

**BROKEN ARROW CITY COUNCIL MINUTES**  
**April 21, 2009**

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, April 21, 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:** Pastor Mike Hutsell of Grace Freewill Baptist Church delivered the Invocation.

**3. Roll Call**

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

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

**Section Minutes:** Pledge of Allegiance to the Flag was led by Councilman Richard Carter.

**5. Administration of Oaths of Office:**

**Section Minutes:** Judge Edgar administrated the Oaths of Office and Oaths of Loyalty to re-elected Councilman Richard Carter and Councilman Craig Thurmond.

**6. Election of Mayor and Vice Mayor:**

**Section Minutes:** Election of Mayor - Councilman Craig Thurmond nominated Mike Lester for the position of Mayor.

<b>Motion:</b>	<b>Motion to elect Mike Lester as Mayor for a two year term</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Wade McCaleb
<b>Nays:</b>	None
<b>Abstain</b>	Mike Lester

**Election of Vice Mayor -** Councilman Richard Carter nominated Philip Tucker as Vice Mayor.

<b>Motion:</b>	<b>Motion to elect Philip Tucker as Vice Mayor for a two year term</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Craig Thurmond, Richard Carter, Wade McCaleb, Mike Lester
<b>Nays:</b>	None
<b>Abstain</b>	Philip Tucker

**7. Consideration of Consent Agenda**

**Section Minutes:** Mayor Lester asked if there were any items to be removed from the Consent Agenda. Councilman McCaleb asked that Items 7B and 7F be removed for discussion. The Mayor asked for a Motion to approve the Consent Agenda except for Items 7B and 7F.

- A. Approval of the special meeting minutes of the Broken Arrow City Council for April 1, 2009
- B. Approval of the regular meeting minutes of April 7, 2009
- C. Acceptance of the minutes of the Planning Commission meeting held March 26, 2009.
- D. Approval of proposed 2009 Park and Recreation Department Fees
- E. Approval of the City of Broken Arrow's Identity Theft Prevention Program
- F. Approval of and authorization to execute a Third Amendment to Access Agreement between the City of Broken Arrow and Northeastern State University
- G. Approval of and authorization to execute an architect-engineer contract with Flynt & Kallenberger Inc. for the Design of Field Lighting Upgrades at Indian Springs Sports Complex
- H. Approval of BACP 101, Holder Project, one acre, R-1, Level 1 to Level 3, one-half mile north of New Orleans Street (101ST Street), on the east side of 1ST Place, which is one-half mile west of 9TH Street (Lynn Lane/177TH East Avenue), at 2413 South 1ST Place
- I. Approval of the Claims List

<b>Motion:</b>	<b>Move to approve the consent agenda except for Items 7B and 7F</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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

- 7B. Approval of the regular meeting minutes of April 7, 2009

**Section Minutes:** Councilman McCaleb said the service awards section in the minutes showed 25 years of service. He said the years needed correction to 15 years of service and he would move to approve the April 7, 2009 minutes as corrected.

<b>Motion:</b>	<b>Move to accept the regular minutes of April 7, 2009 as corrected.</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

Item 7F. Approval of and authorization to execute a Third Amendment to Access Agreement between the City of Broken Arrow and Northeastern State University

Councilman McCaleb asked for explanation for the Third Amendment request. David Wooden explained that burning is not completed and crews are continuing to burn debris with the closed burner, and also need the additional time for the cleanup process in preparation to return the site to NSU.

<b>Motion:</b>	Move to authorize the execution of a Third Amendment to Access Agreement between the City of Broken Arrow and Northeastern State University
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

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

- A. Award: Presentation and approval of the "Employee of the Quarter" award recognizing Brad West for the term January through March 2009

**Section Minutes:** Mayor Lester presented the Employee of the Quarter award to Brad West and commended him on behalf of the City for his hard work and dedication.

<b>Motion:</b>	<b>Move to approve award of “Employee of the Quarter” recognizing Brad West for the term January through March 2009</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

- B. Proclamation: Approval of and authorization to execute a Proclamation declaring the week of April 20 - 24, 2009 as "Volunteers in Police Service Week"

**Section Minutes:** Ms. Lisa Ford, Broken Arrow Police Department, and several volunteers were present to accept the Proclamation. Mayor Lester read the Proclamation and said that Volunteers of the Broken Arrow Police Department, DIVERT, and animal shelter worked more than 6,000 hours saving the City \$216,639.00.

<b>Motion:</b>	Move to approve and authorize execution of a Proclamation declaring the week of April 20 - 24, 2009 as "Volunteers in Police Service Week"
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

**10. General Council Business**

- A. Consideration of and approval for the Mayor to execute an official ballot from the Oklahoma Municipal Assurance Group to fill two Trustee positions for 3-year terms.

**Item Minutes:** Mayor Lester recommended that Council review the 6 nominees and e-mail the choices to him within the next two weeks and to place this item on the Agenda of May 5, 2009.

<b>Motion:</b>	<b>Motion to table Item 11A for two weeks and to place item on the meeting agenda for May 5, 2009</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

- B. Consideration and possible approval of and authorization to execute a four month contract extension with the Regional Metropolitan Utility Authority.

**Item Minutes:** Mr. Wooden explained that the City of Tulsa presented a bid higher than anticipated. He said that City of Broken Arrow staff is asking for a four month contract extension in order to give the City of Tulsa an opportunity to work out a more reasonable bid. Mr. Wooden added that if they do not come to an agreement, Broken Arrow will ask for another four month extension and the contract go out for bid again.

<b>Motion:</b>	<b>Motion to approve and execute a four month contract extension with the Regional Metropolitan Utility Authority</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

- C. Consideration of nominations to fill two vacancies on the Board of Adjustment created by the expiring terms of Rene' L. Ray and Stanley Evetts

**Section Minutes:** Planning Department Manager, Mr. Farhad Daroga, presented this item and stated both Board members are willing to serve again if nominated. Councilman McCaleb inquired about the number of meetings that Ms. Ray missed. Councilman Thurmond said that a 75% attendance is required to serve on the Board. Mr. Daroga said that the attendance would be examined and discussed with Ms. Ray.

<b>Motion:</b>	<b>Motion to table Item 11C until the May 5, 2009 Council meeting</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

- D. Consideration of nominations to fill three vacancies on the Planning Commission created by the expiring terms of Fred Dorrell,, Ricky Jones and Jack Keeling.

**Section Minutes:** Mr. Daroga said all three individuals were willing to serve for another term if nominated.

<b>Motion:</b>	<b>Motion to nominate Fred Dorrell, Ricky Jones and Jack Keeling to serve another 3 year term each on the Planning Commission</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

E. Consideration of Resolution 581 adopting a Records Retention Policy for the effective management of records within the City of Broken Arrow.

**Item Minutes:** City Manager, Jim Twombly, presented this item stating that the City Attorney has been working to update the records retention policy for internal records management, and Resolution 581 establishes the policy as detailed in the Fact Sheet and related attachments provided in the Agenda packet.

<b>Motion:</b>	<b>Motion to accept Resolution 581 adopting a Records Retention Policy for the effective management of records within the City of Broken Arrow</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

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

Ben Myer, 3393 South 205<sup>th</sup> East Avenue, home builder representing Gary and Jonye Lamont and Troy and Pamela Petit, was present with Mr. and Mrs. Lamont. Mr. Myer stated that he followed procedures as set forth by the City of Broken Arrow and that he was informed by staff that a septic system at both properties was acceptable in lieu of tying into the city sewer. Mr. Myer added that after obtaining all proper building permits, they were notified by the Development Services Department that a mistake was made, and the Lamonts and Petits would have to connect to the city sewer as a septic system was not allowed. Assistant City Attorney, Mr. Hayden Downie, stated that the Ordinance pertaining to the matter states that home must connect to the sewer line if it runs within 300 feet of the structure. Mr. Myer said all work for the septic is done and it will cost the owners an additional \$15,000 per house to connect to City sewer line. This was not included in their financing since the City stated it allowed the septic and construction was based on this information. Mr. Myer said that in addition, it will be necessary clear trees and undergrowth to run the lines which will result in additional costs. Mr. Myer said the homeowners were asking for a variance.

Following Council discussion, Mayor Lester explained that no action could be taken on this matter tonight as it was not on the agenda. He requested that staff put the matter on the May 5, 2009 agenda.

No action was taken or required.

Mr. Edward Fritts, 2500 W. Ithica, Broken Arrow Ok 74012, addressed Council regarding his concerns regarding the increase of utility rates by the City. Mr. Fritts stated that the added cost was a hardship on senior citizens.

No action was taken or required.

## 12. City Managers Report

### A. Communications Expense Analysis

**Item Minute:** City Manager, Mr. Jim Twombly, presented this item consistent with the Fact Sheet provided in the Agenda packet.

No action was required or taken.

### B. Green Plan Briefing

**Item Minutes:** Mr. Lee Zirk, Director of General Services, provided an update on the Fleet Services green plan, and Parks and Recreation Director, Mr. Scott Esmond, gave an update on his department's energy and cost saving plans consistent with the Fact Sheet provided in the Agenda packet.

No action was required or taken.

### C. Senior Citizen's Discount for City Utilities

**Item Minutes:** Mr. Twombly presented this item consistent with the Fact Sheet provided in the Agenda packet. He briefly reviewed research results from other cities offering utilities discounts for seniors and low income families. Mr. Twombly said that staff recommendation is not to implement a discount program because it would need to be based on income and the City is not set up to run income checks on customers. Councilman McCaleb stated that he favored a senior citizen discount.

No action was required or taken.

## 13. Preview Ordinances

### A. An Ordinance amending the Broken Arrow Code Chapter 2, Employee Rules and Regulations, Section 2-150, Standards of Conduct; Repealing all ordinances to the contrary and declaring an emergency

Item Minutes: Mr. Wooden explained that Item 13A amends the Code to allow accepting private donations for use to cover training and travel expenses for City employees.

### B. An Ordinance amending Chapter 15, Nuisances, Section 15-25, Determination of Abatement costs; Cost statement to be sent property owner; repealing all ordinances to the contrary and declaring an emergency

Section Minutes: Mr. Wooden stated this ordinance is amends the Code to reflect the increase in charges for abatements to \$375 per hour.

**C. An Ordinance amending Chapter 21, Streets and Sidewalks, Article I, In General, Section 21-14, Streetlight Fee; repealing all ordinances to the contrary and declaring an emergency**

Section Minutes: Mr. Wooden stated this proposed ordinance amendment addresses the increase in streetlight fees. He added that if cost and energy saving efforts are successful, the ordinance can be reviewed again as needed.

**D. An Ordinance amending Chapter 24, Water, Sewers and Sewage Disposal, Article VI, Water Service Charges and Rates, and Article VII Sewer Service Charges and Rates; repealing all ordinances to the contrary and declaring an emergency**

Section Minutes: Mr. Wooden explained this amendment would authorize the City to increase sewer and water rates.

**E. An Ordinance amending the Broken Arrow Code Sections 25-102, 25-501 and 25-601 revising a system of stormwater management service charge credits, by amending the utility rate and other fee structures, repealing all ordinances in conflict therewith, providing for severability, and declaring an emergency**

Section Minutes: Mr. Wooden explained that this proposed amendment authorizes the City to increase stormwater fees.

**F. An Ordinance repealing Ordinance No. 1757 amending the Broken Arrow Code, Chapter 2, Section 2-59 adopting the state minimum standards for the keeping and subsequent destruction of municipal records; repealing all ordinances to the contrary and declaring an emergency**

Section Minutes: Mr. Wooden said this proposed amendment will update the Citywide Records Retention Policy as outlined in Resolution 581.

Councilman McCaleb asked to pull item 13D for separate consideration.

<b>Motion:</b>	<b>Motion to accept preview ordinances 13A, 13B, 13C, 13E, &amp; 13F for placement on the May 5, 2009 Council agenda for adoption</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

Councilman McCaleb stated that he would not support Item 13D because it does not include a discount for senior citizens within the City limits and lower rates for senior citizens outside the City limits.

<b>Motion:</b>	<b>Motion to accept Item 13D for placement on the May 5, 2009 Council agenda for adoption</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	Wade McCaleb

## 14. Ordinances

- A. An Ordinance amending Chapter 2, Article IX, Section 2-170 of the Broken Arrow Code pertaining to Employee Disciplinary Action; Repealing all Ordinances to the contrary; and declaring an emergency

Section Minutes: Mr. Wooden explained this ordinance brings the City into compliance with State law.

<b>Motion:</b>	<b>Motion to adopt Ordinance 3028</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester,
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to adopt the Emergency Clause for Ordinance 3028</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester,
<b>Nays:</b>	None

- B. An Ordinance amending Chapter 23, Article I, Section 23-37 of the Broken Arrow Code pertaining to Use of a Child Passenger Restraining System required; repealing all ordinances to the contrary; and declaring an emergency

Section Minutes: Assistant City Attorney, Mr. Hayden Downie, said this amendment updates the current Ordinance and brings it into compliance with the State law.

<b>Motion:</b>	<b>Motion to adopt Ordinance No. 3029</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to adopt the Emergency Clause for Ordinance No. 3029</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

## 15. Remarks and Inquiries by Governing Body Members

Councilman McCaleb mentioned the Trash Bash 2009 was a success and said that 193 volunteers covered 27 miles.

Councilman Carter thanked Wade McCaleb for his time and hours of service during the preceding two years as Mayor of Broken Arrow.



Council commended City Events Coordinator, Mr. David Blue, and other staff for their work in making the Farmers' Market a reality and said the opening of the market held on April 16, 2009 was a great success and had excellent attendance.

At the noted time of 8:16 p.m., Mayor Lester asked for a motion to recess.

<b>Motion:</b>	<b>Motion to recess to enter into BAMA and BAEDA</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

Mayor Lester reconvened the regular session at 8:19 p.m.

<b>Motion:</b>	<b>Motion to take a brief break prior to entering into Executive Session</b>
<b>Motion by:</b>	Wade McCaleb
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Wade McCaleb, Craig Thurmond, Richard Carter, Philip Tucker, Mike Lester
<b>Nays:</b>	None

Mayor Lester reconvened the regular session at 8:26 p.m.

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

<b>Motion:</b>	<b>Motion authorize the City Attorney's office to settle the case of City of Broken Arrow v. Mayfield, et al. as directed</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Attorney's office to settle the case of City of Broken Arrow v. Parrott, et al. as directed</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Attorney's office to settle the case of City of Broken Arrow v. Poplin, et al. as directed</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Attorney's office to settle the case of City of Broken Arrow v. Neal, et al. as directed</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Attorney's office to settle the case of City of Broken Arrow v. Kenco, LLC, et al. as directed</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Attorney's office to settle the case of City of Broken Arrow v. Owasso Land Trust, LLC, et al. for the amount of \$10,000.00</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Wade McCaleb
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

<b>Motion:</b>	<b>Motion to authorize the City Manager to continue efforts with regard to possible acquisition of approximately 133 acres of real property located both north and south of the Creek Turnpike between Elm Place and Aspen Avenue</b>
<b>Motion by:</b>	Philip Tucker
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Mike Lester, Richard Carter, Wade McCaleb, Philip Tucker, Craig Thurmond
<b>Nays:</b>	None

No further action was required or taken.

**15. Adjournment**

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

The meeting was adjourned at the noted time of 9:32 p.m.

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Mayor

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

