

BROKEN ARROW CITY COUNCIL MINUTES
March 17, 2009

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, March 17, 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: There was no one 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: Will Wilkening of Cub Scout Troop 318 led those present in the Pledge of Allegiance to the Flag.

5. Consideration of Consent Agenda

Section Minutes: Mayor McCaleb asked if there were any items to be removed from the Consent Agenda. There being none, the Mayor asked for a Motion to approve the Consent Agenda.

- A. Approval of the regular meeting minutes of March 3, 2009
- B. Acceptance of the minutes of the Planning Commission meeting held February 26, 2009.
- C. Approval of and authorization to execute a Proclamation commemorating the 25th Anniversary of Hans Madsen Andersen Elementary School
- D. Approval of and authorization to execute Budget Amendment #9 for Fiscal Year 2008-2009
- E. Approval of and authorization to execute Resolution No. 572, a resolution authorizing the City Attorney to confess judgment without admitting liability in the United States District Court for the Northern District of Oklahoma, Case No. 08CV-147 GKF SAJ, styled Perry Pribble v. City of Broken Arrow, Oklahoma, and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry incorporating this Resolution for the Court's approval pursuant to 51 O.S. Section 158
- F. Approval of and authorization to execute Resolution No. 573, a resolution authorizing the City Attorney to agree to entry of judgment in the case of the City of Broken Arrow, Oklahoma v. Hershell S. Harper and Betty J. Harper, Co-Trustees of the Hershell S. Harper Family Trust dated February 9, 2007, Tulsa County District Court Case Number CJ-2009-992

and directing the City Attorney to Prepare and file the necessary documents to effectuate settlement, including a Journal Entry for the Court's approval, pursuant to 51 O.S. Section 158

- G. Approval of and authorization to execute Resolution No. 574, a resolution of the City of Broken Arrow adopting the City of Broken Arrow Investment Policy
- H. Approval of Sole Source Purchase of Communications Equipment Upgrades
- I. Approval of and Authorization to Execute and AE Contract #056037 with BKL for Redesign of Restroom/Concession Bldg and Site Adapting to Three Locations at ISSC
- J. Approval of and authorization to execute an Architect-Engineer contract with Cobb Engineering, Co., for the Conceptual Design / Feasibility Study of the Interchange at Creek Turnpike and Aspen Avenue project
- K. Approval of a Contract between Thomson-West Publishing Company and the City of Broken Arrow Legal Department for Legal Publications and Westlaw
- L. Approval of Final Acceptance and donation of the Public Improvements at AG Equipment Vessel Shop: Water Distribution System
- M. Approval of Final Acceptance and donation of the Public Improvements at Broken Arrow Public Schools Performing Arts Center: Water Distribution System, Sanitary Sewer Collection System, Storm Water Conveyance System and Roadway and Street Network
- N. Approval of Final Acceptance and donation of the Public Improvements at Greens at Broken Arrow Phase III: Water Distribution System and Sanitary Sewer Collection System
- O. Approval of Final Acceptance and donation of the Public Improvements at Iron Horse Subdivision: Water Distribution System, Sanitary Sewer Collection System, Storm Water Conveyance System and Roadway and Street Network
- P. Approval of Final Acceptance and donation of Public Improvements for Lynn Lane Commercial Center: Water Distribution System; Sanitary Sewer Collection System; Storm Water Conveyance System and Roadway and Street Network
- Q. Approval of Final Acceptance and donation of the Public Improvements at Spring Creek: Sanitary Sewer Trunk Line
- R. Approval of request for water and sewer service to sales trailer at Iron Horse Ranch
- S. Approval of PT09-100, conditional final plat for Sonic at Aspen Commercial Center , 0.90 acres, 1 lot, CG/PUD 94, south of the southeast corner of Omaha Street (51ST Street) and Aspen Avenue (145TH East Avenue) in Battle Creek
- T. Approval of PUD 199 and BAZ 1825, and Abrogation of PUD 136 and BAZ 1596, 13.00 acres, A-1 to CN, southwest corner of Elm Place (161st East Avenue) and Tucson Street (121st Street)
- U. Approval of the Claims List

Motion:	Move to approve the Consent Agenda as presented.
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

There were no items removed from the Consent Agenda and no action was required.

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

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

Section Minutes: Mr. Gregory Lantay, 1505 W. Jackson Place, Broken Arrow, OK 74012, addressed Council regarding his concerns about utility costs and urged the City to 'tighten its belt' just as citizens have to, and to conserve wherever possible. He provided a letter to Council and it is attached hereto.

9. General Council Business

- A. Approval of and authorization to execute Resolution No. 576, a resolution authorizing the waiving of established rental fees for events and activities at the Farmers Market until November 1, 2009

Item Minutes: City Manager, Jim Twombly, presented this item. He summarized the background saying that during the March 3, 2009 Council meeting, staff requested direction from Council with regard to charging for rental of the Farmers' Market. Mr. Twombly said that Council indicated their desire to encourage use of the Market plaza area to bring people downtown and to achieve this goal, Council directed staff to review options for waiving the rental fees.

Mr. Twombly said that Resolution 576 proposes waiving all rental fees until November 1, 2009. In response to Council questions regarding the impact the temporary waiver might have, Mr. Twombly said staff will monitor activity at the Farmers' Market and the associated expenses resulting from event preparation and clean-up. He added that, based on this information, staff will report to Council at the end of the waiver period with a recommendation for future rental fees.

Motion:	Move to approve and authorize execution of Resolution 576 authorizing the waiving of established rental fees for events and activities at the Farmers Market until November 1, 2009
Motion by:	Philip Tucker
Second by:	Mike Lester
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

- B. Consideration and possible approval of BAZ 1824, 0.94 acres, 1 lot, AR-1 to R-2, one-fourth mile East of 9th Street (Lynn Lane/177th East Avenue), north of New Orleans Street (101st Street), at 18015 East 101st Street

Item Minutes: City Planning Division Manager, Mr. Farhad Daroga, presented this item. He briefly reviewed the background to this item as presented in the Fact Sheet provided in the Agenda packet. He said that the matter was before Council because the applicants, Jim and Britni Husband, requested re-zoning from the transitional AR-1 zoning to R-2 in order to obtain a permit for improvements to the property.

Mr. Daroga explained that the property is currently unplatted but would have to be platted to receive an R-2 designation. He said that the Planning Commission agreed to waive the platting requirement if the property owner would commit to the basic platting conditions through a non-plat/separate instrument process. Mr. Daroga said the 3 conditions were: 1) dedicate the New Orleans Street right of way (60ft. from center/section line); 2) 17.5 ft. utility easement, (adjoining the future/ultimate right of way); and, 3) either build or escrow the cost of a sidewalk.

The applicants, Jim and Britni Husband, 18015 E. 101st Street, Broken Arrow, OK addressed Council regarding their request. Mr. Husband explained that they already sold 15.25 feet of right-of-way to the City for future widening of New Orleans Street to a 3-lane road. He said the City now wants them to donate an additional 20 feet of their lot as well as pay for a sidewalk. Ms. Husband said it was excessive for the City to expect Broken Arrow residents to pay for sidewalks and that zoning around them was agricultural which required no sidewalks which meant that any sidewalk in front of their property would connect to nothing. She added that their re-zoning request was made because they were told by the City that they had to rezone in order to obtain a permit to remodel their home. She added they requested a waiver of the right-of-way and the sidewalk requirement.

Vice Mayor Lester explained that sidewalks are required in all situations such as this. He added that the sidewalk requirement was at times, ahead of development in an area, but eventually the sidewalk sections would connect and become available to citizens after the area fully developed. Ms. Husband said that her neighbors did not have all the same requirements. Mr. Daroga said the neighboring properties were zoned agricultural and therefore were under different requirements. He said the Husband's property was a smaller lot and did not qualify for agricultural zoning.

The Mayor said the funds for the sidewalk would be held in escrow until the road was widened and the sidewalk could then be installed. Vice Mayor Lester said the requirements were the same that were made of everyone and the sidewalks were a benefit to Broken Arrow citizens.

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

- C. Discussion and possible approval of proposed income increases and monetary savings required for preparation of the Fiscal Year 2010 Operational Budgets for the General Fund and the Broken Arrow Municipal Authority

Item Minutes: City Manager, Mr. Jim Twombly, presented this item consistent with the Fact Sheet and attached documentation provided in the Agenda packet. Mr. Twombly said that these are difficult economic times and it is not known how long it will last. He added that Broken Arrow is not alone in this situation and gave examples of other cities dealing with economic issues. Mr. Twombly said that the City's general fund expenses have exceeded revenue for a number of years. He explained that the general

fund is over 80% personnel costs at this time. He added that during fiscal years 2005-2009, general fund personnel costs increased 35.2% but revenue increased only 29.5 %. Mr. Twombly said that revenue for the City is increasing slower than personnel expenditures and said that it is not a sustainable pace. Mr. Twombly said there are a number of reasons this has occurred, such as the sales tax revenues seen a few years ago. He explained that sales tax revenues makes up over 60 % of the general fund revenues and these figures were up in 2005 to 8.1 %, and in 2006, sales tax revenue increased to 13%. As a result, decisions were made to hire more employees, and there were also negotiated pay increases in 2005 – 2006. He added that in 2007, sales tax revenue dropped to 4.8% and in 2008 revenue was down to 3%.

Mr. Twombly said that policies were implemented at that time, including a hiring freeze, cessation of out of state travel for training, and reduction in overtime. Mr. Twombly said the Reserve Fund balance was critical because cities with larger fund balances can better weather economic downturns, but Broken Arrow did not adhere to its Reserve Fund balance goals due to the desire to hire more employees as the City grew and also due to negotiated wage increases. He said the City hired more employees than it could afford, hired too early, and made wage increases it could not afford. He said that Broken Arrow is overall a resource poor city, and in comparison, Edmond and Norman each receive 1 million dollars more per month in sales tax revenues than Broken Arrow receives. Mr. Twombly said that to improve this situation, Broken Arrow has to continue its efforts to plan for and attract more economic development for sustainable growth; and, the City needs to recognize the limitation of its resources, and spend wisely. He said that, in a moment, he would turn the discussion over to Mr. Wooden who would present fiscal year 2009-2010 plan for the City and BAMA. He said that first, he wanted to comment that the plan proposed making use of new revenues from City fee increases, elimination of vacant positions and more as Mr. Wooden would review.

Mr. Twombly said the plan does not include any layoffs of current city employees at this time. He added that the executive session on the agenda tonight was included just in case layoffs had to be discussed. He said that because there will be no layoffs at this time, the executive session will not be necessary this evening.

Mr. Wooden presented the proposed increases for income to the City and monetary savings proposed for the fiscal year 2010 operational budgets for the General Fund and the Broken Arrow Municipal Authority. He proceeded with a review and summary of the proposed fee increases such as permit fees, sanitation fees, water rates, stormwater fees, street light fee, etc. He presented the information as set forth in the attachments to the Fact Sheet provided in the Agenda packet. Mr. Wooden responded to questions from Council in regard to the abolished employee positions saying that the hiring freeze stays in effect, and there will be no hiring until the City reaches 100 percent of the emergency reserve balance. He said that according to the Municipal Budget Act, if a position is not abolished, it must be funded. Mr. Twombly said there is a record of the eliminated positions and, at the point in time when funding is available for positions, Council will have the opportunity to determine which positions need to be reestablished as well as looking at new priorities that might require new positions to be created. He said that in the meantime, any need arising for urgent positions will be looked at on a case by case basis. Mr. Twombly said that if Council approves this plan tonight, a special meeting on March 24th will not be necessary.

Motion:	Move to approve the proposed income increases and monetary savings required for preparation of the Fiscal Year 2010 Operational Budgets for the General Fund and the Broken Arrow Municipal Authority
Motion by:	Richard Carter
Second by:	Philip Tucker
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

10. City Manager’s Report

No action was required or taken.

11. Preview Ordinances

- A. An ordinance closing a utility easement and overland drainage easement located in Reserve K, Iron Horse Ranch

Section Minutes: Development Services Director, Mr. Michael Skates, presented this item consistent with the Fact Sheet provided in the Agenda packet.

Motion:	Move to forward preview ordinances to the next agenda for possible adoption.
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

12. Ordinances

- A. Adoption of Ordinance No. 3012 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1334, granting IL zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- B. Adoption of Ordinance No. 3013 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1772, granting IL zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- C. Adoption of Ordinance No. 3015 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1799, granting DF zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- D. Adoption of Ordinance No. 3016 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1809, granting RMH zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- E. Adoption of Ordinance No. 3017 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1622, granting R-3S zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- F. Adoption of Ordinance No. 3018 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1712, granting RM zoning to be placed upon the tract along with PUD 130B, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

- G. Adoption of Ordinance No. 3020 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1783, granting RM zoning to be placed upon the tract along with PUD 118C, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- H. Adoption of Ordinance No. 3021 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1801, granting CG zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- I. Adoption of Ordinance No. 3022 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1804, granting RMH zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency
- J. Adoption of Ordinance No. 3023 amending the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) approving BAZ 1806, granting RMH zoning to be placed upon the tract, repealing all ordinances or parts of ordinances in conflict herewith, and declaring an emergency

Section Minutes: City Attorney, Beth Anne Wilkening, said that Ordinance Nos. 3012, 3013, 3015, 3016, 3017, 3018 and 3020-3023, were previewed at the March 3, 2009 Council meeting and there were no changes since that time. Councilman Thurmond requested that the vote for Ordinance 3017 be taken separately due to a conflict.

Motion:	Move to approve Ordinance Nos. 3012, 3013, 3015, 3016, 3018 and Ordinance Nos. 3020-3023
Motion by:	Mike Lester
Second by:	Craig Thurmond
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Motion:	Move to adopt the Emergency Clause of Ordinance Nos. 3012, 3013, 3015, 3016, 3018 and Ordinance Nos. 3020-3023
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Councilman Thurmond left the room.

Motion:	Move to approve Ordinance No. 3017
Motion by:	Mike Lester
Second by:	Richard Carter
Ayes:	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
Nays:	None

Motion:	Move to adopt the Emergency Clause of Ordinance No. 3017
Motion by:	Mike Lester
Second by:	Philip Tucker

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

Councilman Thurmond returned after the vote was taken.

13. Remarks and Inquiries by Governing Body Members

Section Minutes: Councilman Tucker said the City staff that volunteered to staff the City booth at the Home and Garden Show did a great job, citizen response was very good, and overall the informational booth was a great success and an excellent way to market Broken Arrow.

Motion:	Move to recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.
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 9:00 p.m. He stated that because the proposed plan for the Fiscal Year 2010 budget was approved as Item 9C earlier during this meeting, and because there was no need to discuss lay-offs at this time, there would be no executive session.

No further action was required or taken.

15. Adjournment

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

The meeting was adjourned at the noted time of 8:57 p.m.

Mayor

City Clerk

