

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
June 1, 2009**

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

Present:	Craig Thurmond, Philip Tucker, Richard Carter, Wade McCaleb and Mike Lester
Absent:	None

Section Minutes: Councilor Carter ran a bit late arriving at about 6:40 p.m. in time to participate in the votes after Item 7C.

4. Pledge of Allegiance to the Flag

Section Minutes: Mayor 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:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Philip Tucker, Mike Lester
Nays:	None

- A. Approval of the regular meeting minutes of May 19, 2009
- B. Approval of special meeting minutes of May 20, 2009
- C. Acceptance of minutes of May 14, 2009 Planning Commission meeting
- D. Approval of and authorization to execute an Arrangement Letter with Hogan Taylor, LLP to conduct the Fiscal Year 2009 audit.
- E. Approval of and authorization to execute an architect-engineer agreement for design of the Animal Shelter
- F. Approval of and authorization to execute an architect-engineer agreement for site drainage of the Public Safety Training Facility
- G. Approval of bids received and award of the most advantageous bid to Becco Contractors, Inc. for Asphalt Concrete Street Mill and Overlay, Stacy Lynn 5th Addition
- H. Approval of bids received & award the most advantageous bid for two dump trucks

- I. Approval of PT09-101 conditional final plat, CVS at Wilburn Square, 1.71 acres, 1 lots, CN/PUD 199, southwest corner of Elm Place (161st East Avenue) and Tucson Street (121st Street)
- J. Acceptance of a Deed of Dedication and Utility Easement from Family Video Movie Club (S27 T18N R14E) (Project: Family Video DN08-155)
- K. Acceptance of a Deed of Dedication and Storm Sewer Easement from Ray H. Wilburn (S3 T17N R14E) (Project: CVS Pharmacy @ Wilburn Square DN09-101)
- L. Acceptance of a General Warranty Deed and Utility Easement from Jim and Britni Husband, husband and wife (S24 T18N R14E) (Project: New Orleans Widening from 9th to 23rd Street)
- M. Acceptance of a Utility Easement from Broken Arrow Medical Facility, LLC (S34 T19N R14E) (Project: Lot Split for L1, B6, Stoneridge Towne Center)
- N. Approval of final acceptance of Public Improvements for Aspen Commercial Center
- O. Approval of final acceptance of Public Improvements at Broken Arrow Public Schools 4th & 5th Grade Center
- P. Approval of final acceptance of Public Improvements Midland Vinyl Fence
- Q. Approval of final acceptance of Public Improvements Northside Christian Church
- R. Approval of acceptance of donation of Public Improvements by Outlot #3
- S. Approval of final acceptance of Public Improvements O'Reilly Auto Parts #3
- T. Approval of final acceptance of Public Improvements for Quik-Trip #94
- U. Approval of final acceptance of Public Improvements at Villas at Aspen Park
- V. 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

- A. Proclamation: Relay for Life

Item Minutes: Mayor Lester asked for a motion to execute and present this Proclamation. Mr. Henry Busky, Chairperson for the Relay for Life, was present to accept the Proclamation.

Motion:	Move to approve and authorize execution of Proclamation commemorating the Relay for Life
Motion by:	Craig Thurmond
Second by:	Philip Tucker
Ayes:	Craig Thurmond, Philip Tucker, Wade McCaleb, Mike Lester
Nays:	None

- B. Public Hearing: Proposed 2009-2010 Fiscal Year Budget

Item Minutes: Mayor Lester stated that the Public Hearing regarding the proposed 2009-2010 Fiscal Year Budget was now open.

Mayor Lester announced a second time that the public hearing was open and asked if there was anyone present who wished to speak regarding the proposed budget. No one came forward.

Mayor Lester announced the public hearing open for the third time and asked if anyone wished to speak. No one came forward to speak.

Mayor Lester stated that no one came forward to speak and announced the Public Hearing regarding the proposed 2009-2010 Fiscal Year Budget to be closed.

C. General Fund Financial Status Briefing for the Period Ending April 30, 2009

Item Minutes: Finance Director, Mr. Tom Caldwell, presented this item consistent with the Fact Sheet and budget information provided in the agenda packet.

No action was required or taken.

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

Section Minutes: Ms. Cathy McGill, 21465 East 43rd Street, Broken Arrow, and Ms. Renae' LaViness, 21066 East 43rd Street, Broken Arrow, spoke regarding the New Tulsa/Sun City rezoning relating to Item 9B. Ms. McGill and Ms. LaViness said their comments also applied to Item 9B and they were speaking in favor of this item. Both speakers wanted to encourage the City to work together with the residents in opposition to the rezoning to resolve the matter.

Ms. Wilkening commented that an appeal of the Planning Commission's denial of rezoning would be heard at the June 15, 2009 Council meeting.

9. **General Council Business**

A. Approval of the agreement with Blue Cross Blue Shield of Oklahoma to provide third party administration services and re-insurance coverage for the employee health and dental plan for fiscal year 2009-10

Item Minutes: Ms. Fazila Kahn of Blue Cross Blue Shield, presented a slide presentation attached hereto. She reviewed the proposed plan changes as shown on the slide presentation and said that, if approved, these changes would go into effect on January 1, 2010. Ms. Kahn summarized saying that based upon utilization, medical trends and the current benefit structure BCBSOK is advising the estimated cost of the plan will increase by 11.8% and the total increase recommended is 12.8%.

Human Resources Director, Mr. Russell Gale, stated that the effective date of January 1, 2010 was due to the required negotiations with CWA which were in progress.

Motion:	Move to approve the agreement with Blue Cross Blue Shield of Oklahoma to provide third party administration services and re-insurance coverage for the employee health and dental plan for fiscal year 2009-10
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

B. Approval of and authorization to issue a building permit for Storage Building, 21465 E. 43rd St., Sun City Addition

Item Minutes: Development Services Director, Mr. Michael Skates, presented this item. He stated that Ms. Cathy McGill approached the City in December 2008 about obtaining a permit to rebuild a storage building that was destroyed by a tornado, and City staff advised Ms. McGill of the requirement to re-zone the property due to its annexation into the City as part of the overall Sun City Addition. Mr. Skates said the Planning Commission heard the item on March 26, 2009 and denied the re-zoning. He added that Ms. McGill is in dire need of her storage barn and although not happy with the zoning issue, she has been patiently waiting since December for the hopeful approval of the re-zoning. Mr. Skates said the City is appealing the Planning Commission decision and the appeal will be heard before City Council at the June 15, 2009 meeting.

Mr. Skates added that staff can support issuing Ms. McGill a building permit but explained to Ms. McGill that if the appeal to City Council is not approved, she would then be required to re-zone at her own cost.

Motion:	Move to approve and authorize issuing a building permit for Storage Building, 21465 E. 43rd St., Sun City Addition
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- C. Approval of SP 192B, a helicopter landing pad, south of New Orleans Street (101st Street), west of the Creek 88Turnpike, across from Northeastern State University.

Item Minutes: Mr. Skates presented this item consistent with the Fact Sheet provided in the agenda packet, and reviewed the details provided therein.

Motion:	Move to approve SP 192B, a helicopter landing pad, south of New Orleans Street (101st Street), west of the Creek Turnpike, across from Northeastern State University
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- D. Approval of nominations for Broken Arrow Economic Development Corporation Board

Item Minutes: City Manager, Mr. Jim Twombly, presented this item consistent with the Fact Sheet provided in the Agenda packet. He explained that three position terms expired and the Chamber President and Broken Arrow Schools Superintendent nominated the following three individuals:

Jeff Hartman - three year term
 Betsy Gerber - three year term
 Ed Huckleby for the two years remaining on Jack Ross' term.

Mr. Twombly said he agreed with the nominations presented for Council approval, and said these nominees will be provided to the Broken Arrow Public School Board and the Chamber Executive Committee at their next meetings with a recommendation to approve.

Motion:	Move to approve nominations for Broken Arrow Economic Development Corporation Board
Motion by:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Philip Tucker, Richard Carter, Mike Lester
Nays:	None

- E. Approval of re-appointments of five (5) lay member positions to serve on the Judicial Nominating Committee

Item Minutes: Mayor Lester said these nominations were approved at the May 19, 2009 Council meeting. He said the nominated individuals listed below were now before Council for consideration of re-appointment:

Ward 1 - Donald Roulet
 Ward 2 - Tom Chatterton
 Ward 3 - Carolyn Isbell-Carr
 Ward 4 - Archer Honea
 At-Large - Chuck D. Stophel

Motion:	Move to approve re-appointments of five (5) lay member positions to serve on the Judicial Nominating Committee
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

10. City Manager's Report

A. 2009 Citizens Survey

Item Minutes: Mr. Twombly presented this report consistent with the report provided in the Agenda packet. He said that the survey showed that most residents believed they experience a good quality of life in the City of Broken Arrow and believe the city is a good place to live. He added that the overall quality of life in the City of Broken Arrow was rated as "excellent" or "good" by 91% of respondents, and almost all reported they plan on staying in Broken Arrow for the next five years. He provided additional detail by review of survey results presented in a slide presentation which is attached hereto.

No action was taken or required.

B. Spring Clean Up 2009

Item Minutes: Mr. Twombly presented this item and reviewed the details as presented in the report provided in the Agenda packet.

No action was required or taken.

11. Preview Ordinances

Section Minutes: There were no preview ordinances.

12. Ordinances

Section Minutes: City Attorney, Ms. Beth Anne Wilkening, presented the Ordinances. She said that these ordinances were previewed previously and all but Ordinance 3039 had an emergency clause.

Motion:	Move to adopt Ordinances 3028, 3031, 3038 and 3040
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to approve the Emergency Clause for Ordinances 3028, 3031, 3038 and 3040
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

- A. Ordinance No. 3028 - An Ordinance amending the Broken Arrow Code, Chapter 2, Employee Rules and Regulations, Section 2-170, Disciplinary Action; repealing all ordinances to the contrary and declaring an emergency
- B. Ordinance No. 3031 - An ordinance amending the Broken Arrow Business License Code, Chapter 7, Article I; repealing all ordinances to the contrary and declaring an emergency.

C. Ordinance No. 3038 - An ordinance amending the Broken Arrow Building Code, Chapter 6, repealing all ordinances to the contrary and declaring an emergency.

D. Ordinance No. 3039 - An ordinance closing a portion of an easement located on lot 1 block 1, Silvertree Park

Motion:	Move to approve the Ordinances 3039
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

E. Ordinance No. 3040 - An ordinance amending Chapter 14, Article I, Sections 14-6 and 14-6.1 pertaining to the establishment of the judicial nominating committee and selection of judges; repealing all ordinances to the contrary; and declaring an emergency.

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Mayor Lester said that the Board of Adjustment nominations were still pending. He said that Renae Rae' was the nominee already under consideration, and he wanted to recommend Randy Cherry for nomination. He asked that Councilors provide to the City Clerk within the next week, any additional names they would like to submit, and the names would be presented at the June 15, 2009 Council meeting.

Vice Mayor Tucker said he appreciated the rescheduling of the June Council meetings in recognition of the Concerts in the Park program which takes place on Tuesdays. Councilor Carter said he also appreciated the rescheduling of the meetings and added his apology for running late due to due getting from work to the meeting on Monday evenings.

At 7:39 p.m., Mayor Lester asked for a motion to recess to enter into the Broken Arrow Municipal meeting and the Broken Arrow Economic Development Authority meeting.

Motion:	Move to approve recess to enter into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Mayor McCaleb reconvened the regular Council meeting at 9:02 p.m. and asked for a motion to take a brief recess prior to Executive Session.

Motion:	Move to take a brief break prior to entering into Executive Session
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council meeting at 9:05 p.m.

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

14. Executive Session for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City's Attorney for the purpose of conferring on settlement offers in the cases of City of Broken Arrow v. Gloria Mayfield, et al., Tulsa County District Court Case Number CJ-2008-1625; City of Broken Arrow v. Kyle and Rebecca Hunt, Tulsa County District Court Case Number CJ-2008-7326; all under 25 O.S. § 307(B)(4); and for the purpose of conferring on contract negotiations concerning the IAFF, CWA and FOP employee groups under 25 O.S. § 307(B)(2). The Council is advised that disclosure will seriously impair the ability of the public body to process this 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.

Motion:	Move to authorize the City Attorney's office to settle the case of the City of Broken Arrow v. Mayfield, et al. for the amount of \$35,000.00
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to table the case of the City of Broken Arrow v. Hunt.
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

15. **Adjournment**

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

The meeting adjourned at 9:10 p.m.

Mayor

City Clerk

