BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
October 18, 2011

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: There was no one present to deliver an invocation.

3. **Roll Call**

Present:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Absent:	None

4. **Pledge of Allegiance to the Flag**

Section Minutes: Vice-Mayor Craig Thurmond led the Pledge of Allegiance to the Flag.

5. **Consideration of Consent Agenda**

Section Minutes: Mayor Lester asked if there were any items to be removed 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:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

A. Approval of the meeting minutes of October 4, 2011

B. Acceptance of the minutes of the Planning Commission meeting held September 22, 2011

C. Ratify a Demand for Jury Trial Filed in the Case of City of Broken Arrow, a Municipal Corporation v. Clifford A. West and Sandra Kay West, et al., Case No. CJ-2011-379, Wagoner County, Oklahoma

D. Approval of a Workers' Compensation Court Order for Greg Fugate, a former Fire Department employee

E. Approval of and authorization to execute an Architect-Engineer agreement with Guy Engineering Services, Inc., for Tucson Widening from Aspen to Elm

F. Approval of and authorization to execute an Architect-Engineer contract with Tetra Tech, Inc., for design of Oneta Road Widening from Houston to Washington

G. Approval of and authorization to execute the Interlocal Loaned Officer and Facilities Agreement between the City of Broken Arrow and City of Bixby for Cooperative Law Enforcement Efforts

H. Approval of and authorization to execute a Use Agreement between the City of Broken Arrow and Peak 21 Lacrosse for use of the Indian Springs Sports Complex to hold a Lacrosse Tournament on June 7-14, 2012

I. Approval of Resolution No. 719, a Resolution confirming the supplementation and publication of the City of Broken Arrow's Code of Ordinances

J. Approval of a Special Events Permit made by the Broken Arrow Civitans to hold their Annual Christmas Parade on Saturday, December 3, 2011 at 10 a.m.

K. Approval of a Special Events Permit for the closing of University Parkway for the Race for Life 5K and 10K Run on Saturday, December 3, 2011 from 8:30 a.m. until 10:00 a.m.

L. Approve bids received, award of the lowest responsible bid to Morton Excavating, LLC, and authorization to execute a construction contract for Events Park Phase 1 (North of New Orleans/101st Street, East of the Creek Turnpike)

M. 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 on complaints or objections that may be made concerning the proposed improvements to the utility system that would extend the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street

Item Minutes: City Attorney, Ms. Beth Anne Wilkening, explained that the Broken Arrow Public Schools is building a new facility next to Highlands IV subdivision. She said the Schools, the developer of Highlands IV and the City came together to consider the best way to handle construction of a sanitary sewer line and a water line with a loop; and, it was decided that the best way would be to establish an assessment district. Ms. Wilkening said that in compliance with State law, staff prepared a notice resolution and this resolution was approved by Council at a previous Council meeting. Ms. Wilkening stated that the resolution was sent to the three affected entities specifically, the Broken Arrow Schools, the developer and the City as notice of the establishment of an assessment district for the necessary improvements. She explained that, as required by law, the Council must hold a public hearing to allow public complaints or objections.

Mayor Lester stated that the Public hearing was now open.

Mayor Lester asked if there were anyone present who wished to come forward with complaints or objections concerning the proposed improvements to the utility system that would extend the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street.

No one came forward. The Mayor stated that state law requires that he call for speakers 3 times, so he would now call for the second time.

He asked if there were anyone present who wished to come forward with complaints or objections concerning the proposed improvements to the utility system that would extend the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street.

No one came forward. Mayor Lester asked for a 3rd time if there was anyone present who wished to come forward with complaints or objections concerning the proposed improvements to the utility system that would extend the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street.

Mayor Lester stated that no individuals came forward to speak. He declared the Public hearing closed.

No action was required or taken.

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. Consideration and possible approval of Resolution No. 720 of the Broken Arrow City Council declaring that no protests were filed regarding the Improvements to the Utility System by extending the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street, and expressing the determination of the City Council to proceed with the improvements and requiring the City Engineer to submit and file detailed plans, profiles, specification, and estimates of probable cost

Item Minutes: Ms. Wilkening stated that Resolution 720 is the next step in the process for this particular assessment district. She stated that the Resolution declares that no protests were filed regarding the specified improvements to the utility system proposed for the subdivision and the adjoining property owners which are the Broken Arrow Schools and the City of Broken Arrow. Ms. Wilkening stated that the attached Resolution memorializes the fact that no protests were filed and none were received in writing by the City Clerk regarding these improvements, and it expresses the Council's intent to proceed with these improvements, and directs the City Engineer to submit and file detailed plans, profiles, specifications and estimates of probable cost.

Motion:	**Move to approve Resolution No. 720 of the Broken Arrow City Council declaring that no protests were filed regarding the Improvements to the Utility System by extending the water and sewer lines through the proposed subdivision of Highlands IV and to the adjoining properties owned by the City of Broken Arrow and the Broken Arrow Public Schools and by providing a loop for a water system to a new water line along Oneta Road and 91st Street, and expressing the determination of the City Council to proceed with the improvements and requiring the City Engineer to submit and file detailed plans, profiles, specification, and estimates of probable cost**
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

B. Consideration and Possible Approval of a Workers' Compensation Joint Petition Settlement Agreement for Kyle Burton, a former Fire Department Employee

Item Minutes:

Acting City Manager and HR Director, Mr. Russell Gale provided the background as stated in the Fact Sheet. Mr. Gale said that Mr. Kyle Burton sustained an accidental injury to the lumbar spine on October 28, 2009 as a result of pulling a fire hose, and that Mr. Burton underwent surgery; and, Mr. Burton retired early from the City and filed a Workers Compensation claim. Mr. Gale said that staff has reached a tentative settlement agreement contingent upon City Council approval; and, since Mr. Burton is no longer employed with the City, there is a substantial advantage to reaching a negotiated settlement.

Mr. Gale said that the City Attorney has placed this matter for consideration during the Executive Session in case Council desires to discuss it further before making a decision. The City Council decided to take action at this time, and the matter would not be considered under Executive Session.

Motion:	**Move to approve the Workers' Compensation Joint Petition Settlement Agreement for Kyle Burton, a former Fire Department Employee**
Motion by:	Johnnie Parks, Jill Norman
Second by:	None
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond, Mike Lester
Nays:	None

C. Consideration and possible approval of nomination of Kay Long to fill a vacancy on the Downtown Advisory Board created by the resignation of JoEllen Clow

Item Minutes: Acting City Manager, Mr. Russell Gale stated that Ms. JoEllen Clow resigned from the Downtown Advisory Board on September 19, 2011. He added that Ms. Clow held position #7and this position is appointed by the Ward 4 Council Member, Jill Norman; and, Councilor Norman is nominating Kay Long to fill the vacancy and complete Ms Clow's term which expires on October 1, 2013. Councilor Norman commented that she received several applications for this position. She stated that Ms. Clow was a representative from the Broken Arrow Schools and Ms. Long was from the School System as well. Ms. Norman said that Ms. Long was selected because she is with the Schools.

Motion:	**Move to approve the nomination of Kay Long to fill a vacancy on the Downtown Advisory Board created by the resignation of JoEllen Clow**
Motion by:	Johnnie Parks
Second by:	Craig Thurmond
Ayes:	Johnnie Parks, Craig Thurmond, Jill Norman, Richard Carter, Mike Lester
Nays:	None

D. Consideration and possible approval of nomination of Rob Whitlock to serve on the Broken Arrow Economic Development Corporation Board of Directors

Item Minutes: Mr. Gale stated that Mr. Rob Whitlock is being nominated and will replace Mr. Joe Robson who, after his second term on the board, decided to retire; and, Mr. Whitlock's term would expire on the first Monday in May of 2014. Mayor Lester said that Mr. Robson is one of the founding members of the BAEDC and thanked Mr. Robson for his service. Councilor Norman said she supported Mr. Whitlock's nomination but stated she recalled that the City Manager mentioned that retail experience was desirable. She asked if Mr. Whitlock's background fulfilled this need. Ms. Wilkening responded that the City Manager, Mr. Dave Wooden, supported Mr. Whitlock's nomination and felt that Mr. Whitlock supported the City's vision and will further the goals for retail developments.

Motion:	**Move to approve the nomination of Rob Whitlock to serve on the Broken Arrow Economic Development Corporation Board of Directors**
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

10. City Manager's Report

Section Minutes: There was no City Manager's report.

11. Preview Ordinances

Section Minutes: There were no preview ordinances.

12. Ordinances

Section Minutes: City Attorney, Ms. Beth Anne Wilkening asked that the Ordinances be handled separately because Ordinance 3186 has an emergency clause.

A. Adopt Ordinance No. 3185, an ordinance amending the Broken Arrow Code, Chapter 12, Garbage and other refuse, Article II, Collection by City, Sections 12-23, Location of containers, and 12-24, Frequency of collections, and specifically providing for placement of refuse and removal of refuse containers at certain times and also allowing for the approval of operational rules and regulations by the City Manager; and repealing all ordinance to the contrary

Item Minutes: Ms. Wilkening stated that Ordinance 3185 was previewed at the October 4, 2011 meeting and is now presented in substantially the same form. She added that it was cleaned up just a little. The Ordinance requests a change that refuse containers not be put on the curbs prior to 5:00 p.m. and that receptacles be removed within 12 hours after pick-up. Councilor Normans said she received calls regarding elderly individuals that have permanently secured receptacles and that it would be difficult for them to carry them back and forth. Councilor Carter asked if the receptacles were secured out on the curb. Councilor Norman said she was not sure but as she understood it, the receptacles were near or secured to a tree. Ms. Wilkening responded that General Services Director, Mr. Lee Zirk, will be glad to work with these individuals and to please have them contact Mr. Zirk. Ms. Wilkening added that the City's sanitation employees need to be recognized and commended for their excellent work as well as their commitment. Ms. Wilkening said that they do many things that no one sees such as the Sanitation Santas. She said that on a daily basis, they go out of their way to help citizens and especially our elderly customers.

Motion:	**Move to adopt Ordinance 3185**
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

B. Adopt Ordinance No. 3186, an ordinance amending the Broken Arrow Buildings and Building Regulations Code, Chapter 6 by adopting the Oklahoma Uniform Building Code Commission (OUBCC) 2009 International Residential Code, including registration for general contractors and correcting the water meter tap fees, repealing all ordinances to the contrary; and declaring an emergency.

Item Minutes: Ms. Wilkening said that Ordinance 3186 has an emergency clause and is presented in the same format as previewed with a few clarifications that were made. She stated that this Ordinance makes corrections to the water meter tap fee to reflect current costs, and requires checking proof of insurance for contractors and sub-contractors; and, all changes were a result of changes made in the State law. Ms. Wilkening said she will have one of the attorneys in her department provide a good summary for publication to help individuals who do business with the city find the information they need.

Motion:	**Move to adopt Ordinance 3186**
Motion by:	Jill Norman
Second by:	Johnnie Parks
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

Motion:	**Move to approve the Emergency Clause for Ordinance 3186**
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

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

Section Minutes: Councilor Thurmond said he wanted to remind everyone that this is Pink-tober, and that everyone should be screened because early detection is the key to surviving this disease. Councilor Norman said the stadium would be turned pink during the football game on October 28, 2011 for the "Turn Broken Arrow pink" event.

Councilor Parks provided an update on the Youth City Council. He said that Cathy Steinberg, Stephanie Higgins and Cheryl Werley have done a great job getting everything ready for Youth City Council. He said that the Youth City Council will only meet once a month this year in order to fit in with students' activities and schedules. He added that the Youth City Council still needs applicants and asked the Councilors to recommend any 11th or 12th graders that they know. Councilor Parks informed everyone that the deadline for applicants has been extended to October 28, 2011. Councilor Norman said she knew two students.

At approximately 6:47 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting.

Motion:	**Move to recess into the Broken Arrow Municipal Authority meeting and the Broken Arrow Economic Development Authority meeting**
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council meeting at approximately 6:53 p.m.

Motion:	**Move to take a recess prior to entering into Executive Session**
Motion by:	Richard Carter
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

Mayor Lester reconvened the regular session of the City Council meeting at approximately 7:00 p.m.

Motion:	**Move to find that disclosure of the matters identified in the Agenda will impair the ability of the Council to process the grievance claim in the public interest**
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

Motion:	**Move to enter into Executive Session to discuss negotiations for a collective bargaining agreement with the IAFF and potential resolution of grievance regarding call back as set forth in the Agenda**
Motion by:	Craig Thurmond
Second by:	Jill Norman
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

14. **Executive Session for the purpose of confidential communications between the City Council, the Acting City Manager, and the City Attorney, and possible action in open session regarding negotiations for and direction for possible resolution of a collective bargaining agreement for the period of July 1, 2011 - June 30, 2013, with the IAFF employee group and negotiations and direction for possible resolution of a grievance filed by the IAFF for callback of its members as determined by an arbitrator, both under 25 O.S.**

Vice Mayor Thurmond moved to direct staff to present a collective bargaining agreement for the period of July 1, 2011 - June 30, 2013 with the IAFF.

Ms. Wilkening asked that this motion be withdrawn so that a corrected motion could be made.

Vice Mayor Thurmond withdrew the motion and made another corrected motion as advised by the City Attorney.

Motion:	**Move to direct staff to continue negotiations for a collective bargaining agreement for the period of July 1, 2011 - June 30, 2013 with the IAFF**
Motion by:	Craig Thurmond
Second by:	Johnnie Parks
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

Motion:	**Move to authorize staff to continue negotiations for resolution for the call back grievance**
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Johnnie Parks, Jill Norman, Richard Carter, Craig Thurmond and Mike Lester
Nays:	None

The matter of Kyle Burton v. City of Broken Arrow, Workers' Compensation Court Case Number 2010-00774A was discussed under Item 9B on this Agenda and action was taken following that discussion.

The matter was not discussed during the Executive Session.

15. Adjournment

Section Minutes: The meeting adjourned at approximately 7:17 p.m.

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

Mayor

Attest:
City Clerk

THE UNDERSIGNED CERTIFIES THAT THIS DOCUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL MAINTAINED IN OUR PERMANENT FILES.

BY: Mary E. Bryce

TITLE: CITY CLERK

DATE: Sept. 14, 2012