

**BROKEN ARROW CITY COUNCIL MEETING MINUTES
JULY 1, 2002**

1. The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Monday, July 1, 2002, at 7:30 P.M. Mayor James C. Reynolds called the meeting to order.

Present: Mayor James C. Reynolds
Vice-Mayor Tony Petrik
Councilman Richard Carter
Councilman Craig Thurmond
Councilman Wade McCaleb

Staff Present: Michael D. Kadlecik, City Manager
Wayne Bishop, Communications Coordinator
Gary Blackford, Special Business Administrator
Tom Caldwell, Director of Finance
Justin Cook, Director of Engineering
Scott Esmond, Parks & Recreation Director
Jay Heinrichs, Controller
Rick Ross, Assistant Police Chief
Ron Osborn, Fire Chief
April Parnell, Assistant City Attorney
Brenda Ray, Administrative Services Director/City Clerk
Allen Stanton, Chief Building Inspector
Stephen Steward, Director of Information Services
Dave Wooden, Public Works Director

3. Mayor Reynolds recognized the Boy Scout Troop from First United Methodist Church. The Mayor led the Council and audience in the pledge of allegiance.

4. The Council considered the regular Council meeting minutes of June 17, 2002.

Motion by Petrik, second by Carter to approve the minutes of June 17, 2002.

Aye: McCaleb, Carter, Petrik, Reynolds
Nay: None
Abstain: Thurmond
Motion carried.

5.A. The Council considered the Presentation of Police Department Rank Structure Upgrades. City Manager Michael Kadlecik introduced the item and noted this will be helpful in interaction of multi-jurisdictional partnerships.

Assistant Police Chief Rick Ross provided introductory remarks and introduced the new management staff while giving them their bars: Captain Heath Arning, who was present with his wife and two daughters; Captain Cary Aud who was present with his wife, daughter and son; Captain M. B. Clark, who was present with his wife; Captain Paul Kroutter who was present with his wife; Captain Kevin Marks who was present with his wife, two daughters, father and brother; Captain Carole Newell who was present with her niece; and Captain Rick Shea who was present with his daughter. Chief Ross also presented the Senior Command Staff: Major Norman Stephens, Major Daniel Adair who was present with his wife; and Major Todd Wuestewald who was present with his wife.

Vice-Mayor Petrik and Councilman Carter stated they are very proud of the efforts of these individuals, some whom they have known for a long time.

5.B. The Council considered acceptance of the final design plans for construction of the Broken Arrow Justice Center and authorization for the staff to proceed with bids. Kym Reave, architect with BKL Inc., led the Council through elevations and floor plans of the new Criminal Justice facility. Mr. Reaves stated the facility will be red brick with cast stone trim and he also displayed a site plan showing the inter-connection between the existing Police Department and the new Justice Center and the parking. In response to Councilman Carter, Mr. Reaves stated the exercise area will be a 16' high space with a grill on top. Vice-Mayor Petrik inquired about what

is shown in the Court Clerk area and evidence storage area. Mr. Reave stated they are support columns. Councilman Carter inquired about the floors in the court room. Mr. Reave stated it will be a flat surface and chairs will be stored in the Court Clerk's office. In response to Mayor Reynolds, Mr. Reave stated the facility is equipped for male and female adults. Assistant Police Chief Rick Ross stated juveniles will be housed in the multiple purpose/contact visit area until they are taken to a juvenile facility.

Motion by Petrik, second by Carter to accept the final design plans and authorize staff to proceed with bids.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds
Nay: None
Motion carried.

5.C. The Council considered the Public hearing to abate public nuisances. Mayor Reynolds noted there is a revised list.

Motion by Petrik, second by Thurmond to declare the lots a public nuisance and authorize the lots to be abated at costs to the property owners of \$225.00 per hour and if the costs are not paid, to authorize the City Clerk to certify the costs as a lien against the property.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds
Nay: None
Motion carried.

6. The Council considered the Citizen's Opportunity to Address the Council. Jim Ferguson and wife Celia were present. Mr. Ferguson stated he is not opposed to the storm water fee but opposes small homes being charged the same as large homes with circular driveways, pools, etc. He also stated he knows of errors made in impervious area calculations and provided a demonstration to show that gravel is not impervious.

Sandra Cotner, 401 W. Knoxville, asked for the applicable ordinances on dormant vehicles, weeds and a cellar holding water. Chief Building Inspector Allen Stanton stated the ordinance on weeds and inoperable vehicles is the same and the process of notification is prescribed by State law. Vice-Mayor Petrik stated the City has also initiated a summary abatement process that allows the abatement of properties for six months after the first abatement.

7.A. The Council considered authorization for the Mayor to execute Resolution No. 338, prescribing the principal amount of bonds to be issued, establishing the principal amount of bonds to mature each year, establishing the time and place said bonds are to be sold, and authorizing the Clerk to give notice of said sale as required by law, ratifying and confirming a Legal Services Agreement and a Financial Advisor Services Agreement with respect to the issuance of such bonds and approving the Preliminary Official Statement pertaining thereto and authorizing the use of electronic bidding. City Manager Michael Kadlecik introduced the Resolution and advised the City's financial advisor is recommending an electronic bid process. Rick Smith, Municipal Finance Services, Inc., stated hand delivered, mailed or faxed bids would also be acceptable. Vice-Mayor Petrik inquired if \$10 million is still the limit on tax free bonds. Mr. Smith stated no more than \$10 million in bonds may be issued in one year in order for bonds to be bank qualified. Mr. Smith stated the sale will occur on July 15, 2002 with funds being available on August 27, 2002 and the \$4,075,000.00 proceeds will be used for the following projects: Oneta/Kenosha Signals; Elm (Albany to Omaha engineering); Country Aire Pool; Senior Center Expansion; Youth Football Complex; Youth/Community Center; Central Pool Water Playground; Jackson Park Improvements; Police/Fire Training Center; Justice Center; Issuance Costs; Contingency/Right-of-Way.

Motion by Petrik, second by Carter to approve Resolution No. 338, including use of electronic bidding.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds
Nay: None
Motion carried.

Rick Smith introduced Hugh Zimmerman and Drew Armstrong who are doing work for his firm.

7.B. The Council considered a request from Tee Town Golf Ranch for refund of excess sewer capacity fee. City Manager Michael Kadlecik presented the item. Dennis Shook, attorney for Tee Town Golf Ranch, stated the golf ranch is very similar to a golf course with its driving range, tee boxes and fairways that are identical or similar to what a golf course offers. Mr. Shook stated he believes the fee was intended to be levied on users of the sewer system and they will not be using sewer. In response to Councilman Thurmond, Mr. Shook stated 1.5 acres of the 29 acre development will be buildings and this project will be on rural water and septic. Vice-Mayor Petrik stated he doesn't believe Tee Town should be classified as a golf course and receive that exemption but he would be willing to defer the fee. Mr. Shook stated if the property changed hands or developed for a different use the fee would be applicable. Councilman Carter concurred with the refund and deferral of fee until use of the property changes.

Motion and amendment by Petrik, second by Carter to refund and defer the fee until such time as the use changes with the fee being assessed at the prevailing rate.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

Jason Hair, Tee Town Golf Ranch asked when his check will be ready. Mr. Kadlecik stated it will be approved at the next Council meeting and the check will be ready a couple of days after.

7.C. The Council considered authorization for the sole source purchase of Microsoft Software Licenses from the State Contract with Software House International. City Manager Michael Kadlecik presented the item. In response to Vice-Mayor Petrik, Director of Information Services Stephen Steward stated these licenses will be good as long as the upgrade is useful. He also stated the existing licenses would be good forever if the City had no interest in upgrades. In response to Councilman McCaleb, Network Systems Analyst Stephen Williams stated the City will upgrade all pc's to the Windows 2000 platform first and he sees no need to go to XP right now.

Motion by Petrik, second by Carter to purchase the Microsoft software licenses as outlined in the fact sheet from Software House International for the amount of \$63,647.11.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

7.D. The Council considered authorization for the City Manager to execute a one year contract extension with OMI for operation of the City's Industrial Pretreatment Program and the Lynn Lane Wastewater Treatment Plant. City Manager Michael Kadlecik stated this was intended as a Broken Arrow Municipal Authority item but is also the subject of Executive Session and the City Attorney has advised that the Council may act on this extension. Vice-Mayor Petrik inquired as to why it is not being bid. Public Works Director Dave Wooden stated the engineers are getting ready for the rebuild and would like to have the construction lined out first.

Motion by Carter, second by Thurmond to approve and authorize the City Manager to sign the attached one year contract extension with OMI for operation of the City's Industrial Pretreatment Program and the Lynn Lane Wastewater Treatment Plant.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

7.E. The Council considered a request to accept FEMA grant monies, and possible approval of a cost share in the amount of \$5,460.00 to purchase Risk Watch Fire Prevention Program curriculum materials for use in our City schools. City Manager Michael Kadlecik presented the item. Fire Chief Ron Osborn stated the City received this grant from FEMA and it will be used to instruct teachers on accident prevention and safety which will be taught in Broken Arrow and Union Public Schools and three private schools. In response to Councilman McCaleb, Chief Osborn stated the funds will be used for the purchase of training materials and noted the materials could be re-used.

Motion by Carter, second by McCaleb to approve the matching cost share amount to complete the purchase of the Risk Watch Program for our City.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

7.F. The Council considered approval of installation of grease traps at all City Fire Stations and acceptance of quote from Broken Arrow Plumbing and Heating to perform the work. City Manager Michael Kadlecik presented the item.

Motion by Petrik, second by Carter to approve the installation of the required grease traps by Broken Arrow Plumbing and Heat at a cost not to exceed \$19,210.00.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

8. Under City Manager's Report none was submitted.

9. The Council considered the Ordinance for Preview.

A. An ordinance amending the Broken Arrow Code by amending Section 10-3, changing the wording from Class "A" Fireworks to Consumer Fireworks and Department of Transportation to Consumer Product Safety Commission; repealing all ordinances to the contrary; and declaring an emergency.

Assistant City Attorney April Parnell presented the preview ordinance and stated this will not change the substance of the law.

Motion by Carter, second by Thurmond to approve the ordinance for adoption at the July 15, 2002 meeting.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

10. The Council considered the Ordinances and Resolutions for adoption.

A. Ordinance No. 2468 - An ordinance granting a non-exclusive franchise to Cox Communications Central II, Inc., to construct, operate, rebuild, upgrade and maintain a cable system in the public ways of Broken Arrow, Oklahoma for a term of twenty-five (25) years, and establishing terms and conditions for that franchise. And consideration of and authorization for the Mayor to execute Resolution No. 337, calling for an election on the franchise.

Vice-Mayor Petrik stated he would prefer Ordinance No. 2468 be deferred until the Grimes's and Rogers's properties have been taken care of. He also stated he is opposed to allowing medical imaging facilities in I-1 zoning where a chemical wholesaler and large agricultural storage may locate.

Dan Carnish, Director of Engineering and Construction for Cox Cable, stated the power supply issues will be met in the same timeframe as was provided in the letter. He stated they cannot suspend one tower without having its alternate installation in. Mr. Carnish stated the date of compliance for Rogers would be July 24, 2002 and Grimes by August 7, 2002. Assistant City Attorney April Parnell stated the friendly lawsuit being filed is on a critical timeline for giving the Judge adequate time to review it prior to an election and Cox plans to file the lawsuit around July 8, 2002. In response to Vice-Mayor Petrik, Mr. Carnish stated the neighbors to the Rogers have not yet been reached but if successful Cox would prefer to have it behind their fencing with a separate access. He stated the only other option would be to place the tower on a PSO pole or completely re-design it. Councilman Carter stated he has no problem with going forward with the ordinance on the basis of the promises of Cox. Councilman Thurmond stated he has not seen any situations where Cox did not perform as promised. Dick Rogers stated it has been nine months since they began working with Cox to get the tower moved and there has been no contact from Cox since the last Council meeting even though Mr. Bowen promised there would be.

Motion by Petrik, second by Carter to table Ordinance No. 2468 until the work is done on the Grimes and Rogers properties.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

- B. Ordinance No. 2469 - An ordinance amending the Broken Arrow Zoning Code (Ordinance 1560) by allowing Outdoor Sales of Portable Buildings as a permitted use in C-5, I-S, I-1 and I-2 zoning districts and by allowing Medical Imaging Clinics as a permitted use in various zoning districts by amending Article IV; repealing all ordinances to the contrary; and declaring an emergency.

Mayor Reynolds inquired about the City Planner's recommendation on the medical imaging clinics when this was introduced before the Planning Commission. City Manager Michael Kadlecik stated the City Planner's recommendation was for denial but he changed his mind because of the Planning Commission and the City Manager's approval of the same. Mayor Reynolds stated Graham Franklin has very strong covenants, which we could change with this ordinance. He stated he will vote for the portion dealing with the portable buildings and proposed the medical imaging portion be deleted.

Motion by Thurmond, second by Carter to approve Ordinance No. 2469 as written.

Aye: McCaleb, Thurmond, Carter

Nay: Petrik, Reynolds

Motion failed.

Motion by Carter, second by Thurmond to adopt the Emergency Clause on Ordinance No. 2469.

Aye: McCaleb, Thurmond, Carter

Nay: Petrik, Reynolds

Motion failed.

- C. Ordinance No. 2470 - An ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 1560), approving BAZ 1436, granting an I-1 zoning classification be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency.

Motion by Petrik, second by Carter to approve Ordinance No. 2470.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

Motion by Petrik, second by Carter to approve the Emergency Clause on Ordinance No. 2470.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

- D. Ordinance No. 2471 - An ordinance amending the zoning ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 1560), approving BAZ 1406 under PUD 128, granting an R-3 zoning classification be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency.

Motion by Petrik, second by Carter to approve Ordinance No. 2471.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

Motion by Petrik, second by Carter to approve the Emergency Clause on Ordinance No. 2471.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

11 . The Council considered the Consent Agenda.

A. Approval of payroll for July 5, 2002

B. Approval of and authorization for the Mayor to execute a Services Contract with Broken Arrow Seniors, Inc., for Fiscal Year 2003

C. Approval of and authorization for the Mayor to execute a Services Agreement with Broken Arrow Public Schools for printing services for Fiscal Year 2003

D. Approval of and authorization for the Mayor to execute Amendment #1 to the 2002 Engineering Contract with Tulsa Engineering and Planning for Nienhuis Park

E. Approval of DEQ permit for the construction of water line and appurtenances to serve the Tarp Estates Second Addition

F. Approval of DEQ permit to receive, treat and transport flow from the City of Tulsa (Stone Creek Farm sanitary sewer line)

G. Acceptance of Deed of Dedication from Lester I. Nienhuis and Evelyn R. Nienhuis (S36 T19N R14E) (Project: Omaha & Lynn Lane widening)

H. Approval of Claims List

Motion by Petrik, second by Carter to approve the Consent Agenda.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

12. There were no items removed from Consent Agenda.

13. Under Remarks and Inquiries by Governing Body Members Vice-Mayor Petrik inquired about the Safe-T-Town project. Mayor Reynolds stated he withdrew his request for this due to lack of support from the Police Department and other staff.

Motion by Petrik, second by Carter to recess to Broken Arrow Municipal Authority before returning for Executive Session.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

Mayor Reynolds reconvened the regular session at 9:30 pm.

Motion by Petrik, second by Carter to have a short recess before going into Executive Session.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

Mayor Reynolds reconvened the regular session.

Motion by Reynolds, second by Carter to proceed into Executive Session.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

Nay: None

Motion carried.

14. Executive Session for the purpose of confidential communications between the City Council and its attorney discussing the employment, hiring, appointment, of one or more individual salaried public officers or employees, and the related potential litigation issues arising out of potential contract terminations, the disclosure of which will seriously impair the ability of the Council to process the claim or conduct the pending investigation in the public interest, all under 25 O.S. ¶ 307B1 and 4.

Mayor Reynolds reconvened the regular Council meeting at 10:27 p.m.

Motion by Petrik, second by McCaleb to adjourn.

Aye: McCaleb, Thurmond, Carter, Petrik, Reynolds

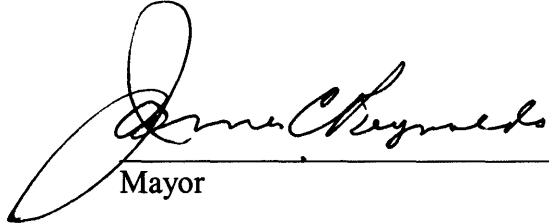
Nay: None

Motion carried.

The meeting was adjourned.

The seal of Broken Arrow City, Oklahoma, is circular with a dotted border. The text "BROKEN ARROW CITY, OKLAHOMA" is written around the inner edge. In the center, there is a signature that appears to be "Brenda Kay" and the words "City Clerk" are printed below the signature.

City Clerk

A handwritten signature in cursive script, which appears to be "James Reynolds", is written over a horizontal line. Below the line, the word "Mayor" is printed.

Mayor