility easement in a tract of land lying in the Southeast Quarter of Section 35, Township 19 North,

Range 14 East of the Indian Meridian, in Tulsa County, Oklahoma

Motion: Move to adopt ordinances 3115 and 3116

Motion b Richard Carter

Second b Craig Thurmond

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

Nays: None

Mayor Lester returned to item 7. See Item 7]

Broken Arrow City Council Page 3 of 4 July 20, 2010

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

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

At approximately 6:50 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting.

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

Mayor Lester reconvened the regular Council meeting at approximately 6:51 p.m.

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 recess prior to entering into Executive Session
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council meeting at approximately 6:52 pm.

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

Executive Session for the purpose of confidential communications between the City Council, the City Manager, and the City Attorney for the purpose of discussing the hiring of potential candidates for the position of Fire Chief under 25 O.S. §307(B)(1), and discussing taking appropriate action in open session on the litigation of United States of America v. Union Pacific Railroad Company (Double Eagle Refinery Superfund Site, Oklahoma City, OK), United States District Court for the Western District of Oklahoma, Case No. 5:06-CV-0887-C under 25 O.S. S307(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 7:05 p.m., and the room was opened for those in attendance.

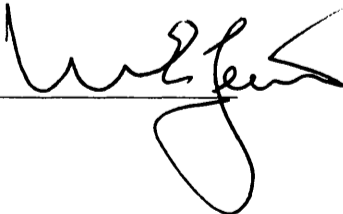
Motion:	Move to authorize the City Attorney to enter into negotiations for a consent order in USA v. Union Pacific
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

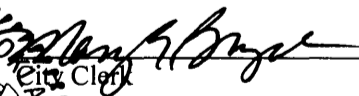
15. **Adjournment**


Section Minutes: The meeting adjourned at approximately 7:05 p.m.

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

 Mayor



Attest:

 City Clerk



13. Remarks and Inquiries by Governing Body Members

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

At approximately 6:50 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting.

Motion: Move to recess into the Broken Arrow Municipal Authority

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

Mayor Lester reconvened the regular Council meeting at approximately 6:51 p.m.

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 recess prior to entering into Executive Session

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

Mayor Lester reconvened the regular Council meeting at approximately 6:52 pm.

Motion: Move to enter into Executive Session

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

Executive Session for the purpose of confidential communications between the City Council, the City Manager, and the City Attorney for the purpose of discussing the hiring of potential candidates for the position of Fire Chief under 25 O.S. 307(B)(1), and discussing taking appropriate action in open session on the litigation of United States of America v. Union Pacific Railroad Company Double Eagle Refinery Superfund Site, Oklahoma City, OK), United States District Court for the Western District of Oklahoma, Case No. 5:06-CV-0887-C under 25 O.S. S307(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 7:05 p.m., and the room was opened for those in attendance.

Motion: Move to authorize the City Attorney to enter into negotiations for a consent order in USA v. Union Pacific

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

15. Adjournment

Section Minutes: The meeting adjourned at approximately 7:05 p.m.

Motion: Move to adjourn

Motion b Richard Carter

Second b Jill Norman

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

Nays: None

F P Attest:

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Broken Arrow City Council Page 4 of 4 July 20, 2010