

To: Honorable Mayor and City Councilors
From: Russell Gale, Acting City Manager
Date: March 27, 2015
Re: Notes to Council

1. STAFF REPORTS / ITEMS REQUIRING IMMEDIATE ATTENTION

- Tulsa's Future Regional Economic Development Activity Update – February 2015
- Utilities Department Monthly Report – February 2015
- Memo Regarding Street Signal Maintenance at Houston & Main Streets

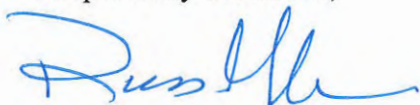
2. GENERAL CORRESPONDENCE / NOTIFICATION

- Press Release: Vision 2025 Funds Exchange
- Press Release: Broken Arrow Arbor Day Tree Planting
- Memo Regarding Tree City USA Recognition on March 17, 2015
- Parks & Rec. Department Memo Regarding Pickleball Tournament
- News Article: City of Tulsa Proposed Utility Rate Increases
- News Article: Rooster Days Festival Adding New Events
- Oklahoma Bar Journal Article Featuring City Attorney Beth Anne Wilkening

3. SPECIAL EVENTS / ACTIVITIES

- N/A

Respectfully submitted,



Russell Gale

jmh
Attachments

1. STAFF REPORTS / ITEMS REQUIRING IMMEDIATE ATTENTION



To: Russell M. Gale, Acting City Manager

From: Norm Stephens, Assistant to the City Manager / Economic Development
Coordinator

Date: March 16, 2015

Re: Tulsa Future Report

Russell, please find the attached Tulsa Future Regional Economic Development Activity Update for February 1 – February 28, 2015.



**Regional Economic Development Activity Update
February 1 – February 28, 2015**

Announcements & New Jobs Created

- New Jobs Created
 - Number of new jobs created per month and year
 - Number of jobs greater/less than \$50,000

	Greater than \$50,000	Less than \$50,000	Total Jobs
For the month of February	143	31	174
Total for 2015	319	261	580
Total for 2014	3,259	2,933	6,192
Total for 2013	2,484	3,514	5,998
Total for 2012	2,425	1,078	3,503
Total for 2011	<u>4,100</u>	<u>4,105</u>	<u>8,205</u>
Totals for 2011-2015	12,587	11,891	24,478

Business Attraction

Describe the efforts and results to attract business with regards to:

- New Prospects & Site Visits/Number of New Prospects and/or Site Visits
Current Month: 3
Year-to-Date: 5
- New Inquiries – Proposals Submitted
Current Month: 1
Year-to-Date: 2
- Open Projects – Phase 2/Additional Information Submitted
Current Month: 1
Year-to-Date: 2
- Lead Development
Current Month: 8
Year-to-Date: 16

Lead Development Companies

Curtiss-Wright Corporation, WATTS WATER TECHNOLOGIES, INC., Friedman Industries, Inc., L. B. FOSTER COMPANY, Heatwurx, Inc., Zeltiq Aesthetics, Inc., ACTUANT CORPORATION, Mettler-Toledo International Inc.

ID	Start Date	Number of Jobs	Status	Target Industry	Community	New Business/Expansion
342	2-5-2015	15-45	Active	Manufacturing	Tulsa Region	New
343	2-1-2015	93	Active	Energy	Tulsa Region	Expansion

Regional Partner Scheduled Appointment Opportunities

We would like to extend the opportunity for you to attend any or all of these scheduled appointment events. We will be setting up scheduled appointments with site consultants and corporate real estate executives in the targeted cities below. In order to participate, we ask that you inform us of your participation by the deadline and arrange for your individual travel expenses.

Scheduled Appointments for 2015

Destination	Participation Deadline	Scheduled Appointment Dates	Communities Attending
Phoenix, AZ	January 17	February 17 – 19	
Minneapolis, MN	March 1	March 31 – April 2	City of Owasso
Atlanta, GA	March 20	April 21 – 23	
Chicago, IL	May 15	June 16-18	

Three additional call trips are planned for 2015; once cities and dates have been confirmed, details will be distributed to Regional Partners.

Business Retention & Expansion

Existing Company Visits

Current Month: 51

Year to Date: 126

Total for 2014: 700

External Marketing

Phoenix, AZ Scheduled Appointments Trip February 17-19, 2015

Project Manager traveled to Phoenix, Arizona to attend scheduled appointments with six site location consulting firms. Trends in the projects that these consultants are seeing include food manufacturing (particularly with research & development), office/headquarter relocation & reorganization, as well as inland port & intermodal supply chain logistics. One firm inquired about existing and recently announced back-office projects. They were also interested in large existing call center or vacant retail space. There is a possibility for the Tulsa Region to submit on a green-field metal forge plant project that is currently looking in Texas.

North American Prospect Expo “NAPE” February 11-12

The VP of Economic Development and Director of Existing Business traveled to Houston with Mayor Bartlett for the 2015 NAPE Expo. Throughout the trip, staff and the Mayor presented data on Tulsa’s competitive position cost-wise compared to other major US industry cities. Staff has followed up with several leads that offer the potential to bring back-office jobs in the energy industry as a way to reduce expenses during the oil downturn.

Regional Partner Updates

Georgia-Pacific Receives Local Incentive to Support Muskogee Mill Improvements

Georgia-Pacific is in the process of upgrading its Muskogee bath tissue and towel manufacturing operations. The Muskogee mill has both approved and proposed investments of more than \$130 million during the next three years to improve all aspects of its operations. The Muskogee City-County Port Authority is supporting the effort through the Strategic Investment Program (SIP). The Port Authority approved a SIP incentive application connected to the mill’s planned investments across its operations.

Upcoming Consultant Meeting

- **Tulsa’s Future Regional Partner “Meet the Consultant”**

Featuring: Josh Bays, Principal, Site Selection Group, LLC, Dallas, TX

Date: Tuesday, March 24, 2015

Time: 9:00 a.m. to 10:30 a.m.

Location: Tulsa Regional Chamber, Plaza Level, JD Young Conference Room, One West Third Street, Tulsa

Josh is a Principal of Site Selection Group where he manages the company's industrial, education, and economic development business practices. He is a critical part of the company's management team and helps develop and implement strategic plans for SSG. Throughout his career, Bays has been a key contributor in the continued development of new service lines offered by the company. These contributions include the development of various cutting-edge analytical platforms that have enabled clients to optimize their

location decisions. Bays has completed more than 250 projects for global clients, including Amazon.com, W.W. Grainger, Novartis, Glanbia Foods, Bimbo Bakeries, Boeing, Harley-Davidson, Lincoln Education Services, Bryant & Stratton College and the Greater Wichita Economic Development Coalition.


Regional Partner Meetings

- May 5, 2015 – Host needed
- August 27, 2015 – City of Sapulpa
- November 3, 2015 – Broken Arrow Chamber of Commerce

All Meetings 12:00 p.m. to 1:30 p.m. Please contact angiezaricor@tulsachamber.com if your community would like to host the May 5 meeting.

- **Tulsa's Future Regional/Municipality Partnership Private Meeting**
Featuring: Mac Holladay, President/CEO & Founder
Date: Monday, April 20 2015
Time: 4:00 p.m. to 4:45 p.m.
Location: Southern Hills Country Club, Snug Harbor, 2636 East 61st Street, Tulsa
- **Tulsa's Future Annual Meeting**
Date: Monday, April 20, 2015
Time: 5:00 p.m. to 6:30 p.m.
Location: Southern Hills Country Club, North Ballroom, 2636 East 61st Street, Tulsa

INTEROFFICE MEMO

To: Russell Gale, Acting City Manager
From: Anthony Daniel, Utilities Director 
Date: March 18, 2015
Re: Utilities Department Monthly Report – February 2015

	February 2015	February 2014
Water Purchased and Distributed		
OOWA – Water Purchased	0 MG	264 MG
Water – Sold	230.7 MG	202.5 MG
[Verdigris WTP came on line April 10, 2014]		
Wastewater Treated		
Lynn Lane Plant	114.1 MG	103.3 MG
Haikey Creek Plant (BA)	117 MG	122.3 MG
Haikey Creek Plant (Tulsa)	156.8 MG	157 MG
Water Distribution		
Tap and Meter Sets	32	45
Meters Repaired/Replaced	169	52
Line Locates Done	420	283
Service/Meter Leaks	34	116
Distribution Leaks Repaired	12	18
Fire Hydrants Repaired/Replaced	3	2
New Water Line Installed	0 lf	0 lf
Fire Hydrants Exercised and Painted	0	Total to date 1087
Sanitary Sewer Collection		
Sewer Line Blockages	5	12
Sewer Line Cleaned	6,900 lf	4,206 lf
Sewer Line Repaired	3 lf	0 lf
Line Locates Done	35	51
Sanitary Sewer Overflows Reported to DEQ	4	10
New Sewer Line Installed	0 lf	0 lf

February 2015 Lynn Lane and Haikey Creek WWTP Industrial Pretreatment Program Summary

1. City staff sampled Blue Bell
2. The following reports/ certifications were received and reviewed in the month of February:
 - Blue Bell compliance monitoring report and laboratory analysis.
 - Unifirst compliance monitoring report and laboratory analysis
 - PACCAR Winch
3. Unifirst sends 24-hour notification of non-compliance for oil & grease. City staff goes to Unifirst to help them replace tubing on sampling equipment, etc. Turns out Unifirst was having containment basin pumped out and hauled off-site by a licensed waste-hauler and sample was taken from very bottom of containment basin. Unifirst submitted report to that effect including manifest for that day.
4. Created training power point for food handling establishment employees.
5. Finalized details for Home and Garden Show, FOG brochures designed and ordered.
6. Utilities personnel met with Development Services about food handlers with no grease traps and discussed an action plan.
7. Development services staff accompany Pretreatment staff to speak with food handling establishment managers about installing grease interceptors and traps.
8. Met with the following owners/managers of local food handling establishments about installing grease traps, maintaining grease traps, and discussed best management practices for pollution prevention:
 - Marco's Pizza
 - Not your Grandma's Cupcakes
 - El Viejo
 - Duffy's
 - Rib Crib
 - Cupcakes by Design
 - Fajita Rita's
9. Spoke with Reasor's and Brooks Grease to propose a plan to put cooking oil recycle bins at the two Broken Arrow Reasor's Grocery Stores.
10. Calculated and submitted to finance Blue Bell (\$30,915.47) and Unifirst (\$2,970.93) surcharges for the month of February.

Wastewater Treatment Flow Report

Feb-15

Location	Feb-15 (MG)	Feb-14 (MG)	% Change
Lynn Lane Wastewater Treatment Plant (Includes Tulsa TB04 & TB05)	114.115	103.355	10.4
Haikey Creek Treatment Plant (Broken Arrow)	117.049	122.284	-4.3
Haikey Creek Treatment Plant (Tulsa)	156.793	157.019	-0.1
Broken Arrow → Tulsa Northside (BT01)	3.845	4.351	-11.6
Tulsa → Lynn Lane Wastewater Treatment Plant (TB04)	4.233	3.733	13.4
Tulsa → Lynn Lane Wastewater Treatment Plant (TB05)	4.603	3.929	17.2

Lift-Booster Station Equipment Maintenance Summary

February 16, 2015 to March 16, 2015

1. Adams Creek Northwest... Pump #3B - installed new wear plate, rotating assembly, new motor, control relay and new check valve assembly for Pump #3A.
2. Greens Lift Station...Install (3) new rotating assemblies. Installed new wear plate and check valve on Pump #1.
3. Old Adams Creek Lift Station....installed new rotating assemblies in Pump #2A and #2B. Drilled and tapped new mounting holes for rotating assembly on Pump #2B. New wear plates on #2A and #2B. Pump #1B has incomplete rotating assembly. Waiting till pump station gets caught up to replace with original parts.
4. Old Adams Creek Lift Station....ordered new pump housings. Station rehab scheduled for late Jul. 2015.

LLWWTF Maintenance Summary

February 16, 2015 to March 16, 2015

1. Air conditioner installed on RAS Pump #1 control cabinet. Voltage filter wired in RAS Pump #1 and pump back online.
2. Demo completed in RAS Bldg. Blower units wrapped and set aside for surplus. Excess piping will be scrapped.
3. Inpro seal installed on Blower #2. Blower #1 scheduled.
4. Replacement for Blower #3 has been ordered.
5. Leak on sodium bi-sulfite line fixed.
6. Maintenance kit installed on CL17 analyzer.
7. Replace sump pump and discharge line in RAS Bldg. basement.
8. Chris from SEI performed plant SCADA evaluation and get programming for new SCADA.
9. SEI programmed new SCADA-PAK for Headworks PLC.
10. Ordered new SCADA software and new computer and monitors have been received in. Will take to SEI for setup and programming right away. Software coming from Schneider Electric.

UTILITIES DISTRIBUTION/COLLECTIONS MAINTENANCE SUMMARY FEBRUARY 2015

WATER DISTRIBUTION

1. Repaired 8 main line breaks and replaced 13 tapping saddles.
2. Repaired 3 fire hydrants.
3. Repaired or Installed 4 distribution main valves.
4. Responded to 77 meter leaks.
5. Replaced 160 meters.
6. Repaired or Replaced 30 meter and valve boxes.
7. Replaced 21 Curb Stops.
8. Cleaned up 26 yards

SEWER COLLECTION

1. Service requests - 19
2. Sewer line blockages - 5
3. Lift station repairs - 15
4. Sewer lines cleaned - 6900 ft.'
5. Line locates - 35
6. Night crew sewer calls - 11
7. CCTV inspected - 1200 LF
8. Sanitary Sewer Overflows locations inspected - 2

METER READING

1. Replace Water Meters-169
2. Replace Meter Boxes-5
3. Lids Replaced-65
4. Door Hangers for bad checks-54
5. Rereads/Leak Test-158
6. Turn Ons-164
7. Turn Offs-201
8. New Accounts-418
9. Finals-366
10. Raise Meters-8
11. Pulled Meters-2
12. Replace Meter Stops-4
13. Resident Checks-18
14. Replace Master AMR Register-56
18. We are reading 36,600 meters also.

WATER QUALITY

1. Flushed dead end water lines
2. Tested chlorine levels near auto flushers to verify all working (14 totals)
3. 2 dirty water calls, 33,375 gallons of water flushed
4. 100 Bac-T samples, 2 chlorine (am/pm) daily
5. Total gallons flushed to improve water quality in February was 1,496,500 gallons

Hooks, Jennifer

From: Zirk, Lee
Sent: Wednesday, March 25, 2015 10:50 AM
To: Arant, Steve; Boggs, David; Caldwell, Tom; Daniel, Anthony; Esmond, Scott; Flasch, Krista; Gale, Russell; Hooks, Jennifer; Jenkins, Jeff; McCormick, Jannette; Moore, Jeremy; Skates, Michael; Stephens, Norman; Tiffany, Douglas; Wilkening, Beth Anne; Zirk, Lee
Cc: mdbergwall@baschools.org; Flasch, Krista; Derek Blackburn; Baker, Rick
Subject: Huston and Main Signal down for maintenance

All,

As part of the Signal Maintenance Division's refurbishment plan, the signal at Houston and Main is scheduled to be taken off-line for maintenance and repair on Monday, March 30, 2015. During this time the intersection will be controlled by 4-way stop sign/s. Although the job itself will take two days, the outage should be limited to one day with lights operational Monday afternoon.

Please let me know by Friday, March 27, if there are any events or reasons this scheduled work should be delayed.

Thanks,

Lee

Lee Zirk
General Services Director
City of Broken Arrow
Phone: 918.259.7000
Fax: 918.251.3383
Email: lzirk@brokenarrowok.gov



2. GENERAL CORRESPONDENCE / NOTIFICATION



Contact: Krista Flasch
Director of Communications
City of Broken Arrow
Phone: (918) 259-2400, ext. 5309
Mobile: (918) 409-7771
Fax: (918) 259-8226

Broken Arrow to Exchange Vision 2025 Funds with Collinsville, Skiatook

Broken Arrow, Okla. (3/18/2015) – The Broken Arrow City Council voted Tuesday night in favor of a resolution that would allow surplus Vision 2025 funds to be exchanged between Broken Arrow, Collinsville and Skiatook.

The reason for this exchange is that Vision 2025 Propositions specify how each community is to spend the money.

- Proposition #2: Capital improvements for the purpose of economic development within Tulsa County.
- Proposition #3: Educational, health care and event facilities for the purpose of economic development within Tulsa County.
- Proposition #4: Capital improvements for the purpose of community enrichment within Tulsa County.

The City of Collinsville proposed that \$94,530 of its Proposition #2 funding be transferred to Broken Arrow in exchange for \$94,530 of Broken Arrow's Proposition #4 funds. The City of Skiatook proposed that \$34,863 of its Proposition #2 funds be transferred to Broken Arrow in exchange for \$34,863 of Broken Arrow's Proposition #4 funds.

The Tulsa County Vision Authority has determined that by agreement, communities may trade/transfer allocations so long as a Resolution is approved by both communities.

This trade will increase Broken Arrow's Proposition #2 funds from \$1,301,937 to \$1,431,300. The Proposition #4 funds will be reduced from \$11,192,958 to \$11,063,565.

(Continued)

Staff believes the exchange will have a negligible impact on designated Proposition #4 funds for The Rose District projects. For more information on Broken Arrow's Vision 2025 projects, visit www.BrokenArrowOK.gov/vision2025.

BACKGROUND ON SURPLUS VISION 2025 FUNDS

In 2006, the Tulsa County Vision Authority adopted a Resolution increasing the allocation of Vision 2025 sales tax by \$45,500,000.00 to assist the City of Tulsa in completing the Bank of Oklahoma and Cox Convention Center projects. At that time, a commitment was made that the next \$45,500,000.00 in excess Vision Sales Tax would be allocated to the suburban cities in Tulsa County.

In October 2014, the Tulsa County Board of County Commissioners determined that \$45,500,000.00 in excess Vision sales tax funds would exist and that the funds would be allocated by the Tulsa County Vision Authority. In November 2014, the Vision Authority adopted a Resolution which identified the amount of funds for each of the three Vision 2025 Propositions and then allocated to each Tulsa County suburb an available amount based upon each City's population.

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Contact: Krista Flasch
Director of Communications
City of Broken Arrow
Phone: (918) 259-2400, ext. 5309
Mobile: (918) 409-7771
Fax: (918) 259-8226

City of Broken Arrow to Plant Trees for Arbor Day

Broken Arrow, Okla. (3/25/2015) – The City of Broken Arrow will celebrate Arbor Day by planting three cypress trees at the new Chisholm Trail South Park. The trees will be planted next to Anderson Pond, which will provide the ideal growing environment for cypress trees.

Mayor Craig Thurmond and City staff will plant the new trees with the help of home school students. Students will learn the importance of Arbor Day and preservation of trees.

What: Arbor Day Celebration and Dedication of Anderson Pond
When: Friday, March 27 at 10:00 a.m.
Where: Broken Arrow's Chisholm Trail South Park, 21101 E. 101st Street (east of Creek Turnpike at 101st and 209th E. Avenue)

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Hooks, Jennifer

From: Esmond, Scott
Sent: Thursday, March 19, 2015 8:49 AM
To: Hooks, Jennifer
Cc: Jenkins, Jeff
Subject: NTC
Attachments: ParksAdmin@brokenarrowok.gov_20150319_082642.pdf;
ParksAdmin@brokenarrowok.gov_20150319_082700.pdf

Follow Up Flag: Follow up
Flag Status: Completed

On March 17, 2015 in Oklahoma City the city of Broken Arrow was recognized for achieving its 15th consecutive year as a Tree City USA at the State Arbor Week Celebration. Accepting the award for Broken Arrow were Scott Esmond, Parks and Recreation Director, Phillip Hink, Parks Maintenance Manager, and Chris Ohler, Horticulturist.

Please see the attachments.

Thanks,
Scott

Scott Esmond
Director of Parks and Recreation Department
City of Broken Arrow

HEARTLAND MEMORIAL TREE GROVE

Renewal Dedication

At 9:02 AM Wednesday April 19th, 1995 the Alfred P. Murrah Federal Building in Oklahoma City was destroyed in an explosion which killed 168 people, including 19 children. This memorial is dedicated to seven members of our Agriculture family, US Department of Agriculture employees who perished there.

The Grove of trees is planted in the shape of a heart, the universal symbol of love. The trees thank the people around the world who shared our pain and responded with love. Native stones from Oklahoma's 77 counties lie side by side to signify our strength through unity.

The hearty bur oak symbolizes the tenacity of the Oklahoma spirit. Its branches, like outstretched arms embrace the memory of the adult victims, children, rescuers and volunteers. Redbuds which burst forth purple flowers each spring, remind us of life's renewal with the birth of each child. The white blossoms of a lone whitebud hint of innocence lost. May this living memorial remind us of all those who died and comfort those who remain.

Olen Bloomer	Peggy Clark	Carole Khali
Jim Boles	Dick Cummins	Rheta Long
	Adele Higginbottom	

Dedicated May 19, 1995 by employees of the Oklahoma Department of Agriculture in cooperation with the Association of County Commissioners and USDA
Frank Keating Governor

2015 Arbor Week Celebration Hosted by:



TREES ARE TERRIFIC... in cities and towns!

Arbor Week Celebration March 17, 2015 Oklahoma History Center



Darla Way
Mrs. Kathy Kelly's Class
Marlow Elementary School



Chelsea Strutton
Mrs. Darlene Black's Class
Marlow Elementary School



Zac Nichols
Mrs. Susan Lalman's Class
Morrison Elementary School

2015 Arbor Week Poster Contest Finalists

Participating Honorees

Tree Cities

Ada	21 yrs	Midwest City	33 yrs
Alva	22 yrs	Morrison	16 yrs
Ardmore	19 yrs	Muskogee	27 yrs
Bartlesville	32 yrs	Nichols Hills	29 yrs
Bixby	18 yrs	Norman	13 yrs
Broken Arrow	15 yrs	Pauls Valley	34 yrs
Claremore	30 yrs	Ponca City	10 yrs
Edmond	16 yrs	Shawnee	13 yrs
Enid	7 yrs	Tinker Air Force Base	22 yrs
Guthrie	18 yrs	Tulsa	22 yrs
Kingfisher	12 yrs	Vance Air Force Base	22 yrs
McAlester	27 yrs		



* Color denotes growth award

Tree Lines

AEP/PSO	23 yrs
Edmond Electric	16 yrs
OG&E	19 yrs
Oklahoma Electric Cooperative	10 yrs
People's Electric Cooperative	16 yrs



Tree Campuses

Oklahoma City Community College	4 yrs
Oklahoma City University	4 yrs
Oklahoma State University	4 yrs
Tulsa Community College NE	3 yrs
Cameron University	2 yrs



Agenda

10:00 am - Welcome

MARK BAYS, Urban Forestry Coordinator
Oklahoma Forestry Services

MIKE PERKINS, Chair-Urban & Community Forestry Council

10:15 am – Recognize Arbor Week Poster Contest Winners

GEORGE GEISSLER, State Forester, **JERÍ IRBY**, Education Coordinator, Oklahoma Forestry Services

10:30 am – The Power of Trees

JAROD CASSADA, Utility Forester
OGE Energy Corporation, Oklahoma City, OK

11:15 am – The Survivor Tree

MARK BAYS Urban Forestry Coordinator, Oklahoma Forestry Services
Oklahoma City, OK

12:15 pm – Heartland Grove Renewal Dedication

BLAYNE ARTHUR, Associate Commissioner Oklahoma Department of Agriculture
Food and Forestry, Ceremony Emcee

Group photos will be taken with attending dignitaries

1:00 pm – LUNCHEON BUFFET

Arbor Week Sponsors



Thanks for your support!

From: Esmond, Scott
Sent: Wednesday, March 18, 2015 8:44 AM
To: Jenkins, Jeff
Cc: Flasch, Krista; Hooks, Jennifer; Hill, Lori; Hink, Phil; Rooks, Thor
Subject: FW: Pickleball Event

Jeff,

This past Friday and Saturday the Recreation Division hosted a 45 and older pickle ball tournament and social. The social was held Friday night at the History Museum and the tournament was held Saturday at Central Park community center. You can see from the comments below and the attached pictures that the event was a success.

Thank you,
Scott

From: Rooks, Thor
Sent: Tuesday, March 17, 2015 3:13 PM
To: Esmond, Scott
Subject: FW: Pickleball Event

Scott,
Please see Jeff Nix's email below regarding the Pickleball Tournament. Staff has said that all 32 participants thanked them several times for this event. Attached are a few pictures from the tournament.

Thor Rooks
Recreation Manager
O: 918-259-7007 x7441
F: 918-259-7008
BA PARKS & REC





INTEROFFICE MEMO

To: Honorable Mayor and City Councilors
From: Jeff Jenkins, Assistant City Manager
Date: March 27, 2015
Re: News Articles: City of Tulsa's Utility Rates and Rooster Days

Please find the attached two news articles concerning the City of Tulsa's proposed Utility Rate increases, and the Rooster Days Festival coming up in May.

Respectfully submitted,



Jeff Jenkins

jmh

Attachments

Tulsa's utility board proposes water, sewer rate increases beginning Oct. 1

By KEVIN CANFIELD World Staff Writer | Posted: Sunday, March 22, 2015 12:00 am

The city utility board has recommended a 7 percent increase in water rates and a 9 percent increase in sewer rates for next year.

The rate increases would take effect Oct. 1 if proposed by the mayor and approved by the City Council.

The increase would amount to about \$5.10 a month for the average residential water user, according to the city. The city considers average residential use to be 7,500 gallons a month.

“We are sensitive to how these rate increases affect our customers,” said Clayton Edwards, director of the city’s Water and Sewer Department. “The revenue that is going to be collected with these rate increases will go toward replacing aging infrastructure and annual debt service.”

The utility board’s rate model shows 9 percent annual increases in the city’s sewer system for the next five years. On the water side, the model calls for rate increases of 7 percent for the next three years before dropping to 6 percent in 2019 and 5 percent in 2020.

The utility board, also known as the Tulsa Metropolitan Utility Authority, has been working to lower the debt service the city pays on its water and sewer systems.

The problem is especially acute on the sewer side, where the city needs the 9 percent increase in rates next year to keep from being in jeopardy of defaulting on its debt service obligations next year, Edwards said.

TMUA has attempted to reduce its debt service obligations by increasing how much it spends in cash on capital projects. The authority’s goal has been to fund in cash an amount equal to the annual depreciation of each system.

“We would rather fund capital projects with cash rather than borrow,” Edwards said.

Short term, the city is far from addressing its debt service problem on the sewer side. However, Edwards said that five years from now the city expects to spend \$26.3 million

in cash on capital projects with the estimated annual depreciation that year of \$33.7 million.

Next year, by comparison, the city expects to spend \$10.8 million in cash on capital projects with the projected depreciation of the system to be \$25 million.

The figures are less daunting on the water side, Edwards said, allowing TMUA to project a reduction in annual rate increases in years four and five of the five-year rate model.

“TMUA members believe it is imperative that fiscal discipline guide our rate increases for the next five years,” said TMUA Trustee Lauren Brookey. “The discipline comes in shifting the ratepayers’ annual costs from mostly debt payment to rates based on annual maintenance and infrastructure investment. Rate increases are essential to achieve that.” Edwards said investing in the city’s water and sewer infrastructure may be costly, but responding to a consent order from the Environmental Protection Agency to make improvements to the system could be even more expensive.

He noted that several of Tulsa’s peer cities, including Kansas City and St. Louis, are facing consent orders in the billions of dollars.

“We have been in that situation where the EPA has made us do improvements to our system,” Edwards said. “So if we don’t take the proper steps and fund capital projects, we are at risk of having overflow and health issues, and EPA will come in and make us do it.”

Water, sewer projected rate increases

Projected water and sewer rate increases

Water

Fiscal Year % increase

2016	7
2017	7
2018	7
2019	6
2020	5

Sewer

Fiscal Year % increase

2016	9
2017	9
2018	9
2019	9
2020	9

Rooster Days Festival adding events, attractions to 2015 schedule

By John Ferguson

News Editor

johnf@baledger.com

| Posted: Tuesday, March 17, 2015 8:59 pm

The long running Rooster Days Festival will be shortened by a day, but the entertainment factor will get bigger, it was announced at the City Council's regular meeting on Tuesday night.

The eight decade annual event for fun, music, food, rides and entertainment will be held May 8-9, Friday and Saturday, at Central Park. The council approved a promotional license for the event.

The Rooster Days Run will also be moved in location and time. The run will be on Saturday, May 2 and will feature a 15k, 5k and walk.

The timing of the annual event and declining Sunday attendance were main reasons for the new schedule.

"Sunday was the least attended part of that," said Wes Smithwick, CEO of the Chamber of Commerce. "We had 45,000 attend last year and less than 5,000 came on Sunday. It's also Mother's Day."

Officials stressed the festival will not lack in any way. It will be adding more.

"Otherwise, it will be bigger and better than ever," Smithwick said.

The annual Rooster Days Parade will be held Saturday, May 9 at 10 a.m.

In other council business, voted in favor of a resolution that would allow surplus Vision 2025 funds to be exchanged between Broken Arrow, Collinsville and Skiatook.

The reason for this exchange is that Vision 2025 Propositions specify how each community is to spend the money.

Proposition No. 2: Capital improvements for the purpose of economic development within Tulsa County.

Proposition No. 3: Educational, health care and event facilities for the purpose of economic development within Tulsa County.

Proposition No. 4: Capital improvements for the purpose of community enrichment within Tulsa County.



City of Broken Arrow

The City of Collinsville proposed that \$94,530 of its Proposition No. 2 funding be transferred to Broken Arrow in exchange for \$94,530 of Broken Arrow's Proposition No. 4 funds. The City of Skiatook proposed that \$34,863 of its Proposition No. 2 funds be transferred to Broken Arrow in exchange for \$34,863 of Broken Arrow's Proposition No. 4 funds.

The Tulsa County Vision Authority has determined that by agreement, communities may trade/transfer allocations so long as a Resolution is approved by both communities.

This trade will increase Broken Arrow's Proposition No. 2 funds from \$1,301,937 to \$1,431,300. The Proposition No. 4 funds will be reduced from \$11,192,958 to \$11,063,565.

- The first step to annexation of 27 acres near 129th and New Orleans was part of a Public Hearing.

The 27 acres will be developed as single family homes by Spectacular Homes. The City of Tulsa has the land and this was the first in a series of steps to be part of Broken Arrow.

- Michael Skates was approved to be the project manager with the help from others in the City of Broken Arrow to spearhead the new conference center and hotel project.

From the Broken Arrow Economic Development Authority, it was approved to execute a renewal contract for economic development services between the BAEDA and the BA Economic Development Corporation.

“They have been doing a wonderful job,” said Vice Mayor Richard Carter, prior to the unanimous approval of the new contract.

A settlement was made between the City of BA and Two-T's for \$1,045,000. A detailed reason was given by the City Counsel Beth Anne Wilkening as to why the settlement was reached in the best interest of the city.

The longest discussion of the night took place during the Broken Arrow Municipal Authority.

The budget for the fiscal year 2015-16 was detailed. It proposed rate increases for water, sewer and stormwater bills to help pay of a long of list of improvements to aging infrastructure.

One of the many points made was that the three water tanks atop Tiger Hill will need to come down and rebuilt.

The iconic middle tank was built in 1962 and has far exceeded useful expectations. However, it is in need of replacement. The east tank went up in 1979 while the west tank began in 1976.

This was just one of many needed fixes as explained by Utilities director Anthony Daniel.



INTEROFFICE MEMO

To: Honorable Mayor and City Councilors
From: Russell Gale, Acting City Manager
Date: March 27, 2015
Re: City Attorney Featured in Oklahoma Bar Journal

Please see the attached article by Beth Anne Wilkening recently published in the *Oklahoma Bar Journal*.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Russell". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Russell Gale

jmh

Attachment

The cover of the Oklahoma Bar Journal features a photograph of Old City Hall in Oklahoma City. The building is a grand, classical structure with multiple levels of fluted columns and arched windows. An American flag is flying from a pole in front of the building. The sky is clear and blue. The title 'Oklahoma Bar JOURNAL' is prominently displayed at the top in a large, serif font. Below the title, the volume and issue information is provided in a smaller font. The main theme of the issue, 'Municipal Law', is written in a large, bold, red font across the middle of the cover. At the bottom, a black banner contains the name of the building, and a light blue box highlights the word 'ALSO INSIDE' followed by a list of featured articles.

Oklahoma Bar JOURNAL

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Municipal Law

OLD CITY HALL

ALSO INSIDE

Solo & Small Firm Conference • Legislative Report • Attorney Discipline Reports



Economic Development Agreements – Avoiding and Defending the *Qui Tam*

By Beth Anne Wilkening

The state of Oklahoma is only one of a very small number of states in the country in which municipalities are supported almost exclusively by sales taxes. Property taxes (*ad valorem* taxes) may be utilized by municipalities to pay the principal and interest on general obligation bond indebtedness and to satisfy the payment of municipal judgments.¹ Payment of these obligations, however, is contingent upon timely submission of an estimate of needs, which is a formal request for allocation from the county. Interestingly enough, there is a provision in the Oklahoma Constitution which allows municipalities access to up to 10 mills for operational expenses.² However, the county's excise board has sole and exclusive jurisdiction of this allocation; and most counties, therefore, utilize the entirety of the 10 mills to support their own budgets. This is a longstanding tradition, not likely to be reversed as counties take the position that their expenditures for the benefit of the municipalities in the manner of roadway improvements, infrastructural improvements, and law enforcement, exceed the 10 mill allotment provided for in the state's constitution.

ECONOMIC DEVELOPMENT AGREEMENTS IN OKLAHOMA

The limitation of access to more consistent forms of revenues has resulted in municipalities competing against one another for valuable sales tax generating business entities. It has also resulted in the willingness of elected officials and municipal staff to explore creative and, sometimes, not well-thought-out agreements to incentivize large retailers or other business enterprises to locate in their jurisdic-

tions. Unfortunately, this has occasionally created situations that were detrimental to the cities themselves, as well as for the elected officials.

Prior to 1990, economic development on a mass scale was not embraced by Oklahoma municipalities. This was due in large part to three factors:

1) Public trusts could not engage in retail businesses;³ 2) Oklahoma municipalities could

not enter into any agreement that violated the debt limiting prohibitions of the Oklahoma Constitution.⁴ In other words, as is the case in many municipalities throughout the United States, cities cannot commit resources beyond the fiscal year in support of an activity unless it was appropriated and encumbered or subject to annual appropriation. 3) The voters in Oklahoma are typically very conservative when it comes to taxation. Utilization of tax revenues for purposes other than the direct provision of traditional municipal functions such as police protection, fire protection, maintenance of roadways, provision of clean drinking water, reliable solid waste service and sanitary sewer service, can be somewhat unpopular with many Oklahoma voters. Part of the reservation is undoubtedly the average citizen's lack of understanding of how these municipal functions are funded.

In 1997, the Oklahoma Supreme Court decided the case of *State ex rel. Brown v. City of Warr Acres*.⁵ This case involved a very conservative economic development activity undertaken by the city of Warr Acres, a small community surrounded in its entirety by the city of Oklahoma City.⁶ Like most municipalities throughout the United States, the city of Warr Acres struggled with the cost of providing services to its residents. One of its biggest challenges was the lack of large sales tax-generating businesses that were so vital to its economic wellbeing.

Wal-Mart, a substantial sales tax generator, was thought to provide one of the better solutions to the fiscal condition of the city of Warr Acres. City officials met with representatives of both Wal-Mart and Security Trust Revocable Trust, the owners of a large tract of land, about the possibility of locating a large Wal-Mart store within the city limits.⁷ Prior to the meeting, the landowners were unwilling to sell the property or enter into a long-term lease for the amount Wal-Mart was willing to pay.⁸ City officials convinced the landowners to accept a United States treasury strip security in the face amount of \$499,858.03, along with interest the investment would earn over a 50-year period in exchange for a long-term lease of the land to Wal-Mart.⁹ These Oklahoma economic development pioneers put considerable thought into development of this particular incentive. Purchase of the treasury strip security was made from that fiscal year's budget. By handling it in this manner, citizens in opposition to this economic development activity would not be suc-

cessful in arguing that it would violate the debt-limiting prohibitions of the Oklahoma Constitution.

Second, the treasury security proceeds and accumulated interest would remain in escrow and not be paid to the landowners until the initial 20-year term of the lease had run. Following expiration of the initial lease term, the landowners would receive annual payments from the escrow account.¹⁰ This proposed structure would ensure a measurable return on the investment of the city of Warr Acres. Finally, if the project did not come to fruition or if it failed to meet the benchmarks set forth in the agreement, the remaining funds in escrow would revert to the city of Warr Acres and be deposited in its general fund.¹¹

Unfortunately, as is the case in most municipalities, there were those who disagreed with this particular economic development activity. In the manner provided by law, 10 resident taxpayers filed a demand with the city of Warr Acres seeking recovery of all expenditures made by the city.¹² When no action was taken by the city of Warr Acres, the taxpayers initiated their own suit in the name of the state of Oklahoma.¹³ A very attractive aspect of this particular suit, also known as a *qui tam* action, is that at that time, state statute provided that 1/2 of the funds recovered must be paid as a "reward" to the taxpayers from the recipients of the alleged unauthorized, unlawful, fraudulent or void transaction.¹⁴ The remaining 1/2 would be re-turned to the city coffers.

The Latin phrase "*qui tam pro domino rege quam pro se ipso in hac parte sequitur*," literally means "he who sues in this matter for the king as well as for himself." Also known as taxpayer lawsuits, *qui tam* actions generally provide for initiation of suit in the name of the government to recover funds that logically belong to that entity. *Qui tam* litigants are generally entitled to a "reward" for bringing the action. In federal law, *qui tam* actions are sanctioned under the False Claims Act.¹⁵ The act allows persons and entities with evidence of fraud against federal programs or contracts to sue the wrongdoer on behalf of the United States Government.¹⁶ *Qui tam* litigants are entitled to receive between 15 and 30 percent of the total recovery, regardless of whether it is from a favorable judgment or settlement.¹⁷ Numerous states, including California, Oregon, New York and Virginia, have also enacted legislation that provides for *qui tam* actions. Although they vary in terms of

application and penalty, the purpose is to ensure that governing bodies do not enter into illegal contracts and also to provide a mechanism for the return of illegal expenditures to public bodies. Interestingly enough, many state legislatures have exempted themselves from application of these statutes.

CITY OF BROKEN ARROW V. BASS PRO

In 2006, just over one year into my tenure as city attorney, the city clerk for the city of Broken Arrow received a demand from 17 resident taxpayers.¹⁸ In this document, the taxpayers demanded that the city of Broken Arrow initiate an action against Bass Pro Outdoor World and the developers, Roland Investments LLC and Stonewood Hills BP LLC, Phil Roland and Bank of America to recover certain property and rescind certain contractual obligations.¹⁹ The demand dealt with the city's construction of a building and lease for occupation by Bass Pro and the relevant financing.²⁰ The taxpayers sought recovery in the amount of more than \$20 million, which represented the amount of the note for construction of the building and surrounding premises. As my knowledge of not only the relevant transactions, but also the law on *qui tam* actions was relatively limited, I immediately contacted Leslie Batchelor, a specialist in the field of economic development and the defense of *qui tam* actions.

In response to the *qui tam* demand, the city filed a declaratory judgment action requesting that the district court confirm the validity of transactions utilized to finance, construct, and facilitate the location of a Bass Pro Outdoor World in Broken Arrow.²¹ In support of this petition, the city filed a motion for summary judgment.²² One of the resident taxpayers, Karen Franklin, subsequently filed a motion to intervene to which the city objected.²³ The city then filed a supplement to its motion for summary judgment addressing all allegations raised in the taxpayer's proposed answer, counterclaim and cross-petition, which were attached to the motion to intervene. The District Court denied the taxpayer's motion and granted the city's motion for summary judgment.²⁴ On January 18, 2011, the Oklahoma Supreme Court upheld denial of the taxpayer's motion to intervene, sustaining the ruling of the appellate court which held that her claims were effectively articulated in the city's amended petition as set forth in the *qui tam* demand letter attached as an exhibit to the city's petition. The Supreme Court specifically noted that

all of the materials provided by the city to the trial court showed that her claims were fairly presented by the city.²⁵

Dissatisfied with the trial court's decision and prior to a final determination in the appellate court, taxpayer filed an action with Tulsa County District Court alleging that the city failed to address all issues in the amended and supplemented demand litigated in the declaratory judgment action.²⁶ The city filed a motion to dismiss.²⁷ The subsequent action was held in abeyance pending outcome of the appellate action.²⁸ After the Oklahoma Supreme Court issued its ruling in the intervenor action, the city filed a supplement to its motion to dismiss.²⁹

The city's motion was granted primarily because appellant's case involved the same parties and identical substantive issues raised in the original action.³⁰ The Oklahoma Court of Civil Appeals upheld the denial and the Supreme Court denied certiorari.³¹

At the time of these actions, the Oklahoma Supreme Court had been very active in favorably deciding a number of cases involving an aggressive redevelopment program in the city of Oklahoma City. In fact, the *Moshe Tal* cases, known respectively as *Tal I*, *Tal II*, *Tal III* and *Tal IV*,³² were very instructive on the law of declaratory judgment actions and economic development law in general. They were also representative of the growing acceptability of public/private partnerships in the state of Oklahoma, a more aggressive approach by municipalities to seek out beneficial development, and the willingness of the Supreme Court to uphold these types of agreements.

BEST PRACTICES IN IMPLEMENTING ECONOMIC DEVELOPMENT AGREEMENTS

All Bass Pro transactions were drafted and approved prior to my arrival as city attorney. It was challenging to draw such an incredibly contentious piece of litigation with an opportunity for such a significant award within two years of taking office. As always, however, the experience brought by significant litigation is not only incredibly invaluable, but can be instructive to any attorney representing public bodies. The following can be helpful in preventing and successfully defending these types of actions:

Seek advice from qualified attorneys

It is a good practice to recommend that the public body engage the best and the brightest specialists to assist in the drafting and defense of economic development agreements. Funds expended on well-qualified bond lawyers, economic development lawyers, and financial advisors, result in untold benefits to public bodies. Also, there are methods of reducing expenses. Generally, legal department staff will make an initial draft of economic development agreements and then forward them to outside counsel for review, editing and comment. This practice not only keeps expenses down, but also provides invaluable first-hand experience.

Draft comprehensive Recitals in the body of all Economic Development Agreements

City department directors frequently express frustration over a "belt and suspenders" approach to even the most simplistic of agreements. Their complaints notwithstanding, legal department staff, with the assistance and direction of seasoned bond lawyer Sam Stone, frequently uses recitals to tell a story of the proposed transaction, including the benefits that the city will receive from it. Recitals also build in consideration for the proposed transactions and support the decisions of the governing body or public trust. As an extra precaution, the agreement's recitals are generally incorporated into the Resolution to be approved by the governing body or public trust.

Be transparent

In the *Bass Pro* litigation, the resident taxpayer argued that the city violated the Oklahoma Open Meeting Act, the Competitive Bidding Act and anti-fraud statutes.³³ She argued that approval of the resolution was essentially "rubber-stamping" a foregone conclusion that was based upon previous improper discussions of the project in executive sessions of the city council, as well as clandestine meetings of city officials, a developer and representatives from both *Bass Pro* and a bank.³⁴ When holding discussions regarding economic development agreements, it is critically important to avoid

“ It is a good practice to recommend that the public body engage the best and the brightest attorneys to assist in the drafting and defense of economic development agreements. ”

even the appearance of secret or clandestine communications. It is also vitally important to provide an opportunity for meaningful public debate and to go into considerable detail when providing the background for economic development agreements in public meetings. It is also useful to submit to the governing body a memorandum of understanding which provides a basic outline of the proposed economic development activity. The final details of the project are then resolved by staff and contained in a comprehensive economic development agreement. This avoids the appearance that these agreements are being approved behind closed doors and gives both the elected or appointed officials and the citizens ample opportunity for review and input.

Be professional

Several years ago, the city of Broken Arrow was approached by developers proposing to locate a casino on a Creek Nation allotment. Unfortunately, the casino was located in very close proximity to residential subdivisions and schools. As one might imagine, the public outcry was substantial. Two individuals were particularly vocal and city staff found themselves being the subject of substantial criticism in a very public forum. The temptation to be disrespectful and unprofessional was overwhelming. Nonetheless, I stayed the course and attempted to remain professional and responsive. Some time later, I came into contact with one of the individuals in a restaurant. I spoke with the individual, inquired about his family and introduced my children to him. When I went to pay my bill, I realized that it had already been taken care of by the individual who had been such a vocal critic. The lesson I learned that day (and also imparted to my children) was that remaining professional and responsive, even in the face of public outcry, pays off in dividends.

Do not underestimate the importance of a Declaratory Judgment Action in accordance with established law

Whenever a municipality receives a demand letter from taxpayers pursuant to the *qui tam* statutes, serious consideration should be given

to filing a petition for declaratory judgment. The petition should fully and accurately state the claims made by taxpayers, and should ask the court to determine whether these claims are valid. Attaching the demand to the petition and addressing all allegations contained in the demand during motions and briefing are also incredibly important. Filing of a declaratory judgment action should prevent the filing of a separate *qui tam* action, thereby avoiding the possibility of the taxpayers recovering a percentage of any award. Provided the municipality fully and accurately sets forth the claims of the taxpayers, so as to present a justiciable controversy, the taxpayers should not be allowed to intervene in the declaratory judgment action.

Be thoughtful and decisive in litigation

In this type of litigation, it is important to resist the temptation to panic. Rather than immediately placing the matter on the agenda and forcing issues for consideration, it is important to be thoughtful and decisive. Prior to initiation of an action, the *Bass Pro* taxpayers were given an opportunity to appear before the council in an open meeting to discuss their claims. In advance of this, however, legal department staff thoroughly and thoughtfully prepared a declaratory judgment petition, as well as a comprehensive motion for summary judgment and supporting brief. All were reviewed by outside counsel. Although this represented a considerable amount of work in a compressed timeframe, it paid off in dividends. Staff was prepared not only for the public meeting, but also as the litigation moved forward.

CONCLUSION

Economic development agreements can be tremendously valuable to communities and have the potential to advance projects that would not be possible without public/private partnerships. When done properly, they provide increased revenues so necessary for municipal operations. Seeking advice from well qualified attorneys, ensuring transparency in negotiations, and being professional are key to navigating these partnerships. Further, comprehensive, well-thought-out agreements, supported by articulated consideration will

unquestionably assist the municipal counselor or outside attorney in avoiding and defending the dreaded *qui tam*.

1. 62 O.S. § 431.
2. OK. Const. Art. 10 § 6B.
3. 60 O.S. § 178.4.
4. OK. Const. Art. 10 § 26.
5. *State of Oklahoma, ex rel. Brown v. City of Warr Acres*, 946 P.2d 1140, 1997 OK 117.
6. 1997 OK 177, ¶2.
7. 1997 OK 177, ¶3.
8. 1997 OK 177, ¶2.
9. 1997 OK 177, ¶3.
10. 1997 OK 177, ¶4-5.
11. 1997 OK 177, ¶6.
12. 1997 OK 177, ¶8.
13. 1997 OK 177, ¶8.
14. 62 O.S. § 373 (superseded).
15. 31 U.S.C. §§ 3729-3733.
16. *Id.*
17. *Id.*
18. *City of Broken Arrow v. Bass Pro Outdoor World, L.L.C.*, 250 P.3d 305, 2011 OK 1.
19. 2011 OK 1, ¶2-5.
20. 2011 OK 1, ¶2.
21. 2011 OK 1, ¶6.
22. 2011 OK 1, ¶6.
23. 2011 OK 1, ¶8.
24. 2011 OK 1, ¶10.
25. 2011 OK 1, ¶10.
26. *Karen Franklin v. Phil Roland, et al.* Tulsa County District Court Case Number CJ-2006-7568.
27. *Id.*
28. *Id.*
29. *Id.*
30. *Id.*
31. *Karen Franklin v. Phil Roland, et al.*, State of Oklahoma Supreme Court Case Number SD-110298.
32. *Oklahoma City v. Oklahoma City Urban Renewal Authority*, 988 P.2d 901, 1999 OK 71; *State, ex rel. Tal v. Norick*, 991 P.2d 999, 1999 OK 85; *State ex rel. Moshe Tal v. City of Oklahoma City*, 19 P.3d 268, 2000 OK 70; *State ex rel. Moshe Tal v. City of Oklahoma City*, 61 P.3d 234, 2002 OK 97.
33. *City of Broken Arrow v. Bass Pro Outdoor World, L.L.C.*, 2011 OK 1, ¶4.
34. As set forth in trial court briefing of *City of Broken Arrow v. Bass Pro Outdoor World*.

ABOUT THE AUTHOR



Beth Anne Wilkening is the city attorney for the city of Broken Arrow. She has served in that capacity for over 10 years. Prior to that time, she worked for the firm of Rodolf and Todd, served the city of Broken Arrow as a staff attorney and chief deputy, and was a staff attorney for the city of Norman. Ms. Wilkening serves as the chief legal advisor to the Broken Arrow City Council and its boards and trusts. She received her J.D. From the OU College of Law.