

BROKEN ARROW CITY COUNCIL MINUTES
January 20, 2009

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, January 20, 2009, 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: No one was present to deliver 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: Mayor McCaleb said that Robert Townsend would like to speak regarding Item 5U and this Item would be pulled from the Consent Agenda. The Mayor asked if any other items needed to be removed. Vice Mayor Lester requested that Item 5K be removed. Mayor McCaleb asked for a motion to approve the Consent Agenda except for Items 5K and 5U.

- A. Approval of the regular meeting minutes of January 6, 2009
- B. Approval of the January 13, 2009 special joint meeting minutes of the Broken Arrow City Council and Broken Arrow Municipal Authority
- C. Acceptance of the minutes of the Planning Commission meeting held December 18, 2008
- D. Ratification of a proclamation declaring January 17, 2009 as 'Lions Clubs Day' in the City of Broken Arrow
- E. Approval of Work Order No. W06 to Contract ST0811, Portland Concrete Street Repairs
- F. Approval of and authorization to execute a Parks and Recreation Use Agreement between the City and the Broken Arrow Adult Softball Association, for use of the Al Graham Adult Softball Fields at Indian Springs Sports Complex for an adult softball program, from the date of execution through December 31, 2009
- G. Approval of and authorization to execute a Parks and Recreation Use Agreement between the City and the Broken Arrow Youth Baseball Association, for use of the Youth Baseball Fields at Indian Springs Sports Complex for a youth baseball program, from the date of execution through December 31, 2009
- H. Approval of and authorization to execute Architect-Engineer Contract No. ST0914 with Mehlburger-Brawley, Inc., for design of the 23rd Street Improvements between Kenosha and Houston

- I. Approval of and authorization to execute an agreement with the Oklahoma Department of Transportation (ODOT) to utilize federal STP funding for the project planning, preliminary design and environmental assessment for the project: 23rd Street Improvements between Kenosha and Houston Streets
- J. Approval of bids received and award of the most advantageous bid to Becco Contractors, Inc., for New Orleans Widening, Elm Place to 9th Street
- K. Approval of rejection of the lowest bid received, award of the most advantageous bid to McKee Utilities, and authorization to execute the Contract Award Other Than Lowest Bidder, for the Northeast Crossroads Offsite Sanitary Sewer
- L. Approval of BACP 100, Switzer Locker Room, 5.48 acres, CN, RM, ON/PUD-31E, Level 3 to Level 6, approximately 660 feet east of Aspen Avenue (145th East Avenue), north of Houston Street (81st Street)
- M. Approval of BAZ 1821, 0.23 acres, 1 lot, R-3 to RS-3, one-quarter mile west of Aspen Avenue (145th East Avenue), one-half mile north of Houston Street (81st Street) at 2517 West College Street
- N. Approval of BAZ 1822, 1.25 acres, 1 lot, A-RMH to RMH, one-third mile east of 37th Street (209th East Avenue), south of Dearborn Street (41st Street) at 21402 East 43rd Street
- O. Approval of PT08-120, Conditional Final Plat of Bent Arrow Veterinary Hospital, 2.55 acres, 1 lot, CG/SP 227, south and east of the southeast corner of Garnett Road (113th East Avenue) and Washington Street (91st Street)
- P. Approval of Correction of Vacation of Plat of Cedar Creek Park, City of Broken Arrow, Tulsa County
- Q. Approval of and authorization to execute an Underground Right-of-Way Easement to Public Service Company of Oklahoma, an Oklahoma Corporation (S14 T18N R14E) (Project: Underground Conversion Project)
- R. Acceptance of a Temporary Construction Easement from Brown & Perkins, LLC (S35 T19N R14E) (Project: Elm Pl Ext FAA Site to Omaha St)
- S. Acceptance of a Waterline Easement from S & R Development, LLC (S33 T18N R14E) (Project: Spring Creek Offsite Waterline)
- T. Acceptance of a Waterline Easement from Most Reverent Edward J. Slattery as Bishop of the Catholic Diocese of Tulsa, or His Successor or Successors in Office, For the benefit to St. Anne Catholic Church (S5 T17 N R14 E) (Project: All Saints School Waterline)
- U. Acceptance of a Deed of Dedication from Brown & Perkins, LLC (S35 T19N R14E) (Project: Elm Pl Extension - FAA Site to Omaha St)
- V. Acceptance of a Deed of Dedication from Ronald E. Smith Trust (S4 T18N R14E) (Project: Kenosha Landing)
- W. Acceptance of a Dedication of Moved Mutual Access Easement from Arvest Bank, an Arkansas Banking Corporation (S1 T18N R14E) (Project: Lot 3, Block 1, Tuscan Plaza)
- X. Acceptance of a General Warranty Deed from Otto Johannesen, Jr. (S28 T18N R14E) (Project: Aspen Widening Florence to New Orleans)
- Y. Approval of the Claims List

Motion:	Move to approve the Consent Agenda with the exception of Items 5K and 5U.
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

5K. Approval of rejection of the lowest bid received, award of the most advantageous bid to McKee Utilities, and authorization to execute the Contract Award Other Than Lowest Bidder, for the Northeast Crossroads Offsite Sanitary Sewer

Item Minutes: Vice Mayor Lester asked why the lowest bid was rejected. Development Services Director, Michael Skates, explained that several items were not in compliance with the bid documents. Mr. Skates said that "Schedule A" was a required document in the bid package and the bidder did not provide a 'Schedule A'; the time allotted to do the work did not meet requirements so was not in compliance; and, the listing of project experience showed water line projects not sewer lines, and the consultant for the Northeast Crossroads Offsite Sanitary Sewer Project recommended that this project required experience with sanitary sewer systems. Mr. Skates added that the second, third and fourth bidders were close and staff recommended that the bid award go to the second lowest bidder. Vice Mayor Lester asked if the overall cost of the project would be impacted. Mr. Skates responded that there would be no increase in cost to the City

Motion:	Move to approve Item 5K.
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

5U. Acceptance of a Deed of Dedication from Brown & Perkins, LLC (S35 T19N R14E) (Project: Elm Pl Extension - FAA Site to Omaha St)

Item Minutes: Mr. Robert Townsend addressed Council regarding this Item. At Mr. Townsend's request his comments are attached and made a part of these minutes.

Motion:	Move to accept Item 5U.
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

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: No one requested to address Council under Item 8.

9. General Council Business

There were no items to consider and no action was taken.

10. City Manager's Report

There were no items to consider and no action was taken.

11. Preview Ordinances

There were no items to consider and no action was taken.

12. Ordinances

A. Ordinance No. 3009 - an ordinance amending Chapter 24, Water, Sewers and Sewage Disposal, Article VI, Water Service Charges and Rates, Section 24-608 Water Rates Established and Section 24-609 Special Contract Rates Established of the Broken Arrow Code; repealing all ordinances to the contrary, and declaring an emergency

Item Minutes: City Attorney, Beth Anne Wilkening, said that a correction was made to the date, specifically correcting year 2008 to 2009.

Motion:	Move to approve Ordinance No. 3009.
Motion by:	Richard Carter
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 Ordinance No. 3009.
Motion by:	Richard Carter
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: The Mayor mentioned the upcoming National League of Cities conference. Because some Council members had not received the information regarding the event as yet, Mayor McCaleb said they could discuss the matter at the next meeting.

Motion:	Move to recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.
Motion by:	Mike Lester
Second by:	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 6:43 p.m.

Motion:	Move to take a brief recess prior to entering returning for Executive Session.
Motion by:	Mike Lester
Second by:	Richard Carter
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 6:47 p.m.

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** for the purpose of discussing the employment of the City Manager, an employee, pursuant to 25 O.S. § 307(B)(1). 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 8:35 p.m.

Motion:	Move to direct the City Attorney to draft an amendment the City Manager's contract to reflect a 1% raise retroactive to July 1, 2008, and to grant an additional week of vacation.
Motion by:	Richard Carter
Second by:	Mike Lester
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:	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
Nays:	None

The meeting was adjourned at the noted time of 8:37 p.m.

Mayor

City Clerk

my handwritten

**Oppose Agenda Item 5-U
Before the City Council in its' Regularly Scheduled
Meeting of January 20, 2009**

Mr. Mayor, Ladies and gentlemen, Taxpayers in the audience, good evening, my name is Robert L. Townsend. I live at 4925 S 165th East Aye, Tulsa, OK, 74134. I am here tonight to oppose Agenda item 5-U, Which is related to BACP-96. Please put up Attachment 1.

BACP-96 was an Amendment to the Comprehensive Plan, involving the Elm Place Extension, intersection and Commercial Zoning, which I, and a number of other Taxpayers, have opposed at each step of the hearing process beginning on September 11, 2008. You may say I am alone standing here in opposing and speaking only for myself. However, know that over the course of these protests, for many varied reasons, 280 plus Taxpayers signed on to oppose this project.

Attachment 1 shows the conceptual design of that project, entered in the City Data Base on April, 16, 2008, which is the basis for BACP-96, and subsequent actions.

Currently I have a Pro Se Lawsuit, CJ 2008 09083, filed December 31, 2008, challenging the decision rendered by this Council on December 2, 2008. As a result of Taxpayers objections, throughout the hearing process and this pending lawsuit, it would be imprudent for the City To proceed with the approval of this agreement. Or, any further actions in regard to this project.

I do not intend this request to affect the Intersection work at

20090120_PRESENTATION_TO_CITYCOUNCIL OPPOSING_AGENDA_ITEM_5-U.wps Page 1 of 4

Lynn Lane and 51st Street, nor, the Intersection work at County Line and 51st Street. Please put up Attachment 2. Further, I do not intend to restrict any widening effort on 51st Street from 129th East Ave Eastward, should that project be reinstated.

The 51st Street widening, included in the “4 to fix” Bond issue in 2005, was killed by Council Decision on April 2, 2007, when funds were diverted from street widening, of two miles of roadway, to the intersection work noted above. The details are explained in Attachment 2.

In fact, a higher priority issue might be considered. My ^{comments} comments have said you should get Taxpayer input on diverting Funds. In the lawsuit, I requested the \$4 Million be returned to Taxpayers. It might be useful to recognize widening 51st Street may have a higher priority than Elm Place Extension and the intersections. A vote of Taxpayers to use the \$4 Million for widening 51st Street would be in order.

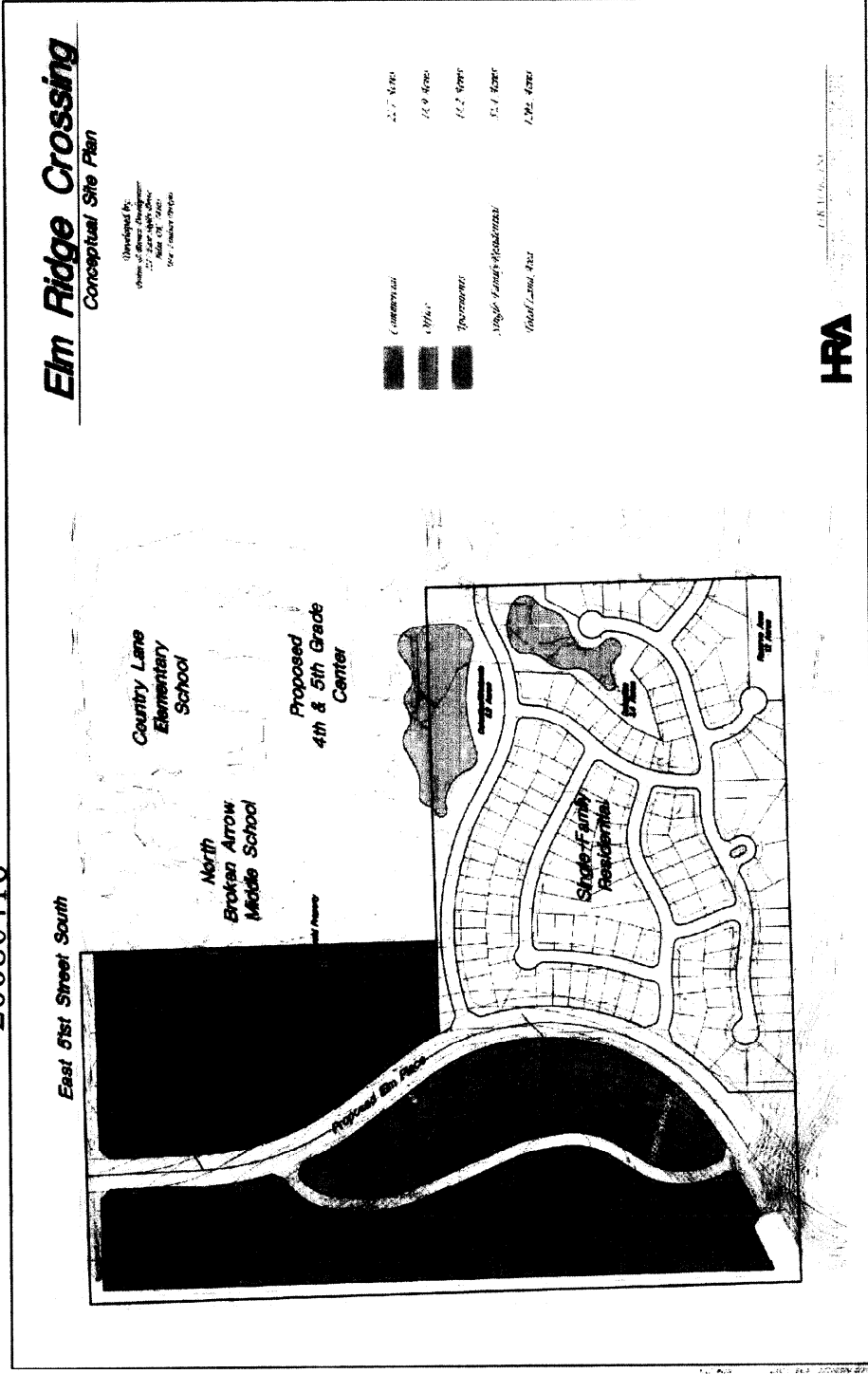
I therefore respectfully request the City Council Table Agenda Item 5-U, until a fair hearing on the issues brought forth in this lawsuit are resolved. I request the City take no further action on this project and stand down any actions in the pipeline involving Brown & Perkins, LLC, the City of Tulsa, the County of Tulsa and The Broken Arrow School Board.

I do ask that my written comments and attachments be entered in tonight’s minutes in their entirety in objection to approval of Item 5-U.

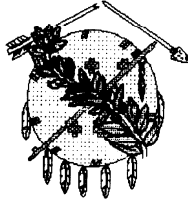
Thank you for your time.



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EXHIBIT_06_ELM RIDGE CROSS_conceptual plan 3 in color 20080416.pdf



BROKEN ARROW CITY COUNCIL

MEETING OF: 04-02-07

TO: MAYOR AND CITY COUNCIL
FROM: OFFICE OF THE CITY MANAGER
SUBJECT: APPROVAL OF AND AUTHORIZATION TO EXECUTE AN AGREEMENT WITH TULSA COUNTY AND THE CITY OF TULSA FOR IMPROVEMENTS ON OMAHA STREET FROM ELM PLACE TO 23RD STREET

Background: Improvements to Omaha Street (51st St. S.) were approved by Tulsa County voters in the "4 to Fix the County 2005" sales tax election. However, the \$1 million approved for 51st St. is not sufficient to widen the 2 miles of roadway. The County Engineer met with representatives of Broken Arrow and the City of Tulsa and agreed that available funds from all three entities should be combined to improve the intersections at Elm Pl. (161st St.), 9th St. (Lynn Lane), and 23rd St. (County Line), with Broken Arrow providing the engineering, construction management, and limited funding for the Elm Pl. and 9th St. intersections; City of Tulsa providing traffic signals; Tulsa County providing roadway and drainage construction; and all three entities providing right-of-way in their respective jurisdictions. The attached agreement has been approved by County and City of Tulsa staff. Upon approval by the City Council, the agreement will be sent to the City of Tulsa and then the County for approval by elected officials.

Cost: Estimated \$90,000 for engineering

Report Prepared By: J. Bruce Arnold, P.E., Director, Engineering and Construction Dept.

Report Reviewed By: Assistant City Manager
Legal Department
Streets and Stormwater Department

Report Approved By: James M. Twombly, City Manager

Attachments: Agreement with Tulsa County, City of Tulsa, and City of Broken Arrow

Recommendation: Approve and authorize execution of the Tulsa County, City of Tulsa, and City of Broken Arrow agreement for Omaha Street improvements from Elm to 23rd St.

JMT: jba

ACTION: APPROVAL: APPROVAL W/ CONDITION: DENIAL: TABLED: VOTE:

EXHIBIT_19_BA CITY COUNCIL 20070402_Fact Sheet County-BA-KILLING 51ST WIDENING.max

