

# BROKEN ARROW CITY COUNCIL MINUTES

February 3, 2009

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Tuesday, February 3, 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 Robert Cannon of Arrow Heights 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:** Vice Mayor Lester led those present in the Pledge of Allegiance to the Flag.

## 5. Consideration of Consent Agenda

- A. Approval of the regular meeting minutes of January 20, 2009
- B. Acceptance of the minutes of the Planning Commission meeting held January 8, 2009
- C. Approval of Amended City Meeting Calendar for year 2009
- D. Approval of and authorization to execute Resolution No. 567 - a resolution authorizing the City Attorney to agree to entry of judgment in the case of The City of Broken Arrow, Oklahoma v. Troy Dwight Cosper, et al., Tulsa County District Court Case Number CJ-2007-6992 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry for the Court's approval
- E. Approval of and authorization to execute Resolution No. 568 - a resolution authorizing the City Attorney to agree to entry of judgment in the case of The City of Broken Arrow, Oklahoma v. Tommy L. Donathan, et al., Tulsa County District Court Case Number CJ-2007-7894 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry for the Court's approval
- F. Approval of and authorization to execute Resolution No. 569 - a resolution authorizing the City Attorney to agree to entry of a judgment in the case of The City of Broken Arrow, Oklahoma v. Stacy L. Heller, et al., Tulsa County District Court Case Number CJ-2007-7893 and directing the City Attorney to prepare and file the necessary documents to effectuate settlement including a Journal Entry for the Court's approval
- G. Approval of and authorization to execute Resolution No. 570 - a Resolution of Necessity to condemn property located at 5700 South Lynn Lane, Broken Arrow, Tulsa County, Oklahoma (9th Street Widening Albany Street to Omaha Street)
- H. Approval of authorization to receive funds acquired through forfeiture regarding drug enforcement
- I. Approval of and authorization to execute the Addendum to Community Development Block Grant Program Land Acquisition Agreement between the City of Broken Arrow and Vintage Housing, Inc., which extends the date of closing on the property being purchased
- J. Approval of and authorization to execute an option to renew the Cold Milling Asphalt Streets Contract No. ST0801A between the City of Broken Arrow and Bell Contracting, Inc.

- K. Ratification of a contract between the City of Broken Arrow and Two T's Broken Arrow, LLC for excess capacity sanitary sewer improvement to a 68-acre site located at the northeast corner of East Kenosha (71st Street) and North 37th (209th) Street
- L. Approval of and authorization to execute a contract with The Deatherage Association, LLC to provide specialized expertise in the fields of fire protection and life safety for the plan review process
- M. Approval to reject all bids for the Nuisance Abatement and Structural Securing Bid No. 09-114 and specifically find that the interest of the citizens of Broken Arrow will be served by rejection
- N. Approval of PT08-114, Conditional Final Plat of Oneta Square, 2.41 acres, 1 lot, CH, east of the northeast corner of State Highway 51 and Oneta Road (241st East Avenue)
- O. Abrogation of PUD 138, 13.78 acres, 6 lots, CG, south and east of the southeast corner of Elm Place (161st East Avenue) and Tucson Street (121st Street)
- P. Approval of SP 229, Oliver Middle School and Wolf Creek Elementary School, 40 acres, A-1, one-quarter to one-half mile east of the northeast corner of Olive Avenue (129th East Avenue) and New Orleans Street (101st Street)
- Q. Approval of SP 230, Floral Haven Cemetery and Funeral Home, 98.42 acres, A-1 and R-1, north and west of the northwest corner of Olive Avenue (129th East Avenue) and Kenosha Street (71st Street)
- R. Acceptance of a Detention Easement from Broken Arrow Board of Education School District No. 3 (S21 T18N R14E) (Project: Wolf Creek Elementary Expansion DN08-178)
- S. Acceptance of a Deed of Dedication and a Utility Easement from GT Veterinary Associates, LLC, d/b/a Arrow Springs Animal Hospital (S26 T18N R14E) (Project: Arrow Springs Animal Hospital DN08-127)
- T. Approval of the Claims List

<b>Motion:</b>	<b>Move to approve the Consent Agenda as submitted.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

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

**Section Minutes:** There were no items to consider and no action was taken.

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

**Section Minutes:** There were no items to consider and no action was taken.

**9. General Council Business**

- A. Consideration and acceptance of City of Broken Arrow Audit Report for Fiscal Year 2007-2008

**Item Minutes:** Mr. Jack Murray of HoganTaylor Certified Public Accountants presented the audit results. He said his comments would be brief and stated that that audit was clean, and he had no issues to report.

<b>Motion:</b>	<b>Move to accept the audit report for fiscal year 2007-2008.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

B. Consideration of and possible approval to send corrected Stormwater invoices to affected customers

**Item Minutes:** City Manager, Jim Twombly, presented the item consistent with the Fact Sheet provided in the agenda packet.

Vice Mayor Lester commented the majority of businesses in the City have been paying the correct amount all along. It would not be fair to the other businesses to waive this amount even though it was the City's error. He recommended \$2,000 and below be given 6 months, \$2,001 - \$4,000 be given 12 months, and those over \$4,001 be given 18 months to pay the amount owed. He recommended that because it was the City's oversight, no interest should be charged on these amounts.

In response to the Mayor's inquiry, Assistant City Manager Dave Wooden, stated that some businesses that expanded during this period were billed the correct amount after the expansion, and the businesses on this list are those which were overlooked.

<b>Motion:</b>	<b>Move to approve billing for past unpaid Stormwater ESU's to May 1, 2009 and allowing payment plans of 6 months for \$2,000 and below, 12 months for \$2,001 - \$4,000, and 18 months for \$4,001 and over.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

C. Consideration of and possible approval to move Spring Clean-Up Day from the Maintenance Center to the landfill, add a Fall Clean-Up Day, and locate a green waste site

**Item Minutes:** Mr. Lee Zirk, General Services Director, presented this Item consistent with the Fact Sheet provided in the agenda packet.

<b>Motion:</b>	<b>Move to approve moving future city wide clean-up events to the landfill, adding a second day in the fall and the green waste site.</b>
<b>Motion by:</b>	Richard Carter
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

D. Consideration, possible approval of and authorization to execute Resolution No. 565 - a resolution prescribing the principal amount of bonds to be issued, establishing the principal amount of bonds to mature each year, establishing the time and place said bonds are to be sold, and authorizing the Clerk to give notice of said sale as required by law; ratifying and confirming a Legal Services Agreement and a Financial Advisor Services Agreement with respect to the issuance of such bonds and approving the Preliminary Official Statement pertaining thereto; and authorization for the Mayor to execute the resolution

**Item Minutes:** Finance Director, Mr. Tom Caldwell, presented this item consistent with the Fact Sheet provided in the Agenda packet. He explained that the proposed sale represents the fifth series of bonds issued pursuant to the election held May 11, 2004, at which the qualified electors of the City approved an aggregate amount of \$53,375,000 in general obligation bonds for specified capital improvements. Mr. Caldwell said the proceeds from this fifth series will be \$1,000,000 utilized for Public Safety; these bonds will be sold with \$11,400,000 in bonds approved by voters in December 2008, proposed by Resolution 566 in a separate agenda item, as a single offering; and, upon completion of this proposed sale, \$11,020,000 of the general obligation bonds approved by citizens in 2004 will remain to be sold.

<b>Motion:</b>	<b>Move to approve Resolution No. 565.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

- E. Consideration, possible approval of and authorization to execute Resolution No. 566 - a resolution prescribing the principal amount of bonds to be issued, establishing the principal amount of bonds to mature each year, establishing the time and place said bonds are to be sold, and authorizing the Clerk to give notice of said sale as required by law; ratifying and confirming a Legal Services Agreement and a Financial Advisor Services Agreement with respect to the issuance of such bonds and approving the Preliminary Official Statement pertaining thereto

**Item Minutes:** Mr. Tom Caldwell presented this item consistent with the Fact Sheet provided in the Agenda packet. He explained that the proposed sale represents the first series of bonds to be issued pursuant to the election held December 9, 2008 at which the qualified electors of the City approved an aggregate amount of \$38,475,000 in general obligation bonds for specified capital improvements. He said the proceeds from this proposed first series of bonds will be utilized for Streets, \$2,900,000, Public Safety, \$2,100,000, Parks \$4,600,000 and Stormwater \$1,800,000, for a total amount of \$11,400,000. Mr. Caldwell added that these bonds will be combined and sold with \$1,000,000 in bonds from the 2004 authorization, considered under Resolution 565 as a separate agenda item, as a single offering totaling \$12,400,000.

<b>Motion:</b>	<b>Move to approve Resolution No. 566.</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

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

**Section Minutes:** Mary Ann Colston, 513 N. 79<sup>th</sup> Street, addressed Council on behalf of the Kenosha Corridor Flood Action Committee thanking them for their support and steps taken addressing storm water issues.

Brent Watson, 8624 S. Wright Avenue, presented Council with copies of the Kenosha Corridor Flood Action Committee web page and a newspaper article depicting the seriousness of big business coming into a city, stripping off property and not retaining the water. He said he was assured by the Engineering Department that this type of issue is being addressed in Broken Arrow with new codes and procedures, so the City should not have these problems in the future.

Lawrence Toering, 4009 W. El Paso Street, addressed Council regarding the distribution of funds for the stormwater difficulties in the various creeks throughout the City. He requested as much effort and money be consigned to the Bufford Park area as needed to fix the problem.

Gwen Stevens, 504 S. Tamarack Avenue, addressed Council on behalf of the Union Station South Homeowner’s Association. She noted they are pleased with the passing of the bond for stormwater issues and asked for contact information and timeline for repairs in her area. Mr. Wooden commented the Engineering Department is currently working on the design for the area and once the bonds are sold, bids will be accepted subject to the availability of funds and once the funds are received contracts will be awarded. The timeframe is 60-days.

Krystal Jordan, 412 S. Tamarack Avenue, requested Council prioritize the different bonds and projects on the basis of safety.

**10. City Manager’s Report**

**A. Downtown Survey**

**Item Minutes:** City Manager, Mr. Jim Twombly, presented this item consistent with the Fact Sheet provided in the Agenda Packet. Mr. Twombly said that in the past there was discussion at City Council meetings about incentives that could be provided in the downtown area to help spark redevelopment, and

the idea was discussed at that time related to waiver of building permit fees for renovations of structures. He explained that, as the result of additional research of projects in other cities with successful downtown incentive programs, staff recommended Broken Arrow combine that research with results of a survey of downtown business and/or property owners. He said that such a survey had recently been completed and introduced Terry Cleveland, Intergovernmental Relations Director, to present the results.

Ms. Cleveland said this report was presented to the Downtown Advisory Board earlier today. She stated that there are 65 businesses downtown and 56 businesses responded to the survey. She said that parking was a major concern for downtown offices and retailers; the survey showed that most engaged in very little advertising; and, there was interest in the activity that the Farmers Market would bring to downtown. Ms. Cleveland said a common desire was to have more restaurants mixed in with the businesses and merchants would like to see restaurants with sidewalk seating.

Ms. Cleveland said that merchants were asked what incentive programs they would like to see, and the top requests were property tax abatement, sales tax rebates, assistance for historical renovations, and initial short term rent subsidies, among others.

The survey is attached to provide additional details.

Mayor McCaleb asked Ms. Cleveland to provide a breakdown of responses to the various questions according to retail and professional.

Councilman Tucker asked how many businesses have closed since the survey and Ms. Cleveland said that three had closed. He asked how long the survey had been in progress and Ms. Cleveland responded that she started interviewing merchants in early summer 2008 and finished just a short time ago.

Mayor McCaleb said that there was discussion some time ago about using the facade renovation funds for a grant program since very few merchants utilized the facade renovation program. Mr. Twombly said the funds were created by a bond issue, and the Mayor said the funds might be brought up again under another bond issue in order to put the money to good use in other projects for downtown. Councilors Tucker and Thurmond agreed.

No action was required or taken.

**11. Preview Ordinances**

**Section Minutes:** There were no items to consider and no action was taken.

**12. Ordinances**

**Section Minutes:** There were no items to consider and no action was taken.

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

**Section Minutes:** Councilman Tucker asked if there were any plans for a Joint Meeting with the Broken Arrow School Board to discuss possible projects. Mr. Twombly said it would be a good idea to visit with them especially about potential construction projects, and he said he has a call in for the Superintendent to discuss such a meeting.

Councilman Carter said he was very glad to see the citizens speak about flood control and he hopes the City can get started on the stormwater projects as soon as possible.

Ms. Wilkening said she discussed on the Fact Sheets for Resolutions 567, 568, and 569, the rationales for the settlements which were above the Commissioner's recommendation, and that the language from the Fact Sheets was put into the resolutions.

<b>Motion:</b>	<b>Move to recess to enter into Broken Arrow Municipal Authority and Broken Arrow Economic Development Authority meetings.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Craig Thurmond
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

**Section Minutes:** The Mayor reconvened the regular session at the noted time of 7:43 p.m.

<b>Motion:</b>	<b>Move to take a short recess before returning for Executive Session.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Philip Tucker
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

**Section Minutes:** The Mayor reconvened the regular session at the noted time of 7:55 p.m.

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

14. **Executive Session** for the purpose of confidential communications between the City Council, the City Manager, the Assistant City Manager and the City Attorney for the purpose of conferring on litigation concerning City of Broken Arrow v. Kyle E. and Rebecca Carol Hunt, et al., Tulsa County District Court Case Number CJ-2008-7326, all under 25 O.S. § 307(B)(4). In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the 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.

**Section Minutes:** The Mayor reconvened the regular session at the noted time of 7:57 p.m.

<b>Motion:</b>	<b>Move to authorize the City Attorney to file a Demand for Jury Trial in the case of City of Broken Arrow v. Hunt, et al.</b>
<b>Motion by:</b>	Mike Lester
<b>Second by:</b>	Richard Carter
<b>Ayes:</b>	Philip Tucker, Craig Thurmond, Richard Carter, Mike Lester, Wade McCaleb
<b>Nays:</b>	None

No further action was taken.

15. **Adjournment**

<b>Motion:</b>	<b>Move to adjourn.</b>
<b>Motion by:</b>	Craig Thurmond
<b>Second by:</b>	Mike Lester
<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 7:58 p.m.

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Mayor

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City Clerk

**City Of Broken Arrow  
Downtown Revitalization Survey Results**

The survey was created and presented to merchants and property owners in an effort to better understand their issues and concerns. We wanted to know how they operate and if there are things that can be done to help them and spur more retail growth downtown. We wanted their views on whether incentives might play a part in attracting new businesses and helping them to succeed. 65 businesses were asked to participate. 57 businesses responded.

**Business and Workforce**

Of the 56 businesses that returned the survey, 65% were retail and 35% were professional. The average business has been in operation on Main Street for 15 years. 63% own the property, while 37% rent. The average number of employees per business is 12. Ranging from 1-272.

**Parking for employees**

25% park in front of the business, on the street  
17% on the street, but not in front  
35% in a private lot  
15% in public lot

**Parking for customers**

37% park in front of the business, on the street  
22% on the street, but not in front  
31% in a private lot  
18% in public lot

**Market and Marketing**

**Businesses were asked if they were considering leaving downtown**

76% No  
11% Yes  
13% Maybe

**Businesses were asked if they would consider changing hours of operation**

50% No  
47% Yes  
3% Maybe

**Busiest days of the week**

36% Friday  
36% Saturday  
38% Varies

**Busiest months of the year**

50% November – December  
9% January – March  
32% April – June  
27% July - October

**Annual advertising dollars**

11% Radio  
36% Broken Arrow Ledger  
38% Tulsa World  
11% Coupons  
16% Magazines  
58% Other – television, yellow pages, etc.

**What business would you most like to see come downtown**

43% Restaurants  
53% Retail, Shopping  
32% April – June  
27% July - October



## **Incentives and Assistance**

Building owners ranked the following incentives. A ranking of 5 is most beneficial.

### **Incentives most beneficial for renovating building interiors**

Property tax abatement on increased value due to renovations	4.2
Sales tax rebate on locally purchased material to renovate	3.6
Sales tax rebate on locally purchased material to bring building up to code	3.4
Marketing assistance for filling unused space	3.0
Assistance for architectural/engineering consultants	2.7

### **Incentives for new businesses**

Relocation assistance (to move downtown)	3.7
Marketing assistance	3.5
Sales tax rebate on locally purchased remodeling/renovation materials	3.5
Initial short-term rent subsidy	2.9
Technical assistance (bookkeeping, purchasing, etc.)	2.0

### **Incentives for existing businesses**

Marketing assistance	3.7
Sales tax rebate on locally purchased remodeling/renovation materials	3.3
Relocation assistance (to move to a larger space downtown)	3.2
Technical assistance (bookkeeping, purchasing, etc.)	2.3

Building owners ranked the following each of the following.  
A ranking of 1 being least important and 7 being most important.

Funds to improve downtown infrastructure and beautification	4.9
Incentives for building owners restore/rehabilitate exteriors	4.5
Incentives for current business owners	4.4
Incentives for building owners to bring building to code	4.3
Funds to attract additional retail businesses	4.3
Incentives for start-up business	3.9
Funds to attracts additional office workers	3.8





City Of Broken Arrow  
Downtown Revitalization Survey Results

The survey was created and presented to merchants and property owners in an effort to better understand their issues and concerns. We wanted to know how they operate and if there are things that can be done to help them and spur more retail growth downtown. We wanted their views on whether incentives might play a part in attracting new businesses and helping them to succeed. 65 businesses were asked to participate. 57 businesses responded.

Business and Workforce

Of the 56 businesses that returned the survey, 65% were retail and 35% were professional. The average business has been in operation on Main Street for 15 years. 43% own the property, while 37% rent. The average number of employees per business is 12. Ranging from 1-272.

Parking for employees: Parking for customers: 25% park in front of the business, on the street 37% park in front of the business, on the street 17% on the street, but not in front 22% on the street, but not in front 35% in a garage lot 31% in a garage lot 15% in public lot 18% in public lot

Market and Marketing

Businesses were asked if they were considering leaving downtown. Businesses were asked if they would consider changing hours of operation: 76% No 50% No 11% Yes 47% Yes 13% Maybe 3% Maybe

Busiest days of the week: Busiest months of the year: 36% Friday 50% November December 36% Sunday 9% January March 36% Various 32% April June 27% July October

Annual advertising dollars: What business would you most like to see come downtown? 11% Retail 43% Restaurants 36% Broken Arrow Lodging 57% Retail/Shopping 36% Tulsa World 32% April June 11% Cooper 27% July October 18% Magazine 50% Other television, yellow pages, etc.

Incentives and Assistance

Building owners ranked the following incentives. A ranking of 5 is most beneficial.

- Incentives most beneficial for existing building owners:
  - Property tax abatement on increased value due to improvements 4.2
  - Sales tax rebate on locally purchased material to renovate 3.6
  - Sales tax rebate on locally purchased material to bring building up to code 3.4
  - Marketing assistance for filling unused space 3.0
  - Assistance for architectural/engineering consultants 2.7
- Incentives for new businesses:
  - Relocation assistance to move downtown 3.7
  - Marketing assistance 3.5
  - Sales tax rebate on locally purchased remodeling/renovation materials 3.5
  - Initial start-up cost subsidy 2.9
  - Technical assistance (bookkeeping, purchasing, etc.) 2.0
- Incentives for existing businesses:
  - Marketing assistance 3.7
  - Sales tax rebate on locally purchased remodeling/renovation materials 3.5
  - Relocation assistance to move to a larger space downtown 3.2
  - Technical assistance (bookkeeping, purchasing, etc.) 2.3

Building owners ranked the following each of the following:

A ranking of 1 being least important and 7 being most important.

Funds to improve downtown infrastructure and beautification 4.0 Incentives for building owners to renovate/rehabilitate structures 4.5 Incentives for current business owners 4.6 Incentives for building owners to bring building up to code 4.7 Funds to attract additional retail businesses 4.5 Incentives for start-up business 3.9 Funds to attract additional office workers 3.8