

**BROKEN ARROW CITY COUNCIL MINUTES**

**August 19, 2008**

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, August 19, 2008, at 6:30 p.m.

**1. Call to Order**

**Section Minutes:** Mayor McCaleb called the meeting to order at the noted time of 6:30 p.m.

**2. Invocation**

**Section Minutes:** No one was present to deliver the invocation.

**3. Roll Call**

<b>Present:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Absent:</b>	None

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

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

**5. Consideration of Consent Agenda**

**Section Minutes:** The Mayor introduced the Consent Agenda.

Vice Mayor Lester asked that Item 5F be removed from the consent agenda due to a conflict.

- A. Approval of the regular meeting minutes of August 5, 2008
- B. Acceptance of the minutes of the Planning Commission meeting held July 24, 2008
- C. Approval of and authorization to implement an Out of Town Vehicle Repair Policy
- D. Approval of Exemption Waiver pursuant to Section 16-12, C-4 of the Broken Arrow Code, to allow Green Country Concrete Construction, Inc. to work in the early morning hours for the number of days specified and coordinate with City staff prior to the work commencing
- E. Approval of BAZ 1807, 5.01 acres, 1 lot, A-1 to RS-1, one-third mile west of 23rd Street (County Line Road/193rd East Avenue), one-half mile south of Kenosha Street (71st Street) on the north side of College Street at 1538 East College Street
- F. Approval of BAZ 1811, Pope, 3.43 acres, 1 lot, A-1 to RS-1, west of Aspen Avenue (145th East avenue), one-quarter mile south of Florence Street (111th Street), on 140th East Avenue
- G. Acceptance of a Temporary Construction Easement from Peter O. Worline and Patricia N. Worline (Sec 18 T18 R15) (Project: Washington Street Extension From 23 St to SH 51)
- H. Acceptance of two Temporary Construction Easements from The Greens At Broken Arrow (S36 T19N R14E) (Project: 9th St Widening Albany to Omaha St)
- I. Acceptance of a Permanent Drainage Easement from The Greens At Broken Arrow (36 T19N R14E) (Project: 9th St Widening Albany To Omaha St)
- J. Approval of the Claims List

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2. Invocation

Section Minutes: No one was present to deliver the invocation.

3. Roll Call

Present: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb  
Absent: None

4. Pledge of Allegiance to the Flag

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

5. Consideration of Consent Agenda

Section Minutes: The Mayor introduced the Consent Agenda.

Vice Mayor Lester asked that Item 5F be removed from the consent agenda due to a conflict.

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- H. Acceptance of two Temporary Construction Easements from The Greens At Broken Arrow S36 T19N R14E) Project: 9th St Widening Albany to Omaha St)
- I. Acceptance of a Permanent Drainage Easement from The Greens At Broken Arrow 36 T19N R14E) Project: 9th St Widening Albany To Omaha St)

## J. Approval of the Claims List

<b>Motion:</b>	<b>Move to approve the Consent Agenda except Item F.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

Vice Mayor Lester left the room.

**6. Consideration of Items Removed from Consent Agenda**

F. Approval of BAZ 1811, Pope, 3.43 acres, 1 lot, A-1 to RS-1, west of Aspen Avenue (145th East avenue), one-quarter mile south of Florence Street (111th Street), on 140th East Avenue

<b>Motion:</b>	<b>Move to approve Item 5F.</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb
<b>Nays:</b>	None

Vice Mayor Lester was absent for the vote, returning to the room immediately thereafter.

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

A. Presentation of the "Employee of the Quarter" award recognizing Johnny Conner for the term April through June 2008

**Item Minutes:** City Manager, Jim Twombly, presented this Item stating that the City's Employee of the Quarter was Johnny Conner who coordinated the crews working on debris clean-up following the December 2007 ice storm. Mr. Twombly said this Item was presented at the August 5, 2008 Council meeting but Mr. Conner was not able to attend. Mr. Twombly said Johnny Conner was present this evening and Council would like to present his award. Mr. Twombly thanked Mr. Conner for his hard work and dedication. Mayor McCaleb asked Mr. Conner to come forward, and the Mayor presented the award and thanked Mr. Conner commenting that the task of dealing with the massive debris was like dealing with a war zone.

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

**Section Minutes:** The Mayor noted it is early and he will return to this item closer to 7:00 pm.

**9. General Council Business**

A. Consideration, possible approval of and authorization to execute Resolution No. 536 approving initial studies and property acquisition and authorization to begin negotiation of an agreement with the Oklahoma Turnpike Authority for entrance and exit ramps at Aspen Avenue and the Creek Turnpike

**Item Minutes:** Mr. Twombly presented this Item consistent with the Fact sheet provided in the Agenda packet. City Attorney, Beth Anne Wilkening, said that she made a few corrections to this Resolution and that Council should make a motion to approve 'as presented for signature'.

<b>Motion:</b>	<b>Move to approve Resolution No. 536 as presented for signature.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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Motion: Move to approve the Consent Agenda except Item F.

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

Vice Mayor Lester left the room.

#### 6. Consideration of Items Removed from Consent Agenda

F. Approval of BAZ 1811, Pope, 3.43 acres, 1 lot, A-1 to RS-1, west of Aspen Avenue 145th East avenue), one-quarter mile south of Florence Street 111th Street), on 140th East Avenue

Motion: Move to approve Item 5F.

Motion by: Craig Thurmond

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb

Nays: None

Vice Mayor Lester was absent for the vote, returning to the room immediately thereafter.

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

A. Presentation of the Employee of the Quarter" award recognizing Johnny Conner for the term April through June 2008

Item Minutes: City Manager, Jim Twombly, presented this Item stating that the City's Employee of the Quarter was Johnny Conner who coordinated the crews working on debris clean-up following the December 2007 ice storm. Mr. Twombly said this Item was presented at the August 5, 2008 Council meeting but Mr. Conner was not able to attend. Mr. Twombly said Johnny Conner was present this evening and Council would like to present his award. Mr. Twombly thanked Mr. Conner for his hard work and dedication. Mayor McCaleb asked Mr. Conner to come forward, and the Mayor presented the award and thanked Mr. Conner commenting that the task of dealing with the massive debris was like dealing with a war zone.

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

Section Minutes: The Mayor noted it is early and he will return to this item closer to 7:00 pm.

#### 9. General Council Business

A. Consideration, possible approval of and authorization to execute Resolution No. 536 approving initial studies and property acquisition and authorization to begin negotiation of an agreement with the Oklahoma Turnpike Authority for entrance and exit ramps at Aspen Avenue and the Creek Turnpike

Item Minutes: Mr. Twombly presented this Item consistent with the Fact sheet provided in the Agenda

packet. City Attorney, Beth Anne Wilkening, said that she made a few corrections to this Resolution and that Council should make a motion to approve as presented for signature'.

Motion: Move to approve Resolution No. 536 as presented for signature.

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

- B. Consideration, possible approval of and authorization to execute Resolution No. 537, a resolution of the Council of the City of Broken Arrow, Oklahoma, establishing the wireline nine-one-one (9-1-1) emergency telephone fee, retroactive to September 1, 2005, of five percent (5%) for calendar years 2006, 2007, and 2008, pursuant to State Statute and Ordinance, and ratifying all fees collected and services provided, and establishing the fee for calendar year 2009

**Item Minutes:** Ms. Wilkening presented this Item consistent with the fact sheet provided in the Agenda packet. Ms. Wilkening said that she provided extensive detail in the fact sheet and she would now provide a brief summary of that information.

<b>Motion:</b>	<b>Move to approve Resolution No. 537.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

- C. Consideration and possible approval of the Mayor's appointment of Dennis Fries and Wes Smithwick to serve as Chairman and Vice-Chairman for the Broken Arrow Development Authority, for the term ending July 31, 2009

**Item Minutes:** Mayor McCaleb presented this Item saying that he selected Dennis Fries to serve as Chairman and Wes Smithwick to serve as Vice Chairman of the Broken Arrow Development Authority for the term ending July 31, 2009.

Councilman Tucker asked what criteria the Mayor considered in making these selections. Mayor McCaleb said that Mr. Fries legal experience would be of value as Chairman and Mr. Smithwick had extensive experience on the School Board and other Commissions.

<b>Motion:</b>	<b>Move to appoint Dennis Fries and Wes Smithwick to serve as Chairman and Vice-Chairman for the Broken Arrow Development Authority.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None
<b>Abstain:</b>	Philip Tucker

- D. Consideration and possible adoption of the Self-Evaluation and Transition Plan to Addressing Compliance Requirements with the Americans with Disabilities Act

**Item Minutes:** Risk Management and Employee Safety Manager, Branon Dodd, presented this Item consistent with the fact sheet provided in the Agenda packet.

<b>Motion:</b>	<b>Move to approve the Self-Evaluation and Transition Plan.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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

**Section Minutes:** The Mayor said that it was now a little after 7:00 p.m. and Council would return to Item 8, Citizens' Opportunity to Address Council. The first speaker at 7:12 p.m. was Mr. Brent Watson.

Brent Watson, 7204 S. Dennis, addressed Council regarding the Adams Creek Watershed. He read a letter from the Kenosha Corridor Flood Action Committee thanking Council and staff for their activities related

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B. Consideration, possible approval of and authorization to execute Resolution No. 537, a resolution of the Council of the City of Broken Arrow, Oklahoma, establishing the wireline nine-one-one 9-1-1) emergency telephone fee, retroactive to September 1, 2005, of five percent 5%) for calendar years 2006, 2007, and 2008, pursuant to State Statute and Ordinance, and ratifying all fees collected and services provided, and establishing the fee for calendar year 2009

Item Minutes: Ms. Wilkening presented this Item consistent with the fact sheet provided in the Agenda packet. Ms. Wilkening said that she provided extensive detail in the fact sheet and she would now provide a brief summary of that information.

Motion: Move to approve Resolution No. 537.

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

C. Consideration and possible approval of the Mayor's appointment of Dennis Fries and Wes Smithwick to serve as Chairman and Vice-Chairman for the Broken Arrow Development Authority, for the term ending July 31, 2009

Item Minutes: Mayor McCaleb presented this Item saying that he selected Dennis Fries to serve as Chairman and Wes Smithwick to serve as Vice Chairman of the Broken Arrow Development Authority for the term ending July 31, 2009.

Councilman Tucker asked what criteria the Mayor considered in making these selections. Mayor McCaleb said that Mr. Fries legal experience would be of value as Chairman and Mr. Smithwick had extensive experience on the School Board and other Commissions.

Motion: Move to appoint Dennis Fries and Wes Smithwick to serve as Chairman and Vice-Chairman for the Broken Arrow Development Authority.

Motion by: Mike Lester

Second by: Craig Thurmond

Ayes: Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb

Nays: None

Abstain: Philip Tucker

D. Consideration and possible adoption of the Self-Evaluation and Transition Plan to Addressing Compliance Requirements with the Americans with Disabilities Act

Item Minutes: Risk Management and Employee Safety Manager, Branon Dodd, presented this Item consistent with the fact sheet provided in the Agenda packet.

Motion: Move to approve the Self-Evaluation and Transition Plan.

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None



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

Section Minutes: The Mayor said that it was now a little after 7:00 p.m. and Council would return to Item 8, Citizens' Opportunity to Address Council. The first speaker at 7:12 p.m. was Mr. Brent Watson. Brent Watson, 7204 S. Dennis, addressed Council regarding the Adams Creek Watershed. He read a letter from the Kenosha Corridor Flood Action Committee thanking Council and staff for their activities related

to the flooding issues. He also noted Wagoner County officials are also beginning action on the Adams Creek flooding issues.

Larry Wilkinson and Mary Ann Colston declined to speak, noting Mr. Watson covered the issue.

Mayor McCaleb stated that he received the request to speak regarding Item 5E after the Consent Agenda was considered and approved. Council would now hear Mr. David Merchant's comments.

David Merchant, 1538 E. College Street, spoke in opposition to the zoning change approved in Item 5E. He was unaware he was in the City Limits, has horses and had started constructing an accessory building. He said he the City changed his zoning to RS-1 which does not allow horses. Mr. Merchant said he went before the Board of Adjustment which turned down his request for a variance and suggested he request a zoning change. Mr. Merchant said his desire is to keep his horses at his residence and also to keep his building.

Development Services Director, Michael Skates, explained that staff has been working with Mr. Merchant for quite some time and they are aware of Mr. Merchant's desire continue to keep his horses on the property. Mr. Skates added that after the Board of Adjustment denied the variance, the zoning change was suggested as it will allow Mr. Merchant to continue to use his property as he has in the past in addition to allowing a smaller side yard for the building.

Ms. Wilkening reviewed the Code and explained that Mr. Merchant is allowed to keep his horses on the land as he has more than 2 acres and it is a single family residence.

## 10. City Manager's Report

### A. Sales Tax Leakage

**Item Minutes:** Mr. Twombly presented this Item stating after each fiscal year ends, the City Manager provides Council with a report describing how Broken Arrow is doing in sales tax revenues relative to other cities and the state. He said this year's report showed a discouraging trend of greater sales tax growth statewide than in Broken Arrow. He added that this marks two years in a row Tulsa has had greater sales tax growth per capita than Broken Arrow and, while the state per capita revenues increased by 4.8% and 7.3% in FYs '07 and '08 respectively, Tulsa's grew by 4.8% and 3.9% and Broken Arrow's grew by 1.1% and 1.6%.

Mr. Twombly added that Broken Arrow continues to lag significantly behind other northeast Oklahoma cities but he said changes were expected in the coming year. He reviewed the statistics tables as follows:

- Revenue per capita for Tulsa area cities and the state
- Lists of SIC code categories that make up the more general groupings
- Revenues per capita as a percentage of the state revenue
- Broken Arrow revenues compared to state revenues from 1996 to the present
- Graph of Broken Arrow revenues compared to state revenues from 1996 to present

## 11. Preview Ordinances

A. An ordinance amending the Broken Arrow Code, Chapter 8, Cemeteries, Sections 8-22A, 8-22C, 8-29, 8-30, and 8-36; repealing all ordinances to the contrary and declaring an emergency

**Item Minutes:** General Services Director, Lee Zirk, responded to Council's inquiries. Mr. Zirk said this fee schedule would bring the City to the break even point. He added there was a rush to buy plots prior to the fee increase so there may a slow down in the activity level initially. Mr. Zirk said that fees would now be competitive with others in the area. He mentioned that resident fee increases are not proportionally the same non-resident fee increases but non-resident sales do not significantly impact plot sales. Mr. Zirk responded to Council questions explaining that residents purchase lots at the discounted rate and afterwards transfer the plot to non-resident relatives. He added staff could research the number of transfers if Council requested it but that imposing a transfer fee would not financially benefit the City.

to the flooding issues. He also noted Wagoner County officials are also beginning action on the Adams Creek flooding issues.

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Broken Arrow revenues compared to state revenues from 1996 to the present

Graph of Broken Arrow revenues compared to state revenues from 1996 to present

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<b>Motion:</b>	<b>Move to forward preview ordinances to the next agenda for possible adoption.</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

**12. Ordinances**

- A. Ordinance No. 2980 - An ordinance amending Chapter 24, Water, Sewer and Disposal, Article VI Water Service Charges and Rates, Section 24-608, Water Rates Established and Section 24-609 Special Contract Rates Established of the Broken Arrow Code; repealing all ordinances to the contrary, and declaring an emergency

**Item Minutes:** Mr. Twombly noted this was a pass through of the rate increase from the Oklahoma Ordinance Works Authority.

<b>Motion:</b>	<b>Move to adopt Ordinance No. 2980.</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to adopt the emergency clause of Ordinance No. 2980.</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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

**Section Minutes:** There were no remarks or inquiries. The Mayor asked for a motion to recess to BAMA at 7:45 p.m.

<b>Motion:</b>	<b>Move to recess to enter into Broken Arrow Municipal Authority meeting.</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

**Section Minutes:** The Mayor reconvened the regular session at the noted time of 7:46 p.m.

<b>Motion:</b>	<b>Move to take a short break before returning for Executive Session.</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Mike Lester
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

**Section Minutes:** The Mayor reconvened the regular session at 7:52 p.m.

<b>Motion:</b>	<b>Move to enter into Executive Session.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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Motion: Move to forward preview ordinances to the next agenda for possible adoption.

Motion by: Richard Carter

Second by: Philip Tucker

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

Nays: None

## 12. Ordinances

A. Ordinance No. 2980 An ordinance amending Chapter 24, Water, Sewer and Disposal, Article VI Water Service Charges and Rates, Section 24-608, Water Rates Established and Section 24-609 Special Contract Rates Established of the Broken Arrow Code; repealing all ordinances to the contrary, and declaring an emergency

Item Minutes: Mr. Twombly noted this was a pass through of the rate increase from the Oklahoma Ordinance Works Authority.

Motion: Move to adopt Ordinance No. 2980.

Motion by: Richard Carter

Second by: Craig Thurmond

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

Nays: None

Motion: Move to adopt the emergency clause of Ordinance No. 2980.

Motion by: Richard Carter

Second by: Craig Thurmond

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

Nays: None

## 13. Remarks and Inquiries by Governing Body Members

Section Minutes: There were no remarks or inquiries. The Mayor asked for a motion to recess to BAMA at 7:45 p.m.

Motion: Move to recess to enter into Broken Arrow Municipal Authority meeting.

Motion by: Craig Thurmond

Second by: Mike Lester

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

Nays: None

Section Minutes: The Mayor reconvened the regular session at the noted time of 7:46 p.m.

Motion: Move to take a short break before returning for Executive Session.

Motion by: Craig Thurmond

Second by: Mike Lester

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb  
Nays: None

Section Minutes: The Mayor reconvened the regular session at 7:52 p.m.

Motion: Move to enter into Executive Session.

Motion by: Mike Lester

Second by: Craig Thurmond

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

Nays: None

14. **Executive Session** for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City Attorney for the purpose of conferring on the potential purchase and appraisal of real property in the area where St. John Hospital Broken Arrow is going to be located, under 25 O.S. § 307(B)(3) and a potential economic development contract with the developers under 25 O.S. §307(c)(10); and litigation concerning City of Broken Arrow v. Mary Ellen Brown, et al., Wagoner County District Court Case Number CJ-2008-736, City of Broken Arrow v. Rhonda Lynette Hamilton, et al., Tulsa County District Court Case Number CJ-2008-4327, City of Broken Arrow v. Michael Lowell Mueller, et al., Tulsa County District Court Case Number CJ-2008-3178, City of Broken Arrow v Jack Kelso Parrott, Tulsa County District Court Case Number CJ-2008-01624, City of Broken Arrow v. Elizabeth Anne Read, et al., Tulsa County District Court Case Number CJ-2008-2836, and City of Broken Arrow v. James G. Barnes, et al., Tulsa County District Court Case Number CJ-2008-4104, under 25 O.S. § 307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

**Section Minutes:** The Mayor reconvened the regular session at 8:21 p.m.

<b>Motion:</b>	<b>Move to authorize the City Manager to continue negotiations for the potential acquisition of real property and an economic development contract with the developers of St. John Hospital.</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to authorize settlement in the amount of \$95,000 in City of Broken Arrow v. James Barnes, et. al</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to authorize settlement in the amount of \$35,000 in the City of Broken Arrow v. Rhonda Lynette Hamilton, et al</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to authorize the City Attorney to proceed as directed in the case of the City of Broken Arrow v. Michael Lowell Mueller, et al.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to ratify filing of Demands for Jury Trial in the cases of City of Broken Arrow v. Mary Ellen Brown, et al., City of Broken Arrow v. Jack Kelso Parrott, et al, and the City of Broken Arrow v. Michael Lowell Mueller, et al.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None



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14. Executive Session for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City Attorney for the purpose of conferring on the potential purchase and appraisal of real property in the area where St. John Hospital Broken Arrow is going to be located, under 25 O.S. 307(B)(3) and a potential economic development contract with the developers under 25 O.S. 307(c)(10); and litigation concerning City of Broken Arrow v. Mary Ellen Brown, et al., Wagoner County District Court Case Number CJ-2008-736, City of Broken Arrow v. Rhonda Lynette Hamilton, et al., Tulsa County District Court Case Number CJ-2008-4327, City of Broken Arrow v. Michael Lowell Mueller, et al., Tulsa County District Court Case Number CJ-2008-3178, City of Broken Arrow v Jack Kelso Parrott, Tulsa County District Court Case Number CJ-2008-01624, City of Broken Arrow v. Elizabeth Anne Read, et al., Tulsa County District Court Case Number CJ-2008-2836, and City of Broken Arrow v. James G. Barnes, et al., Tulsa County District Court Case Number CJ-2008-4104, under 25 O.S. 307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the pending litigation in the public interest. After the conclusion of the confidential portion of executive session, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Section Minutes: The Mayor reconvened the regular session at 8:21 p.m.

Motion: Move to authorize the City Manager to continue negotiations for the potential acquisition of real property and an economic development contract with the developers of St. John Hospital.

Motion by: Richard Carter

Second by: Craig Thurmond

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

Nays: None

Motion: Move to authorize settlement in the amount of \$95,000 in City of Broken Arrow v. James Barnes, et. al

Motion by: Mike Lester

Second by: Philip Tucker

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

Nays: None

Motion: Move to authorize settlement in the amount of \$35,000 in the City of Broken Arrow v. Rhonda Lynette Hamilton, et al

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

Motion: Move to authorize the City Attorney to proceed as directed in the case of the City of Broken Arrow v. Michael Lowell Mueller, et al.

Motion by: Mike Lester

Second by: Philip Tucker

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb  
Nays: None

Motion: Move to ratify filing of Demands for Jury Trial in the cases of City of Broken Arrow v. Mary Ellen Brown, et al., City of Broken Arrow v. Jack Kelso Parrott, et al, and the City of Broken Arrow v. Michael Lowell Mueller, et al.

Motion by: Mike Lester

Second by: Richard Carter

Ayes: Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb  
Nays: None

<b>Motion:</b>	<b>Move to authorize settlement in the amount of \$21,698 in City of Broken Arrow v. Elizabeth Anne Read, et al.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

No further action was taken.

**15. Adjournment**

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

The meeting was adjourned at the noted time of 8:24 p.m.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Motion: Move to authorize settlement in the amount of \$21,698 in City of Broken Arrow v. Elizabeth Anne Read, et al.

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

No further action was taken.

## 15. Adjournment

Motion: Move to adjourn.

Motion by: Richard Carter

Second by: Mike Lester

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

Nays: None

The meeting was adjourned at the noted time of 8:24 p.m.

Mayor

City Clerk