

BROKEN ARROW CITY COUNCIL MINUTES
July 1, 2008

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, July 1, 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: Reverend Charles Allison of Northside Freewill Baptist Church delivered 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: Mayor McCaleb led those present in the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Prior to considering the Consent Agenda, Mayor McCaleb announced that discussion of the Urban Renewal Authority would take place at the July 15, 2008 meeting, and Items 5F and 12K would be tabled. He said that if anyone in attendance was interested in these particular items, they would not be addressed at the meeting tonight.

The Mayor introduced the Consent Agenda. City Attorney, Beth Anne Wilkening, requested that Item 5F be removed from the Consent Agenda as it would need to be tabled.

- A. Approval of the regular meeting minutes of June 17, 2008
- B. Acceptance of minutes of the Planning Commission meeting held June 12, 2008
- C. Approval of nominations of Cynthia Hess and Bob Stubblefield to the Judicial Nominating Committee for an additional 2-year term
- D. Approval of and authorization to execute a Contract for Professional Services with CityWide Subrogation, Inc.
- E. Approval of and authorization to execute the Fifth Renewal of the Interlocal Printing Services Agreement between the City of Broken Arrow and the City of Tulsa
- F. Approval of the sole source purchase of an ambulance from Midwest Professional Vehicles, Inc.
- G. Approval of BAZ 1801, 12.87 acres, 1 lot, A-1 to CG, southwest corner of Dearborn Street (41st Street) and 37th Street (209th East Avenue)
- H. Approval of BAZ 1802 and SP 225, Arrow Springs Animal Hospital, 0.46 acres, CN to CH and SP 225, north of Florence Street (111th Street), east of Elm Place (161st Street) at 550 West Florence Street
- I. Approval of BAZ 1803 and SP 226, Veterinary Clinic at Battle Creek, 2.34 acres, ACH to CH, west of Aspen Avenue (145th East Avenue) between Omaha Street (51st Street) and Albany Street (61st Street) at 3150 North Aspen Avenue
- J. Acceptance of a Temporary Construction Easement from Ron A. Kalusha (S19 T19N R15E) (Project: Steeplechase Drainage)
- K. Acceptance of a Temporary Construction Easement from PMC Corporation (S16 T18N R14E) (Project: South Olive/129th East Avenue between Washington/91st Street and Houston/81st Street #ST0522)
- L. Acceptance of a Utility Easement from Roland Investments, Ltd. (S2 T18N R14E) (Project: Charleston's at The Village at Stone Wood Hills)
- M. Acceptance of a Trustee's Deed from The Trust Company of Oklahoma, Successor Trustee of the Helen North Markham Trust (S18 T18N R15E) (Project: #ST9814A)

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L. Acceptance of a Utility Easement from Roland Investments, Ltd. S2 T18N R14E) Project: Charleston's at The Village at Stone Wood Hills)

M. Acceptance of a Trustee's Deed from The Trust Company of Oklahoma, Successor Trustee of the Helen North Markham Trust S18 T18N R15E) Project: #ST9814A)

N. Approval of the Claims List

Motion:	Move to approve the Consent Agenda except for Item 5F
Motion by:	Mike Lester
Second by:	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: Item 5F was removed from the Consent Agenda. Ms. Wilkening requested that Item 5F be tabled indefinitely.

Motion:	Move to approve the Consent Agenda
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

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

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

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

Section Minutes: Mr. Donn Weber requested to address Council. Mr. Weber said that he wanted to speak about the Urban Renewal Authority but since that would be on the agenda for the July 15, 2008 meeting, he would speak about Camino Villa and update Council about the progress made with clean-up of the area and other improvements, including lower crime reports. He said that he, as a property owner in Camino Villa, did not want Camino Villa labeled as blighted and that other owners and residents felt the same way. Mayor McCaleb said there would be a specific process followed by the Urban Renewal Authority as set forth by law, and the process would include public hearings where citizens would have an opportunity to speak.

9. **General Council Business**

A. Consideration, possible approval of and authorization to execute a Professional Transportation Services Agreement with the Metropolitan Tulsa Transit Authority (MTTA) for Fiscal Year 2008-09

Section Minutes: City Manager, Jim Twombly, presented this item consistent with the Fact Sheet provided in the Agenda packet.

Motion:	Move to approve and authorize execution of a Professional Transportation Services Agreement with the Metropolitan Tulsa Transit Authority (MTTA) for Fiscal Year 2008-09
Motion by:	Craig Thurmond
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

B. Consideration and possible approval of SP 190A, Water of Life Church of Oklahoma, Inc., 6.17 acres, CG, southeast corner of Kenosha Street (71st Street) and Aspen Avenue (145th East Avenue)

Section Minutes: Farhad Daroga, City Planner, presented this Item consistent with the Fact Sheet provided in the Agenda packet.

Motion:	Move to approve of SP 190A, Water of Life Church of Oklahoma, Inc., 6.17 acres, CG, southeast corner of Kenosha Street (71st Street) and Aspen Avenue (145th East Avenue)
Motion by:	Mike Lester
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

C. Consideration of and possible action on a request from Tapp Development for assistance from the City for costs associated with street widening improvements to 209th East Avenue for the Northeast Crossroads development

Section Minutes: Jim Twombly presented this Item. He explained that the City does not have the legal authority to approve a sales tax reimbursement. He said that, if Council is interested in future

July 1, 2008

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N. Approval of the Claims List

Motion: Move to approve the Consent Agenda except for Item 5F

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

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Section Minutes: Item 5F was removed from the Consent Agenda. Ms. Wilkening requested that Item 5F be tabled indefinitely.

Motion: Move to approve the Consent Agenda

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

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

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Section Minutes: City Manager, Jim Twombly, presented this item consistent with the Fact Sheet provided in the Agenda packet.

Motion: Move to approve and authorize execution of a Professional Transportation Services Agreement with the Metropolitan Tulsa Transit Authority (MTTA) for Fiscal Year 2008-09

Motion by: Craig Thurmond

Second by: Philip Tucker

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

Nays: None

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Motion: Move to approve of SP 190A, Water of Life Church of Oklahoma, Inc., 6.17 acres, CG, southeast corner of Kenosha Street 71st Street) and Aspen Avenue 145th East Avenue)

Motion by: Mike Lester

Second by: Philip Tucker

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

Nays: None

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Section Minutes: Jim Twombly presented this Item. He explained that the City does not have the legal authority to approve a sales tax reimbursement. He said that, if Council is interested in future

discussion, Council could examine other means of funding and could authorize staff to research the issue and report back to Council. Councilors agreed that it would be valuable to examine other means of funding that did not involve sales tax.

Motion:	Move to authorize staff to proceed with research and report back to Council regarding methods of assistance other than sales tax based methods that might be pursued to assist with development costs..
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

- D. Approval of and authorization for the Mayor to execute Resolution No. 527, a resolution authorizing institution of proper proceedings at law or in equity, including but not limited to initiation of a declaratory judgment action, as deemed advisable by the City Attorney in response to a Demand of Taxpayers filed upon the City of Broken Arrow on June 6, 2008, and declaring an emergency

Section Minutes: Ms. Wilkening requested that Item D be tabled until after the Executive Session.

Motion:	Move to table Item D until after the Executive Session
Motion by:	Richard Carter
Second by:	Mike Lester
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

10. City Manager's Report

- A. 2008 Legislative Summary

Section Minutes: Mr. Twombly introduced Ms. Terri Cleveland, Director of Intergovernmental Affairs who presented a summary of the 2008 Legislative issues of interest to the Council and Citizens of Broken Arrow.

No action was taken or required.

11. Preview Ordinances

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

12. Ordinances

- A. Ordinance No. 2968 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ-1795, granting an R-2 zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- B. Ordinance No. 2969 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ-1713 granting a CH (previously C-5) and PUD 169 zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- C. Ordinance No. 2970 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ-1719, granting an RS-3 (previously R3-S) zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- D. Ordinance No. 2971 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ 1739, granting an IH (previously I-2) zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- E. Ordinance No. 2972 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ 1745, granting a R-2 zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- F. Ordinance No. 2973 - an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ 1771, granting a CN (previously C-3) zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

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Motion: Move to authorize staff to proceed with research and report back to Council regarding methods of assistance other than sales tax based methods that might be pursued to assist with development costs..

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

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Nays: None

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F. Ordinance No. 2973 an ordinance amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma Ordinance No. 2931), approving BAZ 1771, granting a CN previously C-3) zoning classification be placed upon the tracts, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

- G. Ordinance No. 2974 - an ordinance amending Chapter 7, Article XI, Section 7-261 of the Broken Arrow Code pertaining to Wrecker Services, Specifications for Bidding for a long term wrecker contract; repealing all ordinances to the contrary; and declaring an emergency
- H. Ordinance No. 2975 - an ordinance amending Chapter 4, Article V, Section 4-87 of the Broken Arrow Code pertaining to Low Point Beverages, Retail dealer's license; repealing all ordinances to the contrary; and declaring an emergency
- I. Ordinance No. 2976 - an ordinance amending the Broken Arrow Code Chapter 6, Articles I through VII, IX and XI, Building And Building Regulations (Fee Revision); repealing all ordinances to the contrary; and declaring an emergency
- J. Ordinance No. 2977 - an ordinance amending the Broken Arrow Code Section 10-3, prohibiting the manufacture, sale, and use of fireworks within the City; providing for exceptions under permit; providing for conditions for the permits; providing for penalties; requiring adult supervision in the use of permits; repealing all ordinances to the contrary; and declaring an emergency

Section Minutes: Ms. Beth Anne Wilkening, City Attorney, reviewed Ordinances 2968 - 2977.

Motion:	Move to approve Ordinance Nos. 2968 through 2977.
Motion by:	Mike Lester
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Motion:	Move to approve the Emergency Clause of Ordinance Nos. 2968 through 2977.
Motion by:	Richard Carter
Second by:	Philip tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

- K. Ordinance No. 2978 - an ordinance closing a Mutual Access Easement on Lot 3, Block 1, Tuscan Plaza, an addition to the City of Broken Arrow, Tulsa County, Oklahoma, according to the recorded plat thereof, repealing all ordinances to the contrary, and declaring an emergency

Section Minutes: Ms. Beth Anne Wilkening, City Attorney, requested that Item K (Ordinance No. 2978) be tabled until the July 15, 2008 Council meeting.

Motion:	Move to table Ordinance No. 2978 until the July 15, 2008 City Council meeting.
Motion by:	Mike Lester
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: None

Mayor McCaleb asked for a motion to recess to enter into BAMA. At the noted time of 7:29 p.m., Councilman Thurmond moved to recess.

Motion:	Move to recess to enter into Broken Arrow Municipal Authority meeting.
Motion by:	Craig Thurmond
Second by:	Philip Tucker
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 7:30 p.m.

Motion:	Move to take a short break before returning for Executive Session.
Motion by:	Mike Lester
Second by:	Philip Tucker
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 7:38 p.m., and a motion was made to enter into Executive Session.

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July 1, 2008

G. Ordinance No. 2974 an ordinance amending Chapter 7, Article XI, Section 7-261 of the Broken Arrow Code pertaining to Wrecker Services, Specifications for Bidding for a long term wrecker contract; repealing all ordinances to the contrary; and declaring an emergency

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Motion: Move to approve Ordinance Nos. 2968 through 2977.

Motion by: Mike Lester

Second by: Craig Thurmond

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

Nays: None

Motion: Move to approve the Emergency Clause of Ordinance Nos. 2968 through 2977.

Motion by: Richard Carter

Second by: Philip tucker

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

Nays: None

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Second by: Philip Tucker

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

Nays: None

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

Motion by: Craig Thurmond

Second by: Philip Tucker

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 7:30 p.m.

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

Motion by: Mike Lester

Second by: Philip Tucker

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 7:38 p.m., and a motion was made to enter into Executive Session.

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

14. **Executive Session**

Section Minutes: The Mayor reconvened the regular session at 7:57 p.m.

Motion:	Move to approve Resolution No. 527
Motion by:	Mike Lester
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Motion:	Move to adopt the Emergency Clause of Resolution No. 527
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 file a counter-claim in the case of Perry Pribble v. the City of Broken Arrow.
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 initiation of a lawsuit against Schermerhorn, Davis and Wright
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Motion:	Move to ratify filing of a Demand for Jury Trial in the City of Broken Arrow v. Martha Chapman Fowler, 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:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

The meeting was adjourned at the noted time of 8:00 p.m.

Mayor

City Clerk

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Motion: Move to enter into Executive Session.

Motion by: Craig Thurmond

Second by: Philip Tucker

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

Nays: None

14. Executive Session

Section Minutes: The Mayor reconvened the regular session at 7:57 p.m.

Motion: Move to approve Resolution No. 527

Motion by: Mike Lester

Second by: Philip Tucker

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

Nays: None

Motion: Move to adopt the Emergency Clause of Resolution No. 527

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 file a counter-claim in the case of Perry Pribble v. the City of Broken Arrow.

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 initiation of a lawsuit against Schermerhorn, Davis and Wright

Motion by: Mike Lester

Second by: Richard Carter

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

Nays: None

Motion: Move to ratify filing of a Demand for Jury Trial in the City of Broken

Arrow v. Martha Chapman Fowler, 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: Craig Thurmond

Second by: Richard Carter

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

Nays: None

The meeting was adjourned at the noted time of 8:00 p.m.

Mayor

City Clerk