

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

**August 4, 2009**

**6:30 PM**

**1. Call to Order**

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

**2. Invocation**

**Section Minutes:** No one was present to deliver an Invocation.

**3. Roll Call**

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

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

Boy Scout Troop 999 led the Pledge of Allegiance to the Flag.

**5. Consideration of Consent Agenda**

Councilor McCaleb asked that Items 5A, 5F, and 5G be removed from the Consent Agenda.

<b>Motion:</b>	<b>Move to approve the Consent Agenda except for Items 5A, 5 F, 5G</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond

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Section Minutes: No one was present to deliver an Invocation.

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Present:

Absent:

Craig Thurmond, Philip Tucker, Richard Carter, Wade McCaleb and Mike Lester

None

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Councilor McCaleb asked that Items 5A, 5F, and 5G be removed from the Consent Agenda.

Motion: Move to approve the Consent Agenda except for Items 5A, 5 F, 5G

Motion by: Richard Carter

Second by: Craig Thurmond

Broken Arrow City Council Agenda Page I of, 10 August 4, 2009

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

- A. Approval of meeting minutes of July 21, 2009
- B. Acceptance of minutes of Planning Commission meeting held July 9, 2009
- C. Acceptance of the Oklahoma Department of Environmental Quality Permit for Construction of Water Line and Booster Pump Station to serve the Green Brier Subdivision.
- D. Approval of a contract with Employee Assistance Associates to provide Employee Assistance Plan services for employees and their dependents
- E. Approval of the First Renewal of the Personal Services Contract for Professional Services between the City of Broken Arrow and City Wide Subrogation
- F. Ratification of a contract for economic development services with the Broken Arrow Economic Development Corporation
- G. Ratification of a Special Contract for Economic Development Services with the Broken Arrow Economic Development Corporation
- H. Approval of Work Order Number W014 to Contract ST0811, Portland Concrete Street Repairs
- I. Approval of major quantity change MQ01 to contract number ST0917, asphalt concrete street milling and overlay, Stacy Lynn 5th Subdivision.
- J. Approval of bids received and award of the most advantageous bid for a construction contract for Washington Street Widening from Elm Place to First Place
- K. BAZ 1835, 1.70 acres, 1 lot, A-RE to R-2, three-eighths mile south of Florence Street (111th Street) on the west side of 9th Street (Lynn Lane). (Continued from July 21, 2009)
- L. Acceptance of Public Improvements Metropolitan Station II
- M. Approval of the Claims List

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

Councilor McCaleb said he will abstain from 5A, 5F and 5G.

<b>Motion:</b>	<b>Move to approve the Consent Agenda except for Items 5A, 5 F, 5G</b>
<b>Motion by:</b>	Philip Tucker

Ayes:

Nays:

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

None

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Councilor McCaleb said he will abstain from 5A, 5F and 5G.

Motion: Move to approve the Consent Agenda except for Items 5A, 5 F, 5G

Motion by: Philip Tucker

Broken Arrow City Council Agenda Page 2 of 10 August 4. 2009

<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Richard Carter, Craig Thurmond, Philip Tucker, Mike Lester
<b>Nays:</b>	None
<b>Abstain:</b>	Wade McCaleb

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

- A. Appeal: BAZ 1834, 1.26 acres, 1 lot, AR-1 to R-2, one-fourth mile north of Washington Street (91st Street), east of 23rd Street (193rd East Avenue/County Line Road). (Continued from July 21, 2009).

**Item Minutes:** Planning Division Manager, Mr. Farhad Daroga, said staff met with applicant, Mr. Sisney, and he said he did not wish to go forward with the project and withdrew his request. Mayor Lester said that the proposal being made is that the money Mr. Sisney spent so far in the permitting process would be applied to any future request if Mr. Sisney changed his mind, and that way Mr. Sisney would not have to pay the permitting expenses again however no right-of-way requirements were be in effect, in other words no right-of-way would be taken or held. Mr. Sisney agreed as long as he his land was not impacted in any way until and if he made decided to proceed with the swimming pool project in the future.

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

**9. General Council Business**

- A. A Resolution - Corrected, establishing the necessity of improvements to the sanitary sewer systems of Arrow Acres, located south of Washington Street and West of 1st Street, adopting and approving the municipal engineer's preliminary construction plans, preliminary estimate and assessment plat, declaring the work of the improvement necessary to be done, and establishing a hearing on the proposed improvements

**Item Minutes:** City Attorney, Ms. Beth Anne Wilkening stated that on August 20, 2007, the Broken Arrow City Council considered the Petition submitted by Markus Kasperreit and signed by citizens from the Arrow Acres subdivision requesting the establishment of a Sewer Assessment District for their neighborhood. She said the Council approved acceptance of the Petition and directed the City engineer to obtain preliminary plans, a preliminary estimate, and an assessment plat. Ms. Wilkening added that as the preliminary design progressed, it was determined six

Second by: Richard Carter

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

Nays: None

Abstain: Wade McCaleb

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additional lots in this neighborhood would be added to the proposed sewer line bringing the total of new connections to approximately 21. On May 5, 2009, the Council adopted Resolution No. 588, a Resolution declared the necessity of these proposed improvements and authorized the City Engineer to prepare and file preliminary construction plans. Today, this Resolution is submitted in a corrected format as Resolution 590 to provide the opportunity for publication and notice in accordance with the statute. This Resolution reiterates the necessity of the sanitary sewer improvements; adopts and approves the City Engineer's preliminary construction plans, preliminary estimate, and assessment plat; declares the work of these improvements should be done; establishes a hearing on the proposed improvements; and finally, it provides for notice in accordance with state law.

<b>Motion:</b>	<b>Move to approve A Resolution - Corrected, establishing the necessity of improvements to the sanitary sewer systems of Arrow Acres, located south of Washington Street and West of 1st Street, adopting and approving the municipal engineer's preliminary construction plans, preliminary estimate and assessment plat, declaring the work of the improvement necessary to be done, and establishing a hearing on the proposed improvements</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, Mike Lester
<b>Nays:</b>	None

B. Approval of changes to the General Fund Budget Compliance Policy

**Item Minutes:** Acting City Manager, Mr. Dave Wooden, presented this Item as set forth in the Fact Sheet provided in the agenda packet. He said some previous definitions and guidelines needed to be clarified and these changes accomplish that as well as meeting the goal of the proposed policy which is to protect the City's General Fund and insure that the necessary Emergency Reserve Fund Balance is maintained at all times.

<b>Motion:</b>	<b>Move to approve changes to the General Fund Budget Compliance Policy</b>
<b>Motion by:</b>	Richard Carter

additional lots in this neighborhood would be added to the proposed sewer line bringing the total of new connections to approximately 21. On May 5, 2009, the Council adopted Resolution No. 588, a Resolution declared the necessity of these proposed improvements and authorized the City Engineer to prepare and file preliminary construction plans. Today, this Resolution is submitted in a corrected format as Resolution 590 to provide the opportunity for publication and notice in accordance with the statute. This Resolution reiterates the necessity of the sanitary sewer improvements; adopts and approves the City Engineer's preliminary construction plans, preliminary estimate, and assessment plat; declares the work of these improvements should be done; establishes a hearing on the proposed improvements; and finally, it provides for notice in accordance with state law.

Motion: Move to approve A Resolution Corrected, establishing the necessity of improvements to the sanitary sewer systems of Arrow Acres, located south of Washington Street and West of 1st Street, adopting and approving the municipal engineer's preliminary construction plans, preliminary estimate and assessment plat, declaring the work of the improvement necessary to be done, and establishing a hearing on the proposed improvements

Motion by: Richard Carter

Second by: Philip Tucker

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

Nays: None

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Motion: Move to approve changes to the General Fund Budget Compliance Policy

Motion by: Richard Carter

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

C. Approval of an Amendment to the Employee Wellness Policy

**Item Minutes:** Human Resources Director, Mr. Russell Gale, stated that in December 2007, the City Council adopted an employee Wellness Policy that addressed services, incentives and employee behavior at work as it relates to pursuing a healthy lifestyle. The policy provided for a staggered implementation process that ultimately included abolishing the use of all tobacco products on city property by January 1, 2009. Mr. Gale reviewed the information presented in the Fact Sheet provided in the agenda packet. He said that immediately after the policy was fully implemented, the IAFF filed a grievance alleging the policy was a mandatory subject of bargaining with a primary concern being the abolishment of smokeless tobacco

Mr. Gale said that as a result, staff is recommending a modification to the present policy that would continue to provide services and products to discourage use, but allow employees to use smokeless tobacco while at work in a limited number of locations. He said that the IAFF has made a commitment that this amendment will resolve their grievance.

Councilor McCaleb said he would like the motion to state that the policy discouraged the use of smokeless tobacco and its use was limited to specific locations.

<b>Motion:</b>	<b>Move to approve Amendment to the Employee Wellness Policy to allow the use of smokeless tobacco in specific locations although the Policy discourages its use</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Craig Thurmond, Wade McCaleb, Philip Tucker, Richard Carter, Mike Lester
<b>Nays:</b>	None

D. Consideration of local matching funds for Alternatives Analysis Modeling - INCOG Rail Transit Study

Second by: Wade McCaleb

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

Nays: None

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Motion: Move to approve Amendment to the Employee Wellness Policy to allow the use of smokeless tobacco in specific locations although the Policy discourages its use

Motion by: Wade McCaleb

Second by: Philip Tucker

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

Nays: None

D. Consideration of local matching funds for Alternatives Analysis Modeling INCOG Rail Transit Study

Broken Arrow City Council Agenda Page 5 of, 10 August 4, 2009

**Item Minutes:** Acting City Manager, Mr. Dave Wooden, presented this item in accordance with the Fact sheet provided in the agenda packet. Mr. Wooden said this funding requirement was not included in the FY 2010 budget and the budget does not have any excess funds available for this project. He added that if the Council desires to fund this project the only funding available would be the economic development project in the Sales Tax Capital Improvement Fund, and he said this project is necessary if the city is to have light rail transit in the future. Mr. Wooden said the staff believes the study is important but the financial condition of the city at this time makes an expenditure of this magnitude problematic.

<b>Motion:</b>	<b>Move to approve local matching funds for Alternatives Analysis Modeling - INCOG Rail Transit Study</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Craig Thurmond, Wade McCaleb, Philip Tucker, Richard Carter, Mike Lester
<b>Nays:</b>	None

E. Approval of nomination for James Gordon to the Convention and Visitors Bureau

**Item Minutes:** Mr. Wooden said that Mayor Mike Lester is recommending that James Gordon, of the Clarion Hotel, serve on the CVB for the remainder of Keith Roberson's term, and if appointed, Mr. Gordon has agreed to fill the vacancy on the CVB with a term expiring September 2010.

<b>Motion:</b>	<b>Move to approve nomination for James Gordon to the Convention and Visitors Bureau</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Wade McCaleb, Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester
<b>Nays:</b>	None

F. Approval of Resolution 605 recognizing and celebrating the donation of the Oklahoma Centennial Clock to the City of Broken Arrow by Leadership Broken Arrow Class of 2008

Item Minutes: Acting City Manager, Mr. Dave Wooden, presented this item in accordance with the Fact sheet provided in the agenda packet. Mr. Wooden said this funding requirement was not included in the FY 2010 budget and the budget does not have any excess funds available for this project. He added that if the Council desires to fund this project the only funding available would be the economic development project in the Sales Tax Capital Improvement Fund, and he said this project is necessary if the city is to have light rail transit in the future. Mr. Wooden said the staff believes the study is important but the financial condition of the city at this time makes an expenditure of this magnitude problematic.

Motion: Move to approve local matching funds for Alternatives Analysis Modeling INCOG Rail Transit Study

Motion by: Craig Thurmond

Second by: Wade McCaleb

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

Nays: None

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Roberson's term, and if appointed, Mr. Gordon has agreed to fill the vacancy on the CVB with a term expiring September 2010.

Motion: Move to approve nomination for James Gordon to the Convention and Visitors Bureau

Motion by: Wade McCaleb

Second by: Philip Tucker

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

Nays: None

F. Approval of Resolution 605 recognizing and celebrating the donation of the Oklahoma Centennial Clock to the City of Broken Arrow by Leadership Broken Arrow Class of 2008

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**Item Minutes:** Mr. Wooden presented this item in accordance with the Fact Sheet provided in the Agenda packet. He said the City certainly appreciates the work of Leadership Broken Arrow. Mayor Lester and Councilman Carter expressed thanks and agreed it was an important addition to the Farmers Market.

<b>Motion:</b>	<b>Move to approve Resolution 605 recognizing and celebrating the donation of the Oklahoma Centennial Clock to the City of Broken Arrow by Leadership Broken Arrow Class of 2008</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, Mike Lester
<b>Nays:</b>	None

**10. City Manager’s Report**

- A. None
- B.

**11. Preview Ordinances**

Section Minutes: Ms. Wilkening presented this item in accordance with the Consent Agenda.

<b>Motion:</b>	<b>Move to approve set preview ordinances for adoption at the nest meeting</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, Mike Lester
<b>Nays:</b>	None

- A. An Ordinance amending Section 2-169 of the Broken Arrow Code pertaining to Separations; repealing all ordinances to the contrary; and declaring an emergency

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Motion by: Richard Carter

Second by: Philip Tucker

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

Nays: None

10. City Manager's Report

A. None

B.

11. Preview Ordinances

Section Minutes: Ms. Wilkening presented this item in accordance with the Consent Agenda.

Motion: Move to approve set preview ordinances for adoption at the next meeting

Motion by: Richard Carter

Second by: Philip Tucker

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

Nays: None

A. An Ordinance amending Section 2-169 of the Broken Arrow Code pertaining to Separations; repealing all ordinances to the contrary; and declaring an emergency

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- B. An Ordinance amending Section 2-171 of the Broken Arrow Code pertaining to Grievance Procedure; repealing all ordinances to the contrary; and declaring an emergency
- C. An Ordinance amending the Broken Arrow Code by amending Sec. 23-91, enabling prosecution for the driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol on private or on public property within the city limits of Broken Arrow, repealing all ordinances to the contrary and declaring an emergency.
- D. An ordinance amending Chapter 23, Article II, Section 23-93 of the Broken Arrow Code pertaining to Persons under age 21 driving under the influence of alcohol or other intoxicating substances; repealing all ordinances to the contrary; and declaring an emergency.

**12. Ordinances**

**Section Minutes:** Ms. Wilkening presented this item. She noted that both ordinances were previewed at the July 21, 2009 Council meeting. She said that she made a few typographical corrections and clarified some language after speaking to staff in the Development Services Department.

- A. Ordinance No. 3047 - An Ordinance closing an easement located on Lot 1 Block 1 Southeast Votech Campus Addition (plat), known as Tulsa Technology Center
- B. Ordinance No. 3048 - An Ordinance amending Section 21-14 of the Broken Arrow Code Pertaining to Street Light Fee

**Item Minutes:** Ms. Wilkening said that Ordinance 3048 has an Emergency Clause although it is not shown on the agenda.

<b>Motion:</b>	<b>Move to adopt Ordinance Nos. 3047 and 3048</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Craig Thurmond, Philip Tucker, Richard Carter, Wade McCaleb, Mike Lester
<b>Nays:</b>	None

<b>Motion:</b>	<b>Move to approve the Emergency Clause for Ordinance 3047</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Craig Thurmond

B. An Ordinance amending Section 2-171 of the Broken Arrow Code pertaining to Grievance Procedure; repealing all ordinances to the contrary; and declaring an emergency

C. An Ordinance amending the Broken Arrow Code by amending Sec. 23-91, enabling prosecution for the driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol on private or on public property within the city limits of Broken Arrow, repealing all ordinances to the contrary and declaring an emergency.

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B. Ordinance No. 3048 An Ordinance amending Section 21-14 of the Broken Arrow Code Pertaining to Street Light Fee

Item Minutes: Ms. Wilkening said that Ordinance 3048 has an Emergency Clause although it is not shown on the agenda.

Motion: Move to adopt Ordinance Nos. 3047 and 3048

Motion by: Philip Tucker

Second by: Richard Carter

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

Nays: None

Motion: Move to approve the Emergency Clause for Ordinance 3047

Motion by: Philip Tucker

Second by: Craig Thurmond

Broken Arrow City Council Agenda Page 9 of, 10 August 4, 2009



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

<b>Motion:</b>	Move to approve the Emergency Clause for Ordinance 3048
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Craig Thurmond, Philip Tucker, Richard Carter, Wade McCaleb, Mike Lester
<b>Nays:</b>	None

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

**14. Executive Session**

None

**15. Adjournment**

The meeting adjourned at 7:06 p.m.

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

Attest:

\_\_\_\_\_  
Mayor

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

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

Motion: Move to approve the Emergency Clause for Ordinance 3048

Motion by: Philip Tucker

Second by: Craig Thurmond

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

Nays: None

13. Remarks and Inquiries by Governing Body Members

14. Executive Session

None

15. Adjournment

The meeting adjourned at 7:06 p.m.

Motion: Move to adjourn

Motion by: Craig Thurmond

Second by: Philip Tucker

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

Nays: None

Attest:

Mayor City Clerk

Broken Arrow City Council Agenda Page 9 of, 10 August 4, 2009



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