

**BROKEN ARROW CITY COUNCIL
MINUTES
COUNCIL CHAMBERS
220 SOUTH FIRST STREET
BROKEN ARROW, OKLAHOMA 74012
August 18, 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

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

4. Pledge of Allegiance to the Flag

Section Minutes: Vice Mayor Tucker led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Councilman McCaleb requested that Item 5A be removed from the Consent Agenda in order to make a correction to the August 4, 2009 Minutes. Mayor Lester asked for a motion to approve the Consent Agenda except for Item 5A.

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

- A. Approval of regular meeting minutes of August 4, 2009
- B. Acceptance of minutes of the Planning Commission meeting held July 23, 2009.
- C. Approval of Budget Amendment Number 4 for Fiscal Year 2009-2010
- D. Approval of Contract for Public Improvements for Community Development Block Grant-Recovery Program for Funding the Construction Contract for Downtown

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

3. Roll Call

Present:

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

Absent: None

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Pledge of Allegiance to the Flag

Section Minutes: Vice Mayor Tucker led the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Councilman McCaleb requested that Item 5A be removed from the Consent Agenda in order to make a correction to the August 4, 2009 Minutes.

Mayor Lester asked for a motion to approve the Consent Agenda except for Item 5A.

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

Motion b Philip Tucker

Second b Richard Carter

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

Nays: None

A. Approval of regular meeting minutes of August 4, 2009

B. Acceptance of minutes of the Planning Commission meeting held July 23, 2009.

C. Approval of Budget Amendment Number 4 for Fiscal Year 2009-2010

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Grant-Recovery Program for Funding the Construction Contract for Downtown

Broken Arro\\ Cit Council Agenda Page I of I August I8, 2009

Intersection Streetscape Improvements- Phase II (ST0919- Main Street and Commercial and Main Street and Dallas Intersections)

- E. Approval of Resolution No. 607 casting a ballot for Jim Lockett, Jr. as Trustee at Large for the Oklahoma Municipal Retirement Fund.
- F. Approval of Resolution No. 608 of the Council of the City of Broken Arrow, Oklahoma, establishing the Wireline Nine-One-One (911) Emergency Telephone Fee, Retroactive to September 1, 2005, of Five Percent (5%) for calendar years 2006, 2007, 2008, and 2009, pursuant to State Statute and Ordinance, and Ratifying all fees collected and services provided and establishing the fee for calendar year 2010
- G. Approval of a special event permit for the Broken Arrow High School annual homecoming parade on Thursday, September 24, 2009 at 4:00PM
- H. Approval of a Workers' Compensation Claim for City Employee, Lela Fox
- I. Approval of bids received and award of the most advantageous bid for a construction contract for Asphalt Concrete Street Mill and Overlay in Copper Creek Subdivision
- J. Approval of bids received and award of the most advantageous bid for a construction contract for downtown intersection streetscape improvements - phase II (ST0919 - Main Street at Commercial and Main Street Dallas intersections) and authorize Mayor to execute Budget Amendment Number 5 for Fiscal Year 2009-2010
- K. Approval of bids received and award of the most advantageous bid for a construction contract for 9th Street Widening from Albany to Omaha
- L. Approve partial award of bid to and purchase of PPE boots from Janesville through a shared FEMA Grant
- M. Approve partial award of bid to and purchase of PPE coat, pants, hood, suspenders, helmet, and gloves from Wayest Safety through a shared FEMA grant.
- N. Approval to reject Bid Number 10.101 for police ammunition because the bid received exceeds the Police Department's budget for ammunition by \$14,225.00, and due to changes to be made in request to come within budget
- O. BAZ 1830, Rhema Bible Church, 0.92 acres, 1 lot, IL to CH, one-eighth mile east of Aspen Avenue (145th East Avenue), south of Kenosha street (71st Street).
- P. BAZ 1836, 0.99 acres, 1 lot, AR-1 and A-1 to RS-3, south of New Orleans Street (101st Street), one-half mile east of 9th Street (Lynn Lane/177th East Avenue).
- Q. Acceptance of a Deed of Dedication and two (2) Utility Easements from Cameron Investment Corporation (S31T19N R15E) (Project: BAZ 1755 Plat Waiver)
- R. Acceptance of Public Improvement - Wolf Creek Elementary Water Line/Fire Line

- Intersection Streetscape Improvements- Phase II ST0919- Main Street and Commercial and Main Street and Dallas Intersections)
- E. Approval of Resolution No. 607 casting a ballot for Jim Lockett, Jr. as Trustee at Large for the Oklahoma Municipal Retirement Fund.
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S. Approval of the Claims List

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

Section Minutes: 5A. Approval of regular meeting minutes of August 4, 2009

Councilman McCaleb said he would like a correction to Item 5A, the minutes of the August 4, 2009 meeting. He said that he abstained from Items 5A and 5G, and the abstention did not include Item 5F.

Mayor Lester asked for a motion to approve Item 5A as corrected.

Motion:	Move to approve minutes of August 4, 2009 as corrected
Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

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

A. Proclamation: Recognition of Janice Fraley's 26 years of service with Salvation Army Boys & Girls Club

Item Minutes: Mayor Lester read the Proclamation aloud and asked for a motion to execute and present the Proclamation to Ms. Janice Fraley who was present to receive it.

Motion:	Move to approve and authorize execution of Proclamation
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, 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 address Council.

9. **General Council Business**

A. Approval of bids received and award of the most advantageous bid for an Electronic Ticket writing solution

Item Minutes: Acting City Manager, Mr. Dave Wooden said the Broken Arrow Police Department has funds have been appropriated and are available in the Sales Tax Capital Improvement Fund in the amount of \$218,100 for the

S. Approval of the Claims List

6. Consideration of Items Removed from Consent Agenda

Section Minutes: 5A. Approval of regular meeting minutes of August 4, 2009

Councilman McCaleb said he would like a correction to Item 5A, the minutes of the August 4, 2009 meeting. He said that he abstained from Items 5A and 5G, and the abstention did not include Item 5F.

Mayor Lester asked for a motion to approve Item 5A as corrected.

Motion: Move to approve minutes of August 4, 2009 as corrected

Motion b Wade McCaleb

Second b Philip Tucker

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

Nays: None

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

A. Proclamation: Recognition of Janice Fraley's 26 years of service with Salvation Army Boys & Girls Club

Item Minutes: Mayor Lester read the Proclamation aloud and asked for a motion to execute and present the Proclamation to Ms. Janice Fraley who was present to receive it.

Motion: Move to approve and authorize execution of Proclamation

Motion b Richard Carter

Second b Philip Tucker

Ayes: Richard Carter, Philip Tucker, Craig Thurmond, Wade McCaleb, 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 address Council.

9. General Council Business

A. Approval of bids received and award of the most advantageous bid for an Electronic Ticket writing solution

Item Minutes: Acting City Manager, Mr. Dave Wooden said the Broken Arrow Police Department has funds have been appropriated and are available in the Sales Tax Capital Improvement Fund in the amount of \$218,100 for the Broken Arrow City Council Agenda Page 3 of 3 August 18, 2009

electronic ticket writing software which will be a benefit to tracking and processing tickets from issuance to court process.

Motion:	Move to approve bids received and award of the most advantageous bid for an Electronic Ticket writing solution
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

- B. Approval of the Fiscal Year 2009-10 Labor Agreement Between the Communication Workers of America District 6 and the City of Broken Arrow

Item Minutes: Human Resources Director, Mr. Russell Gale, presented this item in accordance with the Fact Sheet provided in the agenda packet. He said the Agreement for fiscal year 2009-10 was ratified by the CWA membership on August 6, 2009 and is now being presented to the City Council for approval.

Motion:	Move to approve the Fiscal Year 2009-10 Labor Agreement Between the Communication Workers of America District 6 and the City of Broken Arrow
Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Wade McCaleb, Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

- C. Approval to Issue a 1% Stipend Payment to All Non-Union Employees

Item Minutes: Mr. Gale presented this item stating that the Fiscal Year 2009-10 contract with the Communication Workers of America included a 1% base annual salary stipend to all its bargaining unit members. Mr. Gale said that it would be appropriate to grant the same stipend to all full-time employees not covered by a labor agreement. This proposed one-time payment would be provided to 59 full-time and part-time employees at a cost of approximately \$41,100, and the payment excludes the Acting City Manager, all department directors and all contract employees.

Motion:	Move to approve a 1% Stipend Payment to All Non-Union Employees
Motion by:	Wade McCaleb
Second by:	Richard Carter
Ayes:	Wade McCaleb, Richard Carter, Craig Thurmond, Philip Tucker, Mike Lester
Nays:	None

electronic ticket writing software which will be a benefit to tracking and processing tickets from issuance to court process.

Motion: Move to approve bids received and award of the most advantageous bid for an Electronic Ticket writing solution

Motion b Philip Tucker

Second b Richard Carter

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

Nays: None

B. Approval of the Fiscal Year 2009-10 Labor Agreement Between the Communication Workers of America District 6 and the City of Broken Arrow

Item Minutes: Human Resources Director, Mr. Russell Gale, presented this item in accordance with the Fact Sheet provided in the agenda packet. He said the Agreement for fiscal year 2009-10 was ratified by the CWA membership on August 6, 2009 and is now being presented to the City Council for approval.

Motion: Move to approve the Fiscal Year 2009-10 Labor Agreement Between the Communication Workers of America District 6 and the City of Broken Arrow

Motion b Wade McCaleb

Second b Philip Tucker

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

Nays: None

C. Approval to Issue a 1% Stipend Payment to All Non-Union Employees

Item Minutes: Mr. Gale presented this item stating that the Fiscal Year 2009-10 contract with the Communication Workers of America included a 1% base annual salary stipend to all its bargaining unit members. Mr. Gale said that it would be appropriate to grant the same stipend to all full-time employees not covered by a labor agreement. This proposed one-time payment would be provided to 59 full-time and part-time employees at a cost of approximately \$41,100, and the payment excludes the Acting City Manager, all department directors and all contract employees.

Motion: Move to approve a 1% Stipend Payment to All Non-Union Employees

Motion b Wade McCaleb

Second b Richard Carter

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

Nays: None

Broken Arrow City Council Agenda Page 4 of 4 August 18, 2009

- D. Approval of appointment of James Gordon to the Convention and Visitors' Bureau

Item Minutes: Mayor Lester stated that the nomination of James Gordon was approved at the August 4, 2009 Council meeting and asked for a motion to appoint Mr. Gordon.

Motion:	Move to approve appointment of James Gordon to the Convention and Visitors' Bureau
Motion by:	Philip Tucker
Second by:	Richard Carter
Ayes:	Philip Tucker, Richard Carter, Craig Thurmond, Wade McCaleb, Mike Lester
Nays:	None

10. City Manager's Report

- A. None

11. Preview Ordinances

- A. None

12. Ordinances

Section Minutes: Ms. Wilkening reviewed Ordinances 12A-12D.

Motion:	Move to approve Ordinances 3049, 3050, 3051 and 3052
Motion by:	Philip Tucker
Second by:	Wade McCaleb
Ayes:	Philip Tucker, Wade McCaleb, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

Motion:	Move to approve the Emergency Clauses for Ordinances 3049, 3050, 3051 and 3052
Motion by:	Wade McCaleb
Second by:	Philip Tucker
Ayes:	Philip Tucker, Wade McCaleb, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

- A. Ordinance 3049 - 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

D. Approval of appointment of James Gordon to the Convention and Visitors' Bureau

Item Minutes: Mayor Lester stated that the nomination of James Gordon was approved at the August 4, 2009 Council meeting and asked for a motion to appoint Mr. Gordon.

Motion: Move to approve appointment of James Gordon to the Convention and Visitors' Bureau

Motion b Philip Tucker

Second b Richard Carter

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

Nays: None

10. City Manager's Report

A. None

11. Preview Ordinances

A. None

12. Ordinances

Section Minutes: Ms. Wilkening reviewed Ordinances 12A-12D.

Motion: Move to approve Ordinances 3049, 3050, 3051 and 3052

Motion b Philip Tucker

Second b Wade McCaleb

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

Nays: None

Motion: Move to approve the Emergency Clauses for Ordinances 3049, 3050, 3051 and 3052

Motion b Wade McCaleb

Second b Philip Tucker

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

Nays: None

A. Ordinance 3049 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
Broken Arrow Cith Council Agenda Page 5 of 5 August I8. 2009

property within the city limits of Broken Arrow, repealing all ordinances to the contrary and declaring an emergency.

- B. Ordinance 3050 - 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.
- C. Ordinance 3051 - 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
- D. Ordinance 3052 - An ordinance amending Chapter 2, Section 2-169 of the Broken Arrow Code pertaining to Separations; repealing all ordinances to the contrary; and declaring an emergency
- E. Adoption of Ordinance No. 3053 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931), approving BAZ-1755, granting I-H zoning to be placed upon the tract, except for 2.1016 acres to be designated FD, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Item Minutes: Ms. Wilkening requested that this Item be tabled until the next Council meeting because it was not ready and needed corrections.

Motion:	Move to table Ordinance No. 3053
Motion by:	Craig Thurmond
Second by:	Richard Carter
Ayes:	Craig Thurmond, Richard Carter, Philip Tucker, Wade McCaleb, Mike Lester
Nays:	None

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

Section Minutes: Councilman McCaleb said that the Youth City Council program for school year 2009-2010 would be on the next Council agenda.

Mayor Lester said he wanted to commend Claudia Dyer, Lori Hill, and Terri Cleveland for their help with the last minute relocation of the Town Hall meeting for Senator Coburn. Mayor Lester said that so many people showed up it was not possible to hold the event at the Broken Arrow Community Playhouse and Ms. Dyer, Ms. Hill and Ms. Cleveland organized the last minute move of the crowd to the Community Center at Central Park.

At 6:49 p.m., Mayor Lester asked for a Motion to recess into the Broken Arrow Municipal Authority.

property within the city limits of Broken Arrow, repealing all ordinances to the contrary and declaring an emergency.

B. Ordinance 3050 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.

C. Ordinance 3051 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

D. Ordinance 3052 An ordinance amending Chapter 2, Section 2-169 of the Broken Arrow Code pertaining to Separations, repealing all ordinances to the contrary, and declaring an emergency

E. Adoption of Ordinance No. 3053 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma Ordinance No. 2931), approving BAZ-1755, granting I-H zoning to be placed upon the tract, except for 2.1016 acres to be designated FD, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Item Minutes: Ms. Wilkening requested that this Item be tabled until the next Council meeting because it was not ready and needed corrections.

Motion: Move to table Ordinance No. 3053

Motion b Craig Thurmond

Second b Richard Carter

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

Nays: None

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilman McCaleb said that the Youth City Council program for school year 2009-20 10 would be on the next Council agenda.

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At 6:49 p.m., Mayor Lester asked for a Motion to recess into the Broken Arrow Municipal Authority.

Broken Arrow City Council Agenda Page 6 oi'6 August I8. 2009

Motion:	Motion to recess to enter into the Broken Arrow Municipal Authority meeting
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Wade McCaleb, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

Mayor Lester reconvened the regular Council meeting at 6:50 p.m.

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

Mayor Lester reconvened the regular Council meeting at 6:56 p.m.

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

Mayor Lester reconvened the regular session at 7:00 p.m. and the meeting was opened to the public.

14. **Executive Session for the purpose of confidential communications between the City Council, the Acting City Manager and the City's Attorney for the purpose of conferring on a settlement offer in the case of City of Broken Arrow v. Kenco Properties, Inc., Tulsa County District Court Case Number CJ-2009-990; under 25 O.S. § 307(B)(4). The Council is advised that disclosure will seriously impair the ability of the public body to process this 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.**

Motion:	Move to authorize the City Attorney to settle the case of City of Broken Arrow v. Kenco, et al. for the sum of \$75,000.00
Motion by:	Philip Tucker
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Wade McCaleb, Craig Thurmond, Richard Carter, Mike Lester
Nays:	None

Motion: Motion to recess to enter into the Broken Arrow Municipal

Authority meeting

Motion b Philip Tucker

Second b Craig Thurmond

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

Lester

Nays: None

Mayor Lester reconvened the regular Council meeting at 6:50 p.m.

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

Motion b Wade McCaleb

Second b Richard Carter

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

Lester

Nays: None

Mayor Lester reconvened the regular Council meeting at 6:56 p.m.

Motion: Move to enter into Executive Session

Motion b Philip Tucker

Second b Craig Thurmond

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

Lester

Nays: None

Mayor Lester reconvened the regular session at 7:00 p.m. and the meeting was opened to the public.

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Motion: Move to authorize the City Attorney to settle the case of City of

Broken Arrow v. Kenco, et al. for the sum of \$75,000.00

Motion b Philip Tucker

Second b Craig Thurmond

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

Lester

Nays: None

Broken Arrow City Council Agenda Page 7 01'7 August 18. 2009

15. **Adjournment**

Section Minutes: The meeting adjourned at 7:03 p.m.

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

Attest:

Mayor

City Clerk

15. Adjournment

Section Minutes: The meeting adjourned at 7:03 p.m.

Motion: Move to adjourn

Motion b Wade McCaleb

Second b Richard Carter

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

Lester

Nays: None

Attest:

Mayor City Clerk

Broken Arro\\ Cith Council Agenda Page 9 of's August I8. 2009