

**BROKEN ARROW CITY COUNCIL MINUTES**  
**December 2, 2008**

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, December 2, 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:** Pastor Jeff Hill of Destiny Church delivered 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:** Vice Mayor Lester led those present in the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

- A. Approval of the regular meeting minutes of November 18, 2008
- B. Acceptance of the minutes of the Planning Commission meeting held November 6, 2008
- C. Ratification of a proclamation declaring November 20, 2008 as "Miss Ethel Deonier Day" in the City of Broken Arrow
- D. Approval of temporary street closure, Section 21-3, for the Broken Arrow High School Band to practice for their Rose Parade appearance
- E. Approval of and authorization to execute a Parks and Recreation Use Agreement between the City and the Broken Arrow Amateur Basketball Association (BAABA), for use of the Central Park Community Center gymnasiums and the Nienhuis Park Gymnasiums for a youth basketball program, from the date of execution through March 31, 2009
- F. Approval of and authorization to execute a Parks and Recreation Use Agreement between the City and the Broken Arrow Genealogy Society, for use of space in the Broken Arrow Historical Museum, from the date of execution through October 31, 2009
- G. Approval of a Letter Agreement memorializing satisfaction on the terms of a Memorandum of Understanding providing for the dedication of right-of-way and temporary construction easements, drainage structures and relocation of a Conoco-Phillips Pipeline in Section 35, Township 19 North, Range 14 East between the City of Broken Arrow and Mr. John A. Davis, Jr., E. A. Schermerhorn and Mr. Jack Wright dated August 3, 2004
- H. Approval of and authorization to execute Amendment No. 1 to Architect-Engineer Contract No. 051708 with Mike Hughes Architects, PC, for design of the Broken Arrow Conference Center
- I. Approval of Policy for Take Home Vehicles
- J. Approval of bids received and award of the most advantageous bid to Washington Electronics for the purchase of Whelen outdoor warning sirens and parts

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Philip Tucker. Craig Thurmond. Richard Carter. Mike Lester. Wade McCaleb

Absent: None

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J. Approval of bids received and award of the most advantageous bid to Washington Electronics for the purchase of Whelen outdoor warning sirens and parts

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- K. Approval of PT08-119, Conditional Final Plat for Williams Brothers Constructors Park Amended, 13.93 acres, 1 lot, I-L(BAZ 1334), one-half mile east of Olive Avenue (129th East Avenue), south of Albany Street (61st Street)
- L. Approval of PUD 194 & BAZ 1819, 1.02 acres, A-1 to IL, one-half mile east of the southeast corner of Evans Road (225th East Avenue) and Kenosha Street (71st Street) at 22700 East 71st Street
- M. Acceptance of a Drainage Easement from Schermerhorn, Starlight Investments, Davis (S35 T19N R14E)(Project: 9th St Widening Albany to Omaha)
- N. Acceptance of a Deed of Dedication and a Utility Easement from Memorial Drive LLC (S35 T19N R14E)(Project: BAL-966 Schermerhorn Lot Split)
- O. Acceptance of a Deed of Dedication and two Utility Easements from Schermerhorn, Starlight, Davis (S35 T19N R14E)(Project: Bal-966 Schermerhorn Lot Split)
- P. Acceptance of a Deed of Dedication from William & Joyce Lewis (S17 T18N R14E)(Project #STO522)
- Q. Approval of the Claims List

<b>Motion:</b>	<b>Move to the Consent Agenda as submitted.</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

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

**Section Minutes:** There were no items to consider and no action was taken.

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

- A. Presentation: Approval of and authorization to execute and present Humanitarian Proclamations to outstanding corporations and individual citizens

**Item Minutes:** Mayor McCaleb called Mr. Clint Walden of Angel Bear. Mr. Walden, Angel Bear Organization, 1601 N. Elm Pl., presented humanitarian awards to citizens and organizations as follows:

Dr. Greg Ratliff	Streetman Company's – Norris Streetman
First National Bank	Bethel Collision Center – Danny Burton
Oral Roberts University	Ferguson Superstore – Jerry Ferguson
Roy Holloway	Hampton and Clarion Inns – Kal DeSai
Senator Bill Brown	Good Bears of the World – Danetta Yandell
Corey Haughn	Union Schools – Danny Williams
Michele McCraig	United States Marines – Toys For Tots

Mayor McCaleb said that, on behalf of Council and the City, he wished to present Proclamations to the same individuals listed above, and said that humanitarians such as these make Broken Arrow a great city. He read the Proclamation aloud and asked for a Motion to execute and present Proclamations to each individual listed above and to Mr. Clint Walden.

<b>Motion:</b>	<b>Move to approve the Proclamations.</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

K. Approval of PT08-I 19. Conditional Final Plat for Williams Brothers Constructors Park Amended. 13.93 acres. I lot. I-L(BAZ 1334). one-half mile cast of Olive Avenue 129th East Avenue). south of Albany Street 61st Street)

Q.

L. Approval of PUD 194 & BAZ 1819. 1.02 acres. A-I to IL. one-half mile cast of the southeast corner of Evans Road 225th East Avenue) and Kenosha Street 71st Street) at 22700 East 71st Street

M. Acceptance of a Drainage Easement from Schermerhorn. Starlight Investments. Davis S3)5 T 19N R 14E)(Project: 9th St Widening Albany to Omaha)

N. Acceptance of a Deed of Dedication and a Utility Easement from Memorial Drive LLC S' 5 T I9N R I4E)(Project: BAL-966 Schermerhorn Lot Split)

O. Acceptance of a Deed of Dedication and two Utility Easements from Schermerhorn. Starlight. Davis S' 5 T I9N R 14E)(Project: Bal-966 Schermerhorn Lot Split)

P. Acceptance of a Deed of Dedication from William & Joyce Lewis S17 TI8N R14E)(Project #ST0522)

Approval of the Claims List

Motion: Move to the Consent Agenda as submitted.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

6. Consideration of Items Removed from Consent Agenda

Section Minutes: There were no items to consider and no action was taken.

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same individuals listed above. and said that humanitarians such as these make Broken Arrow a great cite. He read the Proclamation aloud and asked for a Motion to execute and present Proclamations to each individual listed above and to Mr. Clint Walden.

Motion: Move to approve the Proclamations.

Motion b Richard Carter

Second b Craig Thurmond

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

Nays: None

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

No one present to address Council under this item.

9. **General Council Business**

- A. Consideration and possible approval of BACP 96, Elm Ridge Crossing, 28.54 acres, A-I, Level 2 to Level 4, southeast corner of Elm Place (161st East Avenue) and Omaha Street (51st Street)

**Item Minutes:** Planning Department Manager, Farhad Daroga, presented this item consistent with the fact sheet provided in the agenda packet. Mr. Ken Schwab, Director of Engineering, discussed safety concerns that were addressed in the plans. Mr. Schwab said that professionals were used to carry out traffic studies. He said that safety requirements set by the American Association of State Highway and Transportation Officials were met. Mr. Schwab said the street widening was not connected to the zoning change. He added that the street widening project was already funded and that it was a part of the "4 to Fix the County" Phase 2 and involves three governmental agencies: City of Broken Arrow, City of Tulsa, and Tulsa County, each being responsible for a different leg of the intersection.

Mr. Schwab said that Elm Place at Omaha was the safest location for widening the intersection, and this project will result in improved access to the north side of Broken Arrow which will be needed once the new St. John's Hospital is in operation. City Manager, Jim Twombly, pointed out that the item under consideration was to amend the Comprehensive Plan and not to change the zoning.

Vice Mayor Lester asked that Sergeant Ed Ferguson, Broken Arrow Police Department, speak briefly regarding public safety concerns at the proposed intersection at Elm and Omaha. Sergeant Ferguson said that his concern is for the road as it currently exists. He said he had no issues with the proposed design except for the portion that the County of Tulsa was to construct. He recommended the grade be reduced in order to improve visibility as traffic approaches the cars stopped at the intersection below the crest of the hill. He said the current grade allowed about 700 feet for cars to queue below the crest of the hill and approaching vehicles would have limited view of the stopped cars.

Attorney for the applicants, Roy Johnson, 201 West 5th Street, Tulsa, stated land use intensity on the subject property was deferred when the Comprehensive Plan was approved due to the uncertainty regarding potential extension of Elm Place and details regarding the extension. Mr. Johnson added that the extension of Elm Place has been resolved with the alignment selected, right-of-way identified and funding made available for the extension of Elm Place. He said the Comprehensive Plan recognizes arterial street intersections as appropriate places for commercial development so this application is appropriate.

Mayor McCaleb stated for the record, that 175 citizens requested to record their opposition.

He said that the following persons requested to speak before Council in opposition to BACP 96:

Roger Finn, 720 W. Helena, Broken Arrow	Theresa Williamson, 4902 S. 168 <sup>th</sup> E. Avenue, Tulsa
Robert Townsend, 4925 S. 165 <sup>th</sup> E. Avenue, Tulsa	Tarah Hayes, 5010 S. 164 <sup>th</sup> E. Avenue, Tulsa
Blake Hayes, 5010 S. 164 <sup>th</sup> E. Avenue, Tulsa	Tulsa District 6 Councilman Dennis Troyer
Timothy Sartorius, 5001 S. 165 <sup>th</sup> E. Avenue	Julie Carter, 16418 E. 50 <sup>th</sup> Place, Tulsa
Bonnie Latshaw, 16718 E. 39 <sup>th</sup> Place, Tulsa	Christine Edgar, 3913 N. Elmwood Ave, Broken Arrow

Speakers presented objections related to BACP 96 stating that the request made in BACP 96 is for more than double the 10-acres currently allowed by the Comprehensive Plan for commercial development and added that the size of the commercial development was unacceptable to them because their neighborhoods and children's schools either bordered the proposed development or were across the street from it. Speakers presented concerns regarding traffic and pedestrian safety where the proposed 5-lane Elm Place empties onto 2-lane Omaha Street. They also expressed concern about the expected increase in

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

No one present to address Council under this item.

#### 9. General Council Business

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the amount of traffic on Omaha Street. The speakers pointed out that while some of their addressed are in on the Tulsa side of the line, their children go to Broken Arrow schools and they shop and do business in Broken Arrow. Speakers said they felt the changes to allow the development would result in an unsafe environment for families, was too large and inappropriate for a predominantly residential area, and would lower their property values.

Vice Mayor Lester said property values would increase and that his home backs up to commercial and his property value increases every year. Mayor McCaleb stated BACP is a request for a Comprehensive Plan change and, if approved, the development would have to meet requirements in a PUD that would be put in place following approval. He said the PUD will allow oversight through the requirements such as requirements on landscaping, location and number of stores, type of business, etc.

In response to concerns raised by those opposed, Roy Johnson said the developer has redesigned the plan based on issues previously presented by nearby residents. He added that the topography of the site, limits the amount of acreage that can be developed on the north side of the proposed intersection. He explained that the change in the Comprehensive Plan will a total of 40 acres per intersection for commercial development, and that will make it possible in this development, to utilize the additional acreage on the south side of the intersection.

<b>Motion:</b>	<b>Move to approve BACP 96 as recommended by the Planning Commission and Staff.</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. Consideration, possible approval of and authorization to execute Resolution No. 556, a resolution declaring that the protests to the improvements to the stormwater systems of Steeplechase Farms and Amended Glen Eagles were insufficient, expressing the determination of the Council to proceed with the improvements and requiring the engineer to submit and file detailed plans, profiles, specifications, and estimates of probable cost

**Item Minutes:** Mr. Twombly presented this item consistent with the fact sheet provided in the agenda packet. He pointed out that Council determined that the 4 protest letters received and presented at the public hearing held during the November 18, 2008 Council meeting, were insufficient.

<b>Motion:</b>	<b>Move to approve Resolution No. 556.</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 nominations to fill vacancies on the Downtown Advisory Board created by the resignations of Fred Dorrell, whose term expires October 2011; Roy Sturgeon, whose term expires October 2009; and Lauri Hancock whose term expires October 2009

**Item Minutes:** Mr. Twombly presented this item consistent with the fact sheet provided in the agenda.

<b>Motion:</b>	<b>Move to nominate Jack Keeling as the Planning Commission representative, Jo Ellen Clow as the Ward 4 representative and Joe Cook as the Ward 2 representative.</b>
<b>Motion by:</b>	Philip Tucker
<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 BACP 96 as recommended by the Planning Commission and Staff.

Motion b Mike Lester

Second b Philip Tucker

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

Nays: None

B.

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Item Minutes: Mr. Twyombly presented this item consistent with the fact sheet provided in the agenda packet. He pointed out that Council determined that the 4 protest letters received and presented at the public hearing held during the November 18. 2008 Council meeting. were insufficient.

Motion: Move to approve Resolution No. 556.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

C. Consideration and possible approval of nominations to fill vacancies on the Downtown Advisory Board created by the resignations of Fred Dorrell. whose term expires October 2011: Roy Sturgeon. whose term expires October 2009: and Lauri Hancock whose term expires October 2009

Item Minutes: Mr. Twyombly presented this item consistent with the fact sheet provided in the agenda.

Motion: Move to nominate Jack Keeling as the Planning Commission representative, Jo

Ellen Clow as the Ward 4 representative and Joe Cook as the Ward 2 representative.

Motion b Philip Tucker

Second b Richard Carter

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

Nays: None

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- D. Consideration and possible appointment of a Planning Commission member to a review committee to consider a project and a tax increment district under the Local Development Act and submission of seven citizens to represent the public at large

**Item Minutes:** Mr. Twombly presented this item consistent with the fact sheet provided in the agenda.

Mayor McCaleb read the names of the citizens submitted by Council members: Tim Hendrix, Jim Beavers, Douglas Graber, Donald Roulet, Crystal Jordan, Stan Green, and Phil Bryce. He noted Jim Beavers has noted he may not be able to participate at this time so another name will be submitted later. He said the Planning Commission has not yet submitted a members name for nomination to the committee.

<b>Motion:</b>	<b>Move to submit to the TIF Review Committee the names of Tim Hendrix, Douglas Graber, Donald Roulet, Crystal Jordan, Stan Green, Phil Bryce and one additional name to be submitted at a later date, to represent the public at large.</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

- E. Consideration of and authorization to execute an Option to Purchase a 15-Acre Tract of Land for the Festival Park

**Item Minutes:** Mr. Twombly presented this item consistent with the fact sheet provided in the agenda. He stated this land was needed for the proposed events park.

<b>Motion:</b>	<b>Move to approve the Option to Purchase.</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

## 10. City Manager's Report

- A. Contractor Escrow/Deposits - Additional Information

**Item Minutes:** Mr. Twombly presented this item consistent with the fact sheet provided in the agenda.

No action was required or taken.

## 11. Preview Ordinances

- A. An ordinance amending Chapter 23, Article I, Section 24.1 of the Broken Arrow Code pertaining to Leaving the scene of an accident; repealing all ordinances to the contrary; and declaring an emergency

**Section Minutes:** Assistant City Attorney, Hayden Downie, presented the preview ordinance consistent with the Fact Sheet contained in the Agenda packet. Mr. Downie said this updated the ordinance in order to bring it into compliance with the State statute.

<b>Motion:</b>	<b>Move to forward the preview ordinance to the next agenda for possible adoption.</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

## 12. Ordinances

D. Consideration and possible appointment of a Planning Commission member to a review committee to consider a project and a tax increment district under the Local Development Act and submission of seven citizens to represent the public at large

Item Minutes: Mr. Twyombly presented this item consistent with the fact sheet provided in the agenda. Mayor McCaleb read the names of the citizens submitted by Council members: Tim Hendrix. Jim Bearers. Douglas Graber. Donald Roulet. Crystal Jordan. Stan Green. and Phil Bryce. He noted Jim Bearers has noted lie may not be able to participate at this time so another name will be submitted later. He said the Planning Commission has not yet submitted a members naive for nomination to the committee.

Motion: Move to submit to the TI F Review Committee the names of Tim Hendrix, Douglas Graber, Donald Roulet, Crystal Jordan, Stan Green, Phil Bryce and one additional name to be submitted at a later date, to represent the public at large.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

E. Consideration of and authorization to execute an Option to Purchase a I5-Acre Tract of Land for the Festival Park

Item Minutes: Mr. Twyombly presented this item consistent with the fact sheet provided in the agenda. He stated this land ryas needed for the proposed events park.

Motion: Move to approve the Option to Purchase.

Motion b Richard Carter

Second b Craig Thurmond

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

Nays: None

10. City Manager's Report

A. Contractor Escrow/Deposits Additional Information

Item Minutes: Mr. Twyombly presented this item consistent with the fact sheet provided in the agenda. No action was required or taken.

11. Preview Ordinances

A. An ordinance amending Chapter 23). Article I. Section 24.1 of the Broken Arrow Code pertaining to Leaving the scene of an accident: repealing all ordinances to the contrary: and declaring an emergency

Section Minutes: Assistant City Attorney. Hayden Downie. presented the preview ordinance consistent with the Fact Sheet contained in the Agenda packet. Mr. Downie said this updated the ordinance in order to bring it into compliance with the State statute.

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

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

12. Ordinances

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- A. Ordinance No. 2996 - an ordinance amending Chapter 16, Article I, Section 16-22, Reserved, of the Broken Arrow Code to Alcohol Related Offense Fee: repealing all ordinances to the contrary; and declaring an emergency

**Section Minutes:** Mr. Downie noted there are no changes since preview.

<b>Motion:</b>	<b>Move to approve Ordinance No. 2996.</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 adopt the Emergency Clause of Ordinance No. 2996.</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. Ordinance No. 2997 - an ordinance amending Chapter 3, Article VI, Section 3-91, of the Broken Arrow Code. Smoking Prohibited within Municipal Buildings, municipal vehicles and on municipal equipment; repealing all ordinances to the contrary and becoming effective January 2, 2009

**Section Minutes:** Mr. Downie said there are some changes since preview. He explained that based on the language in the State statute, in the criminal section of the statute, the City cannot address smokeless tobacco products. Mr. Downie said this ordinance only pertains to smoking. In response to Council inquiries, Mr. Downie stated smokeless tobacco cannot be included in the ordinance per State Statute.

<b>Motion:</b>	<b>Move to approve Ordinance No. 2997.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Mike Lester, Richard Carter, Craig Thurmond, Philip Tucker
<b>Nays:</b>	None

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

**Section Minutes:** Mayor McCaleb noted the Christmas Parade and the Broken Arrow Pride Band pancake breakfast fundraising event will be this Saturday. He also noted the upcoming Bond Election will be held December 9, 2008.

At 8:40 p.m., the Mayor asked for a Motion to enter into BAMA followed by the BAEDA meeting.

<b>Motion:</b>	<b>Move to recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Craig Thurmond
<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 8:42 p.m.

<b>Motion:</b>	<b>Move to enter into a brief recess prior to entering into Executive Session.</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

A. Ordinance No. 2996 an ordinance amending Chapter 16. Article I. Section 16-22. Reserved. of the Broken Arrow Code to Alcohol Related Offense Fee: repealing all ordinances to the contrary: and declaring an emergency

Section Minutes: Mr. Downie noted there are no changes since preview.

Motion: Move to approve Ordinance No. 2996.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

Motion: Move to adopt the Emergency Clause of Ordinance No. 2996.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

B. Ordinance No. 2997 an ordinance amending Chapter 3. Article VI. Section 3-91. of the Broken Arrow Code. Smoking Prohibited within Municipal Buildings. municipal vehicles and on municipal equipment: repealing all ordinances to the contrary and becoming effective January 2. 2009

Section Minutes: Mr. Downie said there are some changes since preview. He explained that based on the language in the State statute. in the criminal section of the statute. the City cannot address smokeless tobacco products. Mr. Downie said this ordinance only pertains to smoking. In response to Council inquiries. Mr. Downie stated smokeless tobacco cannot be included in the ordinance per State Statute.

Motion: Move to approve Ordinance No. 2997.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

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

Section Minutes: Mayor McCaleb noted the Christmas Parade and the Broken Arrow Pride Band pancake breakfast fundraising event will be this Saturday. He also noted the upcoming Bond Election will be held December 9. 2008.

At 8:40 p.m.. the Mayor asked for a Motion to enter into BAMA followed by the BAEDA meeting.

Motion: Move to recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.

Motion b Philip Tucker

Second b Craig Thurmond

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 8:42 p.m.

Motion: Move to enter into a brief recess prior to entering into Executive Session.

Motion b Mike Lester

Second b Philip Tucker

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



Nays: None

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Following the recess, the Mayor reconvened the regular session at 8:50 p.m.

<b>Motion:</b>	<b>Move to enter into Executive Session.</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	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 contract negotiations concerning the FOP and CWA employee group under 25 O.S. § 307(B)(2), and litigation concerning City of Broken Arrow v. Troy Dwight Cospser and Joyce Marie Cospser, et al., Tulsa County District Court Case Number CJ-2007-6992, City of Broken Arrow v. Tommy J. Donathan, et al., Tulsa County District Court Case Number Case Number: CJ-2007-7894; City of Broken Arrow v. Stacy L. Heller, a single person, et al and Perry Pribble v. City of Broken Arrow, U.S. District Court Case Number 08 CV 147 GKF SAJ, all 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 the noted time of 9:10 p.m.

<b>Motion:</b>	<b>Move to authorize the City Attorney to extend a counter-offer in the case of City of Broken Arrow v. Cospser, et al., in the amount of \$11,795.52.</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 extend a counter-offer in the case of City of Broken Arrow v. Donathan, et al., in the amount of \$13,641.75.</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 the City Attorney to extend a counter-offer in the case of City of Broken Arrow v. Heller, et al., in the amount of \$27,806.75.</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 the City Attorney to proceed to mediation in the case of Pribble v. The City of Broken Arrow with authority as directed by Council.</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.

Following the recess, the Mayor reconvened the regular session at 8:50 p.m.

Motion: Move to enter into Executive Session.

Motion b Craig Thurmond

Second b Philip Tucker

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 contract negotiations concerning the FOP and CWA employee group under 25 O.S. 307(B)(2), and litigation concerning City of Broken Arrow N. Troy Dwight Cosper and Joyce Marie Cosper, et al., Tulsa County District Court Case Number CJ-2007-6992, City of Broken Arrow N. Tommy J. Donathan, et al., Tulsa County District Court Case Number Case Number: CJ-2007-7894; City of Broken Arrow N. Stacy L. Heller, a single person, et al and Perry Pribble N. City of Broken Arrow, U.S. District Court Case Number 08 CV 147 GKF SAJ, all 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 the noted time of 9:10 p.m.

Motion: Move to authorize the City Attorney to extend a counter-offer in the case of City of Broken Arrow v. Cos per, et at., in the amount of \$11,795.52.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

Motion: Move to authorize the City Attorney to extend a counter-offer in the case of City of Broken Arrow v. Donathan, et at., in the amount of \$13,641.75.

Motion b Mike Lester

Second b Philip Tucker

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

Nays: None

Motion: Move to authorize the City Attorney to extend a counter-offer in the case of City of Broken Arrow v. Heller, et at., in the amount of \$27,806.75.

Motion b Mike Lester

Second b Philip Tucker

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

Nays: None

Motion: Move to authorize the City Attorney to proceed to mediation in the case of Pribble v. The City of Broken Arrow with authority as directed by Council.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

No further action was taken.

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15. **Adjournment**

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

The meeting was adjourned at the noted time of 9:12 p.m.

\_\_\_\_\_  
Mayor

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

15. Adjournment

Motion: Move to adjourn.

Motion b Mike Lester

Second b Richard Carter

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

Nays: None

The meeting was adjourned at the noted time of 9:12 p.m.

Mayor

City Clerk

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