

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
January 5, 2010**

6:30 PM

1. Call to Order

Section Minutes: Mayor Lester called the meeting to order at approximately 6:30 p.m.

2. Invocation

Section Minutes: There was no one present to deliver the Invocation.

3. Roll Call

Present:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
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: Councilor McCaleb asked that Item 5A be removed from the Consent Agenda. Mayor Lester asked if there were any other items to be removed. There being none, the Mayor asked for a motion to approve the Consent Agenda except Item 5A.

Motion:	Move to approve Consent Agenda except Item 5A
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

- A. Approval of the regular meeting minutes of December 15, 2009
- B. Approval of the special meeting minutes of December 23, 2009
- C. Acceptance of the minutes of the Planning Commission meeting held December 3, 2009.
- D. Approval of and authorization to execute Budget Amendment Number 9 for Fiscal Year 2009-2010
- E. Approval of and authorization to execute Budget Amendment Number 11 for Fiscal Year 2009-2010
- F. Approval of a Workers' Compensation Order on William Black a former employee in the General Services Department.
- G. Approval of the First Renewal of Wrecker Service Agreement between the City of Broken Arrow and Storey Wrecker Services, Inc.
- H. Approval of Contract Agreement with The Deatherage Associates LLC
- I. Consideration of and possible approval of 2006 State Homeland Security Grant Interoperable Communications Memorandum of Understanding
- J. Approval of the updated City of Broken Arrow street light policy
- K. Receive annual update information on quotes for HVAC and electrical service contractors
- L. Review of Bids Received, Award of the most advantageous to Becco Contractors, Inc. and Approval of a Construction Contract for Washington Street Widening from First Place to Ninth Street, Phase I
- M. Approval of bids received and award of the most advantageous bid for solar powered school zone signals equipment and installation
- N. Approval of dedication of sanitary sewer line easement by Cedar Ridge Golf Course, Cleve Stubblefield
- O. Acceptance of utility easement from Cecil R. Lemon for Sierra Apartments - PT04-124 DN07-153 (Omaha Street/51st Street and Aspen Avenue/145th East Avenue) Sec 33 Township 19N Range 14E
- P. Approval of the Claims List

6. Consideration of Items Removed from Consent Agenda

Section Minutes: Councilor McCaleb said he asked that Item 5A, the minutes of the December 15, 2009 Council meeting, be removed because he was absent from that meeting.

5A. Approval of the regular meeting minutes of December 15, 2009

Motion:	Move to approve the minutes of December 15, 2009
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Richard Carter, Philip Tucker, Mike Lester
Nays:	None
Abstain:	Wade McCaleb, Craig Thurmond

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

A. Appeal from denial by the Planning Commission of BACP 105, Comprehensive Plan Amendment, 95.89 acres, changing the Comprehensive Plan designation of Levels 2, 3, 4, 6, and Public Recreation within two areas of Battle Creek, southeast corner of Aspen Avenue (145th East Avenue) and Dearborn Street (41st Street) and east of the northeast corner of Aspen Avenue (145th East Avenue) and the Broken Arrow Expressway (State Highway 51)

Item Minutes: Ms. Wilkening said this matter was tabled at the City Council meeting of November 17, 2009 in order to allow the City Attorney’s office the opportunity to research opponent’s objection to the Council’s consideration of this item due to the applicant’s failure to file its annual certificate with the Secretary of State as per Section 2055.2 of Title 18 of the Oklahoma Statutes. Ms. Wilkening stated that the Applicant’s failure to file the certificate and pay the annual fee does not impact the Council’s ability to consider this appeal. Mr. Roy Johnson, attorney representing the applicant, stated that the annual certificate was now on file with the Secretary of State. Ms. Wilkening asked City Planner, Mr. Farhad Daroga, to present a background to this item. Mr. Daroga state presented the information contained in the Fact Sheet provided in the agenda packet.

There were 83 citizen requests to record their support for BACP 105 and five of these individuals wished to speak:

- Carl Renoud -
- Brad Young
- Tom Westergaard
- Holly Westergaard
- Jill Thacker

A petition with signatures in support of BACP 105 was submitted to the City Clerk.

There were 4 citizen requests to record their opposition to BACP 105 and 5 of these citizens wished to speak:

- Michael Joyce
- Fred Volpe
- Kevin Davis
- Catherine Sholl
- Carla Gregory

Mayor Lester said he would alternate between a speaker in opposition and a speaker in support. He called the first speaker.

Michael Joyce with the Joyce Law Firm PO Box 55248, Tulsa stated he represents an anonymous property owner and on their behalf is speaking in opposition to the amendment changing the Comprehensive Plan. He stated the concerns as follows:

Concerns are no proper notification of the changes, no notice sent to residents giving them an opportunity to be heard, no notice of the change in zoning or change in the Comprehensive Plan; and, originally platted as recreational property in PUD 102 approved in 2005, water pressure is not sufficient and there is an imbalance of capacity even with upgrades. Mr. Joyce said he is asking Council to keep and not overturn the Planning Commission’s decision to keep Comprehensive Plan regarding this property unchanged.

Carl Renoud, 1916 W Woodbury, Broken Arrow, Ok Greenbrier Subdivision spoke in support of BACP 105 on of the Greenbrier Property Owners Association. He expressed concerns regarding added interior traffic and the need for an increased buffer zone that would be about 400ft plus with the requested change to the Comprehensive Plan.

Fred Volpe, 3508 North Battle Creek Drive, Broken Arrow, Ok spoke in opposition on behalf of the Gettysburg subdivision stating that minor or major changes to the south end of the land in BAPC 105 conflict with the Comprehensive Plan intent and that there was a lack of proper notification regarding the proposed changes.

Brad Young, 1505 W Ulysses St., Broken Arrow, Ok spoke in support on behalf of Belle Trace II subdivision stating that the taxpayers paid for the widening of Elm, Aspen, Albany and the Broken Arrow Expressway so the infrastructure is already in place to support high density development on the south side as proposed in BAPC 105.

Kevin Davis, 1621 W Helena, Broken Arrow spoke in opposition to BACP 105 on behalf of Shiloh Addition stating that residents are opposed to added apartments in Battle Creek.

Tom Westergaard, 1612 W Zillah St, Broken Arrow spoke in support of BACP 105 stating that the change for the multi-level housing district from Dearborn and Aspen will move it closer to the Broken Arrow Expressway and Albany, and also moves it closer to main transportation lines; and, allows for the expansion of single family homes in the north part of the City. Mr. Westergaard said the current change will provide a quarter acre buffer between the single family homes and the commercial properties, and a quarter mile buffer between multi-level housing and Battle Creek housing.

Catherine Sholl, 1412 W Granger, Broken Arrow spoke in opposition to BACP 105 stating that three apartment complexes already exist in the area consisting of approximately 1,171 units, excluding proposed apartments. She said her concern regards the amount of traffic that will result from building more apartments at the same intersection and increased traffic going through the neighborhoods.

Holly Westergaard, 1612 W Zillah St, Broken Arrow spoke in support of BACP 105 stating that traffic from the proposed apartments will be drawn away from residential and directed to the Broken Arrow expressway not thru the neighborhoods. She said the proposed development is similar to that of other large cities.

Carla Gregory, Heights at Battle Creek Apts. 1800 W Granger, Broken Arrow spoke in opposition to BACP 105 stating that water pressure at the Heights at Battle Creek is remains very low and expressed concern regarding the health and safety issues created by low water pressure. She added that with higher unemployment rates the occupancy rate for apartments is low, vacancy rate is up.

Jill Thacker, 1716 W Zillah St., Broken Arrow spoke in support of BACP 105 stating that Her concern is about security of a single-family residential neighborhoods and that she is pleased to know that BAPC 105 proposes to move the multi-level housing farther south in the Battle Creek area.

Motion:	Move to approve BACP 105, Comprehensive Plan Amendment, 95.89 acres, changing the Comprehensive Plan designation of Levels 2, 3, 4, 6, and Public Recreation within two areas of Battle Creek, southeast corner of Aspen Avenue (145th East Avenue) and Dearborn Street (41st Street) and east of the northeast corner of Aspen Avenue (145th East Avenue) and the Broken Arrow Expressway (State Highway 51)
Motion by:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

B. Proclamation welcoming the Lord Mayor of Cardiff

Motion:	Move to approve Proclamation welcoming the Lord Mayor of Cardiff
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

C. Proclamation recognizing Lions Club Day

Motion:	Move to approve Proclamation recognizing Lions Club Day
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

8. Citizens' Opportunity to Address the Council on General Topics Related to City Business or Services

Section Minutes: There were no requests to speak.

9. General Council Business

A. Approval of the 140th Street Assessment District Legal Notice of Public Hearing and Direction for the City Clerk to provide notice in accordance with 11 O.S. § 37-220

Item Minutes: Mayor Lester said he will recuse himself and left the room.

Ms. Wilkening presented the facts contained in the Fact Sheet provided in the agenda packet. She said the Public Hearing was originally set for December 15, 2009, but had to be re-scheduled due to a lack of quorum.

Motion:	Move to approve the 140th Street Assessment District Legal Notice of Public Hearing and Direction for the City Clerk to provide notice in accordance with 11 O.S. § 37-220
Motion by:	Richard Carter
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker

Nays:	None
Recuse:	Mike Lester

Mayor Lester returned to the room.

- B. Consideration and possible approval of and authorization to execute Budget Amendment #10 for Fiscal Year 2009-2010

Item Minutes: Finance Director, Mr. Tom Caldwell, presented this item and summarized the details contained in the Fact Sheet provided in the agenda packet. Mr. Caldwell added that a review of the City's financial condition in December 2009 resulted in a determination that it would be possible to hire two call takers in January 2010 and this amendment transfers funds from the City Manager's office to the Police Department Communications Division to fund the proposed two Call taker positions, and that these funds are available for transfer based on the decision to not hire an assistant City Manager until it is financially feasible

Motion:	Move to approve approval of and authorization to execute Budget Amendment #10 for Fiscal Year 2009-2010
Motion by:	Wade McCaleb
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

- C. Consideration and possible approval of Resolution 637 which expresses support for the Coalition of Tulsa Area Governments 2010 Legislative Slate

Item Minutes: Mr. Wooden presented this item in accordance with the details contained in the Fact Sheet provided in the agenda packet.

Motion:	Move to approve approval of Resolution 637 which expresses support for the Coalition of Tulsa Area Governments 2010 Legislative Slate
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

- D. Approval of Resolution No. 638 declaring the intent to consider approval of a project and creation of a Tax Increment District under the Local Development Act; Directing preparation of a Project Plan; appointing a Review Committee; Directing the Review Committee to make finding as to eligibility and financial impact, if any, on taxing jurisdictions within the district; and directing the Review Committee to make a recommendation with respect to the proposed project

Item Minutes: Mr. Wooden presented the details contained in the Fact Sheet provided in the agenda packet.

Motion:	Move to approve Resolution No. 638 declaring the intent to consider approval of a project and creation of a Tax Increment District under the Local Development Act; Directing preparation of a Project Plan; appointing a Review Committee; Directing the Review Committee to make finding as to eligibility and financial impact, if any, on taxing jurisdictions within the district; and directing the Review Committee to make a recommendation with respect to the proposed project
Motion by:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

10. City Manager's Report

- A. Update regarding 800 MHz Rebanding, OpenSky/P25/Mobile Data Update, and Tulsa Urban Area Security Initiative Update

Item Minutes: Mr. Wooden introduced Mr. Mark Ketchum, Information Services, who provided an update and project status presentation for the various projects.

No action required or taken.

11. Preview Ordinances

Section Minutes: Items 11A and 11B were taken together and Development Services Director, Mr. Michael Skates, reviewed the details as set forth in the Fact Sheet provided in the agenda packet.

Motion:	Move to approve preview ordinances and set for adoption at the January 19, 2010 Council meeting
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Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

- A. An ordinance closing partial utility easements in the southerly portions of Lot 2, Block 1, I.D.C. Center II and Lot 1 Block 1, I.D.C. Center II
- B. Preview of Ordinance Amending Chapter 25, Article V of the Stormwater Management Section of Broken Arrow Code (Environmental Impacts), by adding a Storm Water Illicit Discharges Section, Low Impact Development Section, Post-Construction Stormwater Impacts Section, and repealing all Ordinances in conflict therewith.

12. Ordinances

- A. None

13. Remarks and Inquiries by Governing Body Members

There were none.

At approximately 8:36 p.m., Mayor Lester asked for a motion to recess into the Broken Arrow Municipal Authority (BAMA) meeting and the Broken Arrow Economic Development Authority (BAEDA) meeting.

Motion:	Move to recess in order to enter into BAMA and BAEDA
Motion by:	Wade McCaleb
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council session at approximately 8:38 p.m., and asked for a motion to take a short break prior to entering into Executive Session in order to clear the room.

Motion:	Move to take a short break prior to entering into Executive Session
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council session at approximately 8:47 p.m.

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

- 14. Executive Session** for the purpose of confidential communications for the purpose of discussing the potential purchase and appraisal of property located in the vicinity of New Orleans and 209th East Avenue and taking appropriate action as necessary in open session, under 25 O.S. § 307(B)(3); the potential purchase and appraisal of real property for construction of a replacement fire station in the vicinity of Elm Place and the Creek Turnpike and Ithica and Juniper and taking appropriate action as necessary in open session, under 25 O.S §307(B)(3); the appraisal of real property located on Tiger Hill in the vicinity of Kenosha and 9th Street and possible economic development agreements for this area, including the possible transfer of property and financing and taking appropriate action in open session, under 25 O.S. §307(B)(3) and 25 O.S. §307(C)(10); and a possible economic development agreement for a conference center and hotel in a location to be identified South of the Creek Turnpike and East of Aspen, to include the possible transfer of property, financing and a proposal to entice a business to locate in the City (as public disclosure would violate the confidentiality of the business) and taking appropriate action in open session as necessary, under 25 O.S. §307(C)(10). 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.

Mayor Lester reconvened the regular Council session and the room was re-opened to the public.

Motion:	Move to authorize the City Manager to continue negotiations for the possible purchase of land in the area of New Orleans and 209th East Avenue
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to authorize the City Manager to continue negotiations for the possible purchase of land for a replacement fire station
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

Motion:	Move to authorize the City Manager to continue negotiations for a potential economic development and the appraisal of property in the area of Tiger Hill
Motion by:	Philip Tucker
Second by:	Wade McCaleb
Ayes:	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
Nays:	None

15. Adjournment

The meeting adjourned at approximately 9:13 p.m.

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

Attest:

Mayor

City Clerk