

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
June 15, 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

4. Pledge of Allegiance to the Flag

Section Minutes: Councilman Carter led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Mayor Lester asked if there are any items to remove from the Consent Agenda. There being none, the Mayor asked for a Motion to approve.

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

- A. Approval of regular meeting minutes of June 1, 2009
- B. Approval of special meeting minutes of June 3, 2009
- C. Approval of special meeting minutes of June 8, 2009
- D. Approval of agreement with Oklahoma Natural Gas Company for relocation of gas facilities at Aspen Avenue, Florence to New Orleans
- E. Approval of an agreement with Oklahoma Turnpike Authority for a feasibility study of an interchange at the intersection of Aspen Avenue and the Creek Turnpike
- F. Approval of a contract between the City of Broken Arrow and American Municipal Services (AMS) for Collection of Fines
- G. Approval of City of Broken Arrow annual Services Contract with Broken Arrow Seniors, Inc.
- H. Approval of contract with Granicus to provide web-streaming services for City Council and other City meetings

- I. Approval of the renewal of Battle Creek Golf Course and Business and Auto Insurance for fiscal year 2009-10.
- J. Approval of the renewal of City-wide Property Insurance for fiscal year 2009-10
- K. Approval to place directional signs in designated Rights-of-way for the 2009 Parade of Homes.
- L. Acceptance of Public Improvements in the Castlegate Subdivision
- M. Acceptance of Temporary Construction Easements from Linda M. & Bruce Galbierz (S34 T18N R14E)
- N. Acceptance of a General Warranty Deed from Linda M. & Bruce Galbierz (S34 T18N R14E)(Project: ST0533)
- 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.

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

- A. Proclamation: Broken Arrow Historical Society and Museum

Item Minutes: Mayor Lester read the Proclamation aloud and presented it to representatives of the Historical Society and Museum.

Motion:	Move to authorize execution of and presentation of Proclamation honoring the Broken Arrow Historical Society and Museum
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Craig Thurmond, Richard Carter, Philip Tucker, Wade McCaleb, Mike Lester
Nays:	None

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

Section Minutes: There were no requests to address Council.

9. General Council Business

- A. Termination of Employment Agreement with James M. Twombly and Approval of and Authorization to Execute a General Release and Separation Agreement with James M. Twombly and Approval of Budget Amendment No. 13

Item Minutes: Mayor Lester made the following statement:

On July 12, 2004, James M. Twombly assumed his duties as the City Manager for the City of Broken Arrow. Under his leadership, the City has seen tremendous growth, particularly in the area of economic development. As a result of his efforts, citizens and visitors alike now have greater selection in restaurants and increased access to major retail areas. He has improved relations with the Broken Arrow Public Schools and was instrumental in the formation of the Economic Development Corporation, an organization charged with the responsibility of expanding growth, employment, and development in the Broken Arrow area. Mr. Twombly has overseen the dissemination of a comprehensive citizen's survey, and has tirelessly worked toward meeting the objectives set forth therein. He has also encouraged professional development among Department Directors and employees, worked towards full implementation of a comprehensive environmental program, overseen the comprehensive development of an east side planning study, and played a key role in the City's acquisition of numerous parcels of land.

With all of these accomplishments in mind, it has been requested that the City Council have the opportunity to consider a different direction for management for the City of Broken Arrow. The attached document is presented for Council's consideration. It provides for termination of the existing contract effective June 16, 2009, and a payout in conformance therewith.

The attached Budget Amendment is necessitated by insufficient funds in the City Manager's budget. Importantly, there are sufficient unencumbered funds available in the General Fund to satisfy the terms of the contract and as such, are in compliance with State law.

Mayor Lester said that in any profession there are skills relevant to specific times, and such is the case with Mr. Twombly. Mayor Lester stated that, at the particular time Mr. Twombly was hired, he had the skills that were needed by the City. He added that now it was time to move in a new direction. Mayor Lester asked if there were any comments from Council. Councilor Thurmond said that Mr. Twombly implemented the Character Counts program for City employees and it has been a very successful program. Councilor Thurmond said that Mr. Twombly also brought the green city initiative to Broken Arrow making it the leading 'green city' in the state at this time. Councilor Thurmond said Mr. Twombly was the best of the 111 candidates that applied for the City Manager position. Councilor Carter said Mr. Twombly fulfilled the goals that he was hired to achieve and thanked him for his hard work and efforts he performed faithfully. Councilor Carter added that Mr. Twombly had the welfare of the citizens at heart. Councilor McCaleb said he wished Mr. Twombly well and said he has done a good job.

Motion:	Move to approve termination of Employment Agreement with James M. Twombly
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

Motion:	Move to approve and authorization to Execute a General Release and Separation Agreement with James M. Twombly
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

Motion:	Move to approve Budget Amendment No. 13
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

B. Appointment of an Acting City Manager

Item Minutes: Mayor Lester asked for a Motion to appoint Assistant City Manager, Dave Wooden, as Acting City Manager.

Motion:	Move to approve appointment of Assistant City Manager, Dave Wooden, as Acting City Manager
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- C. Approval of a Resolution establishing the necessity of improvements to the sanitary sewer systems of Arrow Acres, located South of Washington Street and West of 1st Street, adopting and approving the Municipal Engineer's preliminary construction plans, preliminary estimate and assessment plat, declaring the work of the improvement necessary to be done, and establishing a hearing on the proposed improvements

Item Minutes: Mr. Wooden stated that on August 20, 2007, the Broken Arrow City Council approved the acceptance of the Petition submitted by Markus Kaspereit and signed by citizens from the Arrow Acres subdivision requesting the establishment of a Sewer Assessment District for their neighborhood. Mr. Wooden stated that Council directed the City Engineer to prepare preliminary plans, a preliminary estimate, and an assessment plat. He added that, as the preliminary design progressed, it was determined that six additional lots in this neighborhood would be added to the proposed project area.

Mr. Wooden said that on May 5, 2009, the Council adopted Resolution No. 588 which declared the necessity of the proposed improvements and authorized the City Engineer to prepare and file preliminary construction plans. Mr. Wooden said t Resolution 590 once again states the necessity of the sanitary sewer improvements, and also adopts and approves the City Engineer's preliminary construction plans, preliminary estimate, and assessment plat, as well as authorizing the work on these improvements to be done, and establishes a public hearing on the proposed improvements and provides for notice in accordance with state law.

Motion:	Move to approve Resolution No. 590, a Resolution establishing the necessity of improvements to the sanitary sewer systems of Arrow Acres, located South of Washington Street and West of 1st Street, adopting and approving the Municipal Engineer's preliminary construction plans, preliminary estimate and assessment plat, declaring the work of the improvement necessary to be done, and establishing a hearing on the proposed improvements
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- D. Approval of Resolution of Necessity No. 591 for authority to proceed with condemnation of the property located in the Northwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma (Washington Street - Elm to 1st Widening Project)

Item Minutes: Mr. Wooden presented this item consistent with the Fact Sheet provided in the agenda packet.

Motion:	Move to approve Resolution 591, a Resolution of Necessity for authority to proceed with condemnation of the property located in the Northwest Quarter of Section 23, Township 18 North, Range 14 East, Tulsa County, State of Oklahoma (Washington Street - Elm to 1st Widening Project)
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- E. Consideration possible approval and execution of Resolution 592, a Resolution of the Broken Arrow City Council, adopting the Fiscal Year 2009-2010 Annual Budget for the City in accordance with the provisions of the Municipal Budget Act

Item Minutes: Mr. Wooden stated that Council reviewed proposed Fiscal Year 2009-2010 Budget on May 20, 2009, and a Public Hearing was held at the regularly scheduled City Council meeting on June 1,

2009. He said the proposed Budget includes all funds of the City and added that no one asked to speak or comment regarding the proposed FY 2009-2010 Budget during the Public Hearing.

Motion:	Move to approve and authorize execution of Resolution 592, a Resolution of the Broken Arrow City Council, adopting the Fiscal Year 2009-2010 Annual Budget for the City in accordance with the provisions of the Municipal Budget Act
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- F. Approval of Resolution No. 594 Refusing to Accept the Battle Creek Land Development, Inc.'s Land Conveyance

Item Minutes: Mr. Wooden stated that on December 14, 2003, Battle Creek Land Development, Inc., attempted to convey a General Warranty Deed to the City of Broken Arrow Public Golf Authority. He explained that to date, the City has not accepted the Battle Creek Land Development's conveyance, and it is not in the best interest of the public for the City to accept the conveyance as acceptance of the land would result in expenses for maintenance for land that does not benefit the public but only the surrounding property owners. Details are provided in the Resolution provided in the agenda packet.

Motion:	Move to approve Resolution No. 594 Refusing to Accept the Battle Creek Land Development, Inc.'s Land Conveyance
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- G. Consideration of a Resolution authorizing the City Attorney to agree to Entry of Judgment in the case of The City of Broken Arrow, Oklahoma v. Gloria J. Mayfield, et al., Tulsa County District Court Case Number CJ-2008-1625 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry for the court's approval, pursuant to 51 O.S. Section 158

Item Minutes: Assistant City Attorney, Ms. Lesli Myers, presented this item consistent with the Fact Sheet contained in the Agenda Packet.

Motion:	Move to approve Resolution 595, a Resolution authorizing the City Attorney to agree to Entry of Judgment in the case of The City of Broken Arrow, Oklahoma v. Gloria J. Mayfield, et al., Tulsa County District Court Case Number CJ-2008-1625 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement, including a Journal Entry for the court's approval, pursuant to 51 O.S. Section 158
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- H. Approval of Resolution No. 596 designating the support of the City of Broken Arrow for favorable treatment to be given for a low income housing tax credit award under the Oklahoma Affordable Housing Tax Credit Program for the Kenwood Hills Apartments located at 512 East Madison Street in the City of Broken Arrow

Item Minutes: Mr. Wooden introduced Mr. Lou Reynolds to speak regarding this item. Mr. Reynolds summarized the information provided in the Fact Sheet provided in the agenda packet and attached documents. This item was presented in accordance with the Fact Sheet and documentation provided in the Agenda packet

Motion:	Move to approve Resolution No. 596 designating the support of the City of Broken Arrow for favorable treatment to be given for a low income housing tax credit award under the Oklahoma Affordable Housing Tax Credit Program for the Kenwood Hills Apartments located at 512 East Madison Street in the City of Broken Arrow
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

I. Consideration, possible approval of and authorization to execute Community Development Block Grant (CDBG) Fiscal Year 2009 Social Services allocation recommendation:

Item Minutes: Mr. Wooden presented this item stating that this is the 2nd year of participation in the Tulsa County Community Development Block Grant program and the City of Broken Arrow will receive \$458,894 as its allocation of funds. He said this amount represents an increase of \$8,894 from the previous year's allocation, and the City may spend up to 15% of its allocation amount to fund social service organizations as it has in previous years. Mr. Wooden explained that for program year 2009, the City may allocate \$68,834 for social service programs which is \$1,334 (2.0%) more than was available last year. He added that in May, applications were solicited from Broken Arrow social service providers; applications were received from eight providers with funding requests totaling \$84,867; the applications were evaluated based on program eligibility, population served, services to be provided, cost per beneficiary and compliance with grant requirements. Details regarding the applications and recommendations for funding were provided in the Agenda packet, and the following projects are recommended for funding for Program Year 2009:

Broken Arrow Neighbors	\$16,756
Broken Arrow Seniors	12,567
Margaret Hudson Program	11,805
Family & Children's Services	8,378
Child Abuse Network	7,016
Rhoades Elem. Before/After School Tutoring	4,500
Treetops Outreach	4,439
Arrow Springs Elem. After School Tutoring	3,373
	\$68,834

Motion:	Move to approve and authorization to execute Community Development Block Grant (CDBG) Fiscal Year 2009 Social Services allocation recommendation:
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

- J. Approval of nominations to fill a vacancy on the Board of Adjustment.

Item Minutes: Councilor Thurmond moved to nominate Randy Cherry to fill the vacancy on the Board of Adjustment.

Motion:	Move to approve nomination of Randy Cherry to fill a vacancy on the Board of Adjustment
Motion by:	Craig Thurmond
Second by:	Philip Tucker
Ayes:	Craig Thurmond, Philip Tucker, Richard Carter, Wade McCaleb, Mike Lester
Nays:	None

10. City Manager’s Report

- A. Citizens Survey part 2

Item Minutes: Acting City Manager, Mr. Dave Wooden, asked that this report be postponed until the next meeting.

- B. Receive Report reviewing 911 Services

Item Minutes: Mr. Wooden asked that this report be presented at a later meeting.

11. Preview Ordinances

Section Minutes: These preview ordinances present updates to bring the ordinances into compliance with changes in State Statutes.

- A. An ordinance amending Chapter 4, Article I, Section 4-1 of the Broken Arrow Code pertaining to Definitions; repealing all ordinances to the contrary; and declaring an emergency.

Motion:	Move to approve passing ordinance forward to the July 7, 2009 meeting
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Mike Lester, Philip Tucker
Nays:	Wade McCaleb

- B. An ordinance amending Chapter 4, Article II, Section 4-13 of the Broken Arrow Code pertaining to Transporting intoxicating beverages in opened containers and possession in public places; repealing all ordinances to the contrary; and declaring an emergency.

Motion:	Move to approve passing ordinance forward to the July 7, 2009 meeting
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Richard Carter, Craig Thurmond, Philip Tucker, Mike Lester
Nays:	Wade McCaleb

- C. An ordinance amending Chapter 4, Article V, Section 4-86 of the Broken Arrow Code pertaining to Transporting low point beer in opened containers and possession in public places; repealing all ordinances to the contrary; and declaring an emergency.

Motion:	Move to approve passing ordinance forward to the July 7, 2009 meeting
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Richard Carter, Philip Tucker, Craig Thurmond, Mike Lester
Nays:	Wade McCaleb

12. **Ordinances**

Section Minutes: There were none.

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

Section Minutes: There were none.

At approximately, 7:08 p.m., the Mayor asked for a motion to recess to enter into the Broken Arrow Municipal Authority and the Broken Arrow Economic Development Authority.

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

The Mayor reconvened the regular meeting at 7:12 p.m.

Mayor Lester asked for a motion to take a brief recess prior to entering into Executive Session.

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

Mayor Lester reconvened the regular session at 7:20 p.m.

Motion:	Move to enter into Executive Session
Motion by:	Craig Thurmond
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Richard Carter, Philip Tucker, Craig Thurmond, 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 Security Bank v 106 S 68th St, LLC, et al, Wagoner County District Court Case Number CJ-2009-464; 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.**

Mayor Lester reconvened the regular session at 7:41 p.m.

Motion:	Move to authorize Human Resources Director to continue negotiations with all unions and at this time, no general salary increase is authorized.
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Richard Carter, Philip Tucker, Craig Thurmond, Mike Lester
Nays:	None

Motion:	Move to authorize the City to disclaim a total bill of \$177.90 in the case of Security Bank v. 106 S. 68th St, LLC, et al.
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Richard Carter, Philip Tucker, Craig Thurmond, Mike Lester
Nays:	None

15. Adjournment

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

The meeting adjourned at 7:43 p.m.

Attest:

Mayor

City Clerk

BARBEN MEMORIAL CITY CENTER

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