

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
September 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:	Philip Tucker, Richard Carter, Wade McCaleb and Mike Lester
Absent:	Craig Thurmond

4. Pledge of Allegiance to the Flag

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

5. Consideration of Consent Agenda

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

- A. Approval of regular meeting minutes of August 18, 2009
- B. Acceptance of the minutes of the Planning Commission meeting held August 13, 2009
- C. Approval of and authorization to execute Budget Amendment Number 6 for Fiscal Year 2009-2010
- D. Approval of service contract with Lucy Simpson, MS, LCP for Fiscal Year 2009-2010
- E. Approval of a Contract with the Metropolitan Tulsa Transit Authority to Provide Public Transportation Services for Fiscal Year 2009-10
- F. Approval of the Workers' Compensation Order on Jonathan Williams a Fire Department employee.
- G. Ratification of Resolution 608, a Resolution of the Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine-One-One (9-1-1) Emergency Telephone Fee for calendar year 2010 at five percent (5%)

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5. Consideration of Consent Agenda

Motion: Move to approve the Consent Agenda as presented

Motion b Philip Tucker

Second b Wade McCaleb

Ayes: Philip Tucker. Wade McCaleb. Richard Carter. Mike Lester

Nays: None

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B. Acceptance of the minutes of the Planning Commission meeting held August 13, 2009

C. Approval of and authorization to execute Budget Amendment Number 6 for Fiscal Year 2009-2010

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Broken Arro\\ C'ih Council Agenda Page I of I September I. 2009

- H. Approval of Resolution No. 609 authorizing the execution of an ODOT Project Agreement for Resurfacing Kenosha Street from Main to Sixth Street
- I. Approval of Resolution No. 610 authorizing the execution of an ODOT Project Agreement for Resurfacing Kenosha Street from Hickory Court to Aspen Avenue
- J. Approval of Resolution No. 611 authorizing the execution of an ODOT Project Agreement for Traffic Signals at Albany Street and Stone Ridge Drive
- K. Approval of Resolution No. 612 authorizing the execution of an ODOT Project Agreement for Traffic Signals at new Orleans and Ninth Street
- L. Approval of Resolution No. 613 authorizing the execution of an ODOT Project Agreement for Traffic Signals at Elm Place and Stonewood Drive
- M. Approval of Resolution No. 614 declaring the eligibility of the City of Broken Arrow to submit an application to the Oklahoma Department of Transportation for use of Safe Routes to Schools funds set forth by SAFETEA-LU for the Indian Springs Elementary School Trail project in Broken Arrow, and authorizing the Mayor to sign this Application
- N. Approval of Work Order Number W016 for Concrete Street Repairs and the Concrete Curb and Gutter Repairs to the Quail Run Subdivision
- O. BAZ 1837, 2.31 acres, 1 lot, R-1 to CG, one-fourth mile west of the southwest corner of Olive Avenue (129th East Avenue) and Kenosha Street (71st Street)
- P. PT09-102, conditional final plat, Kum & Go 877, 7.59 acres, 2 lots, CG, northeast corner of 9th Street (Lynn Lane/177th East Avenue) and Albany Street (61st Street).
- Q. SP 232, Union Eighth Grade Center, 30.90 acres, 1 lot, R-3, RM, SP 20 and SP 147, one-half mile north of Kenosha Street (71st Street), east of Garnett Road (113th East Avenue)
- R. Acceptance of a Deed of Dedication, Temporary Drainage Easement and Utility Easement from E.A. Schermerhorn, B.K. Schermerhorn, Starlight Investments, LLC, J. Alan Davis and Joan Zappe Davis (S35 T19N R14E) (Project: Park at Mission Hills DN08-119)
- S. Acceptance of three (3) Access Easements and a Waterline Easement from Tulsa Technology Center School District No. 18 (S29 T18N R14E) (Project: Tulsa Tech School District No. 18 DN 07-155)
- T. Acceptance of a Temporary Drainage Easement and Utility Easement from White Earth, LLC (S35 T19N R14E) (Project: Park at Mission Hills DN08-119)
- U. 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. Public Hearing: Arrow Acres Assessment District

Section Minutes: Mayor Lester called the public hearing open three times. Mayor Lester said that one protest letter from Larry and Rita Wilson was received regarding the Arrow Acres Assessment District. Mrs. Rita Wilson came forward to address Council. She stated that her home already had a septic system which they put in because the City refused to provide sewer

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Broken Arrow City Council Agenda Page 2 of 2 September 1, 2009

service a few years ago when they built their home. She said that as a result of putting in a good septic system and, as retirees on a fixed income, she did not feel they should carry the burden of paying a share of the sanitary sewer improvements via the proposed assessment district. As they will not connect to it.

Ms. Wilkening said that Council would hear any protests or comments this evening, but no decision would be made. She explained that Council would need to determine if protests were sufficient or insufficient and this would be done by Resolution at the next Council meeting.

Mayor Lester asked if there were any other speakers. Hearing none, he started to declare the public hearing closed but stopped due to a citizen requesting to speak. Mr. Larry Whitaker asked about the assessments and how they are made. He said he had one of the larger lots, had his own septic system, and was concerned that he would have to pay more if the cost is apportioned based on lot size. City Engineer, Mr. Tom. Hendrix said the costs would be apportioned by lot size but final cost figures were not yet known but the estimated costs were available.

Mayor Lester asked if there were any other speakers for the public hearing. There being none, Mayor Lester declared the public hearing closed.

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services (approximately 7:00 p.m.)

Section Minutes: There were no requests to speak.

9. General Council Business

A. Approval of a contract with Affion Public, LLC to conduct the search for a City Manager

Item Minutes: Human Resources Director, Mr. Russell Gale, presented this item in accordance with the Fact Sheet and attachments provided in the agenda packet. Mr. Gale said that staff received eight proposals and a committee consisting of Councilmember Richard Carter, the Acting City Manager, City Attorney, Deputy Police Chief and Human Resources Director reviewed each proposal and collectively selected three firms for interviews. He said the committee unanimously concluded that Affion Public presented the most advantageous proposal, and the attached contract memorializes the agreement for services and corresponding costs.

Motion:	Move to approve contract with Affion Public, LLC to conduct the search for a City Manager
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Philip Tucker, Wade McCaleb, Richard Carter, Mike Lester
Nays:	None

B. Approval of Interagency Agreement to establish DA Taskforce on Crimes Against Children

Item Minutes: This item was presented in accordance with the Fact Sheet provided in the agenda packet

Motion:	Move to approve Interagency Agreement to establish DA Taskforce on Crimes Against Children
Motion by:	Philip Tucker
Second by:	Wade McCaleb
Ayes:	Philip Tucker, Wade McCaleb, Richard Carter, Mike Lester

service a few years ago when they built their home. She said that as a result of putting in a good septic system and, as retirees on a fixed income, she did not feel they should carry the burden of paying a share of the sanitary sewer improvements via the proposed assessment district. As they will not connect to it.

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Motion: Move to approve contract with Affion Public, LLC to conduct the search for a City Manager

Motion by Richard Carter

Second by Philip Tucker

Ayes: Philip Tucker, Wade McCaleb, Richard Carter, Mike Lester

Nays: None

B. Approval of Interagency Agreement to establish DA Taskforce on Crimes Against Children

Item Minutes: This item was presented in accordance with the Fact Sheet provided in the agenda packet

Motion: Move to approve Interagency Agreement to establish DA Taskforce on Crimes Against Children

Motion by Philip Tucker

Second by Wade McCaleb

Ayes: Philip Tucker. Wade McCaleb. Richard Carter. Mike Lester
Broken Arrow City Council Agenda Page 3 of 3 September I. 2009

Nays:	None
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- C. Approval of the Fiscal Year 2009-10 Labor Agreement with the Fraternal Order of Police Lodge # 170

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

Motion:	Move to approve the Fiscal Year 2009-10 Labor Agreement with the Fraternal Order of Police Lodge # 170
Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

- D. Approval of nominations of two attorney representatives to the Judicial Nominating Committee, as provided by Section 14-6 of the Broken Arrow Code

Item Minutes: Ms. Wilkening presented this item in accordance with the Fact Sheet provided in the agenda packet.

Motion:	Move to approve nominations of two attorney representatives to the Judicial Nominating Committee, as provided by Section 14-6 of the Broken Arrow Code
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

- E. Consideration of and possible action on request for removal of the Sewer Plant sign on South 9th Street at the entrance to the Oaks at Indian Springs

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

Motion:	Move to deny request for removal of the Sewer Plant sign on South 9th Street at the entrance to the Oaks at Indian Springs
Motion by:	Philip Tucker
Second by:	Mike Lester
Ayes:	Philip Tucker, Mike Lester
Nays:	Richard Carter, Wade McCaleb

10. City Manager's Report

- A. Police Department ICMA Study Action Plan

Section Minutes: Police Chief, Todd Wuestewald, presented the item in accordance with the Fact Sheet provided in the agenda packet.

No action was taken or required.

Nays:

None

C. Approval of the Fiscal Year 2009-10 Labor Agreement with the Fraternal Order of Police Lodge # 170

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

Motion: Move to approve the Fiscal Year 2009-10 Labor Agreement with the Fraternal Order of Police Lodge # 170

Motion b Wade McCaleb

Second b Philip Tucker

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

D. Approval of nominations of two attorney representatives to the Judicial Nominating Committee. as provided by Section 14-6 of the Broken Arrow Code

Item Minutes: Ms. Wilkening presented this item in accordance with the Fact Sheet provided in the agenda packet.

Motion: Move to approve nominations of two attorney representatives to the Judicial Nominating Committee, as provided by Section 14-6 of the Broken Arrow Code

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

E. Consideration of and possible action on request for removal of the Sewer Plant sign on South 9th Street at the entrance to the Oaks at Indian Springs

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

Motion: Move to deny request for removal of the Sewer Plant sign on South 9th Street at the entrance to the Oaks at Indian Springs

Motion b Philip Tucker

Second b Mike Lester

Ayes: Philip Tucker. Mike Lester

Nays: Richard Carter. Wade McCaleb

10. City Manager's Report

A. Police Department ICMA Study Action Plan

Section Minutes: Police Chief. Todd Wuestewyald. presented the item in accordance with the Fact Sheet provided in the agenda packet.

No action was taken or required.

Broken Arrow City Council Agenda Page 4 of 14 September I. 2009

11. Preview Ordinances

Section Minutes: Development Services Director, Mr. Michael Skates, presented the preview ordinances in accordance with the Fact Sheet provided in the agenda packet.

Motion:	Move to pass the preview ordinances to the next meeting for adoption
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

- A. An ordinance amending the Broken Arrow Building Code, Chapter 6, Article III; repealing all ordinances to the contrary and declaring an emergency.
- B. An ordinance amending Chapter 14, Article I, Section 14-32 of the Broken Arrow Code pertaining to Costs upon judgment of conviction; repealing all ordinances to the contrary; and declaring an emergency.
- C. An ordinance amending the Broken Arrow Nuisance Code, Chapter 15; and creating Articles I, II and III; adopting the International Property Maintenance Code as the Existing Structures Code; repealing all ordinances to the contrary and declaring an emergency.

12. Ordinances

Section Minutes: City Attorney, Ms. Beth Anne Wilkening, presented the ordinances consistent with the Fact Sheets provided in the agenda packet.

- A. Adoption of Ordinance No. 2647 Corrected - An ordinance closing a utility easement, located in part of Tiger Plaza an addition to the City of Broken Arrow, Wagoner County, State of Oklahoma, according to the recorded plat thereof, providing for reservation of rights within the closed easements, and declaring an emergency
- B. Adoption of Ordinance No. 3053 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ-1755, granting I-H zoning to be placed upon the tract, except for 2.1016 acres to be designated FD, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- C. Adoption of Ordinance No. 3054 - An ordinance closing a sewer line easement, located in Lot 2 Tiger Plaza an addition to the City of Broken Arrow, Wagoner County, State of Oklahoma, according to the recorded plat thereof, providing for reservation of rights within the closed easements, and declaring an emergency

Motion:	Move to adopt Ordinances 2647, 3053, 3054
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to adopt the Emergency Clause for Ordinance 2647
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

11. Preview Ordinances

Section Minutes: Development Services Director. Mr. Michael Skates. presented the preview ordinances in accordance with the Fact Sheet provided in the agenda packet.

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

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

A. An ordinance amending the Broken Arrow Building Code. Chapter 6. Article III: repealing all ordinances to the contrary and declaring an emergency.

B. An ordinance amending Chapter 14. Article I. Section 14-32 of the Broken Arrow Code pertaining to Costs upon judgment of conviction: repealing all ordinances to the contrary: and declaring an emergency.

C. An ordinance amending the Broken Arrow Nuisance Code. Chapter 15: and creating Articles 1. II and III: adopting the International Property Maintenance Code as the Existing Structures Code: repealing all ordinances to the contrary and declaring an emergency.

12. Ordinances

Section Minutes: City Attorney. Ms. Beth Anne Wilkening. presented the ordinances consistent with the Fact Sheets provided in the agenda packet.

A. Adoption of Ordinance No. 2647 Corrected An ordinance closing a utility casement. located in part of Tiger Plaza an addition to the City of Broken Arrow. Wagoner County. State of Oklahoma. according to the recorded plat thereof. providing for reservation of rights within the closed casements. and declaring an emergency

B. Adoption of Ordinance No. 3053) amending the Zoning Ordinance of the City of Broken Arrow. Oklahoma Ordinance No. 293 1). approving BAZ- 1755. granting I-H zoning to be placed upon the tract. except for 2.1016 acres to be designated FD. repealing all ordinances or parts of ordinances in conflict herewith. and declaring an emergency

C. Adoption of Ordinance No. 3054 An ordinance closing a sewer line casement. located in Lot 2 Tiger Plaza an addition to the City of Broken Arrow. Wagoner County. State of Oklahoma. according to the recorded plat thereof. providing for reservation of rights within the closed casements. and declaring an emergency

Motion: Move to adopt Ordinances 2647, 3053, 3054

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Motion: Move to adopt the Emergency Clause for Ordinance 2647

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Broken Arrow City Council Agenda Page 5 of 5 September I. 2009

Motion:	Move to adopt the Emergency Clause for Ordinance 3053
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to adopt the Emergency Clause for Ordinance 3054
Motion by:	Richard Carter
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: There were no remarks or inquiries.

At 7:13 p.m., Mayor Lester asked for a Motion to recess to Broken Arrow Municipal Authority

(Broken Arrow Economic Development Authority is cancelled)

Motion:	Move to adopt the Emergency Clause for Ordinance 3054
Motion by:	Philip Tucker
Second by:	Wade McCaleb
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

Mayor Lester reconvened the regular meeting at 7:13 p.m.

Motion:	Move to take a brief recess prior to entering into executive session
Motion by:	Wade McCaleb
Second by:	Richard Carter
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

Mayor Lester reconvened the regular session at 7:28 p.m.

Motion:	Move to enter into executive session
Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

- 14. Executive Session** for the purpose of confidential communications and possible action in open session between the City Council, the Acting City Manager, the City Attorney and the Human Resources Director for the purpose of conferring on contract negotiations concerning the IAFF employee group under 25 O.S. § 307(B)(2); on litigation involving State of Oklahoma, ex rel., Karen Franklin v. Horizon Construction Company, et al., Tulsa County District Court Case Number: CJ-2008-8620, and a tort claim filed by Jackie Carner, both under 25 O.S. § 307(B)(4); discussing and taking possible action on the proposed purchase and appraisal of land located North of Albany and East of Elm Place and in the vicinity of Albany and Elm Place for location of a conference center under 25 O.S. § 307(B)(3). The Council is advised that disclosure will

Motion: Move to adopt the Emergency Clause for Ordinance 3053

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Motion: Move to adopt the Emergency Clause for Ordinance 3054

Motion b Richard Carter

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: There were no remarks or inquiries.

At 7:13 p.m., Mayor Lester asked for a Motion to recess to Broken Arrow Municipal Authority

Broken Arrow Economic Development Authority is cancelled)

Motion: Move to adopt the Emergency Clause for Ordinance 3054

Motion b Philip Tucker

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Mayor Lester reconvened the regular meeting at 7:13 P.M.

Motion: Move to take a brief recess prior to entering into executive session

Motion b Wade McCaleb

Second b Richard Carter

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Mayor Lester reconvened the regular session at 7:28 p.m.

Motion: Move to enter into executive session

Motion b Wade McCaleb

Second b Philip Tucker

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

14. Executive Session for the purpose of confidential communications and possible action in open session between the Ciri_ Council. the Acting Cite Manager. the Cite Attorney and the Human Resources Director for the purpose of conferring on contract negotiations concerning the IAFF employee group under 25 O.S. 307(B)(2): on litigation involving State of Oklahoma. ex rel.. Karen Franklin N. Horizon Construction Company. et al.. Tulsa County District Court Case Number: CJ-2008-8620. and a tort claim filed by Jackie Career. both under 25 O.S. 307(B)(4): discussing and taking possible action on the proposed purchase and appraisal of land located North of Albany and East of Elm Place and in the vicinity of Albany and Elm Place for location of a conference center under 25 O.S. 307(B)(3). The Council is advised that disclosure will
Broken Arrow City Council Agenda Page 6 of 6 September 1, 2009

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.

Mayor Lester reconvened the regular session at 8:04 p.m.

Motion:	Move direct the City Attorney not to appeal Judge Fitzgerald's denial of an award and fees and costs
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to deny the tort claim of Jackie Carner
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Richard Carter, Wade McCaleb, Philip Tucker, Mike Lester
Nays:	None

15. Adjournment

The meeting adjourned at 8:07 p.m.

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

Attest:

Mayor

City Clerk

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Second b Richard Carter

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Motion: Move to deny the tort claim of Jackie Carner

Motion b Philip Tucker

Second b Richard Carter

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

15. Adjournment

The meeting adjourned at 8:07 p.m.

Motion: Move to adjourn

Motion b Philip Tucker

Second b Wade McCaleb

Ayes: Richard Carter. Wade McCaleb. Philip Tucker. Mike Lester

Nays: None

Attest:

Mayor City Clerk

Broken Arrow City Council Agenda Page 7 of 7 September I, 2009