



City of Broken Arrow
Special Meeting Minutes
Broken Arrow Economic Development Authority

City Hall
220 S 1st Street
Broken Arrow OK
74012

Chairperson Craig Thurmond
Vice Chair Scott Eudey
Trustee Mike Lester
Trustee Johnnie Parks
Trustee Debra Wimpee

Tuesday, October 23, 2018

Council Chambers

1. Call to Order

Chairman Craig Thurmond called the meeting to order at approximately 5:00 p.m.

2. Roll Call

Present: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

3. Pledge of Allegiance to the Flag

Chairman Thurmond led the Pledge of Allegiance to the Flag.

4. General Authority Business

18-1232

Presentation by Crawford & Associates, P.C. of the audit of contractually expended funds pursuant to the Broken Arrow Economic Development Corporation (BAEDC) Contracts
Chairman Thurmond stated this was not a Public Hearing; there would be no public speakers in attendance.

City Manager Michael Spurgeon reported in April his department received two complaints regarding the Chamber of Commerce and the Broken Arrow Economic Development Corporation (EDC) which involved a personnel matter, allegations of a hostile work environment, questionable business practices and possible inappropriate expenditures of EDC and Chamber money. He stated upon receipt of the complaints he contacted the Chairman of the Broken Arrow Chamber of Commerce and the EDC (Mr. Mike Cooper and Mr. Ted Cundiff), shared what he had learned, and requested an investigation of the personnel issues. He stated he indicated the EDC and the City needed to investigate to determine the truth of the allegations. He stated Mr. Smithwick, who was the CEO and president of the Chamber of Commerce, was advised of the allegations and that an outside agency would be called in to investigate the Human Resources issues. He stated on April 27, 2018 Mr. Smithwick was informed an audit would be conducted, per contract provision. He stated on May 1, 2018 the Broken Arrow Economic Development Authority authorized renegotiation of the current Economic Development Agreement with the EDC which was scheduled to expire on June 30, 2018, including a financial review and audit of the funds given to the EDC. He reported a letter dated May 8, 2018 was sent to the Chamber and EDC officials which requested documentation in regard to the audit to be provided by May 23, 2018. He stated he received an email requesting an extension until June 11, 2018 to provide the appropriate documents as Mr. Smithwick was going on vacation. He stated, in the meantime, he received the HR investigation results and a meeting of the EDC board was called to review the findings. He reported as a result of said meeting, Mr. Cooper contacted Mr. Smithwick and requested a meeting with Mr. Smithwick, Mr. Cundiff and several members of the EDC and Chamber on June 4, 2018; Mr. Smithwick could not attend as he would be on vacation and turned in his resignation on June 1, 2018. He reported later in June the auditing firm of Crawford and Associates was engaged to complete the transition review audit and earlier today the Chamber and the EDC met to discuss said audit.

Chairman Thurmond stated City Council was the steward of tax payer dollars and this was a very serious matter. He stated there was software called OpenGov which citizens could review and see every dollar spent. He stated he appreciated the efforts which had been made up to this point in this regard.

Mr. Frank Crawford of Crawford and Associates reported he had a nine page report which he would review. He stated there were two contracts between the Broken Arrow Economic Development Authority and the Economic Development Corporation for the purposes of economic development which had been in practice for a number of years; specifically two contracts: one for the purpose of broad economic development (up to \$32,292 dollars monthly or approximately \$387,000 dollars annually), and the second for the purpose of downtown redevelopment (up to \$17,500 dollars monthly or \$210,000 dollars annually). He stated Crawford and Associates reviewed the contracts for deliverables and compliance methodologies, and reviewed expenses charged to determine legitimacy.

Mr. Crawford stated page 1 of the report reviewed the scope and objectives of the audit. He stated pages 2 through 5 were related to audit findings. He explained the two contracts were used for different types of economic development; one broad in context and the other relatively specific for downtown redevelopment, but the contractual provisions were similar in both. He stated funds were provided to the EDC and the EDC was to use the funds to achieve the two contractual provisions: downtown redevelopment and broad economic development. He stated the contracts indicated the EDC would incur expenses and submit for reimbursement to the city an amount up to the contract limits monthly.

Mr. Crawford stated the first finding of Crawford and Associates was receipts were not submitted to the city for reimbursement. He reported the second finding was the city wrote monthly checks (of the maximum amount: \$32,000 dollars and \$17,500 dollars) for each of the two contracts, whether or not monthly expenditure reports or evidence of receipts was provided. He stated the contract indicated reimbursement would be provided up to the indicated maximum amount, not that a monthly amount would be provided. He stated the city was paying more money than was spent for downtown redevelopment, but the EDC was spending more money than what was provided for broad economic development. He explained the excess from the one contract (downtown redevelopment) was being used to cover the over-expenditures of the second contract (broad economic development). Mr. Crawford displayed a table which indicated the amounts of contract revenues versus contract expenses. He stated at last account at the end of April, 2018, the EDC had an excess of \$112,000 dollars which had not yet been spent in economic development. He stated Crawford and Associates recommended a change in procedure: as per contract, receipt driven expense report reimbursement should be mandatory, unless the contract were changed to reflect a flat monthly amount.

Mr. Crawford stated the third finding was related to the use of credit cards by the Chamber of Commerce and Economic Development Corporation. He stated the Chamber and EDC had credit cards in use by several employees. He reported a total of 381 credit card transactions were reviewed totaling approximately \$125,000 dollars. He stated 72 transactions did not have itemized receipts or appropriate documentation for a total of approximately \$26,000 dollars which reflected an exception rate of approximately 20%. He reported it was found to be common practice for Chamber employees to retain only the signature page of a receipt which indicated the total charge, not the detailed item list. He explained without the detailed itemized receipt it was difficult to determine if the transaction was for a legitimate Chamber or EDC purpose. He stated in the incidences in which a detailed list was provided for support, often the receipt would not include a description which indicated how the purchase related to downtown or broad economic development. He displayed a table which depicted all transactions over \$1,000 dollars without itemized receipts which were paid for, at least in part, by the Economic Development Corporation.

Mr. Crawford reported approximately 80 credit card transactions, totaling \$24,778 dollars, did not have any receipt, which resulted in an exception rate of 21%. He stated Chamber policy documents indicated receipts were to be maintained as support for all purchases, but it was found that receipts were frequently lost or misplaced; rather than contacting the vendor for replacement receipts, in most cases the Chamber employee would fill out a lost receipt form or simply submit the expense report without appropriate support. He stated the lack of receipts had not resulted in questioned monthly expense claims; rather the claims were approved without proper documentation. He displayed a table which depicted all transactions over \$1,000 dollars without receipts that were paid for, at least in part, by the Economic Development Corporation (EDC).

Mr. Crawford reported there were 27 transactions which appeared to be personal in nature, not having an evident benefit for the EDC or the Chamber; for example, a paid upgrade to first class for a flight, or a paid personal membership for the American Airlines Admirals Club. He stated the approximate total for the 27 transactions was \$8,700 dollars. He briefly reviewed several of the 27 transactions which were deemed to be personal. He reported, lastly, there were 5 cash advances taken on the credit cards, for which there was no documentation regarding what the cash advance was used for. He stated the cash advance total was approximately \$1,900 dollars. He reported several cash advances appeared to line up with local events and could have been used for tips, cabs, etc., and several were transactions from foreign banks during overseas trips. He stated the cash advances intrigued Crawford and Associates which prompted a review of all cash advances made in 2016 and 2017. He reported there were 12 cash advances made during 2016 and 2017 totaling approximately \$2,400 dollars. He reported there was a credit card used at the Chamber which had the name "bookkeeper" on it, no personal name. He stated it was explained that the "bookkeeper" credit card was kept in the desk of the accountant and was used for office supplies or other such purchases and was only used when all other cards were inaccessible. He stated nothing of substance was purchased with this "bookkeeper" card; it was used basically as described.

Mr. Crawford reported it would be beneficial to Broken Arrow Economic Development Authority to build protections into the contract related to what was charged to the EDC via credit cards, especially inclusive of receipts and purpose of purchase, specifically provided prior to reimbursement. He suggested the "bookkeeper" card, or any card without a specific individual's name, be eliminated. He stated, regarding cash advances and other such uses, contractual protections related to the types of authorized reimbursements should be considered.

Mr. Crawford reported many checks were written for personnel related expenses and other expenses. He stated there were no itemized receipts for many of the purchases made by check. He described a situation, in which a Chamber employee negotiated the amount of pay for the performers at the Thursday Night Live concerts, but no contract was signed or documentation evidenced between the two parties. He reported three checks for performances in 2017 totaled approximately \$1,700 dollars. He stated his prior recommendation, for indications of what funds could be used for and the requirement of documentation, applied in this situation as well.

Mr. Crawford reported the last finding was related to payroll and operational expenses. He stated certain payroll and operational expense calculations appeared arbitrary regarding the percentage charged to the EDC. He displayed a table which indicated what percentage of salaries was being paid. He stated the recommendation was for BAEDA to ensure it was aware of how this percentage was calculated and whether the percentages were accurate. He stated rent and other operational expenses for furniture, equipment, utilities was evaluated. He stated 30% of the rent expense, totaling \$1,400 per month, was allocated to the EDC. He stated an agreement between the EDC and the Chamber, or an understanding of to how this amount was conceived to be allocated, could not be provided; the percentages were arbitrarily set at some point and not much documentation existed. He stated other monthly expenses, furniture (\$294 dollars per month) and utilities (\$615 dollars monthly), should not be set numbers, should vary,

and the EDC could not give an explanation as to why these expenses were charged at the exact same monthly rate. He stated confusingly, these expenses were not charged every single month; he indicated if the charges were truly related to utilities the number would have changed monthly. He asked if there were any questions.

Trustee Debra Wimpee asked if what was reviewed was a sampling of transactions. Mr. Crawford responded in the affirmative; he explained only 381 transactions were chosen to be reviewed as a representative sample of the transaction population. Trustee Mike Lester asked if the cleared checks lined up with the check stubs. Mr. Crawford responded in the affirmative. Trustee Lester asked if any vendors were paid twice. Mr. Crawford responded in the negative; the vendor payment issue in this case stemmed from a lack of receipts and a lack of documentation regarding benefit to economic development. Trustee Lester asked if the contract expenses of the EDC met the criteria of the contract. Mr. Crawford responded 95% of the charges related to the downtown redevelopment contract were a proportionate share of one position's salary; there were not many miscellaneous expenses allocated to downtown redevelopment. He stated, in regard to broad economic development, unfortunately, without a narrower definition of what qualified as economic development, there was a broad leeway of expenses which could be incurred which had some economic development purpose; therefore, outside of the expenses which Crawford and Associates deemed to be personal, everything appeared to have some economic development validity.

Vice Chair Scott Eudey asked if any verification was provided for the cash advances, such as receipts from the overseas trips or local event expenses. Mr. Crawford responded in the negative. Trustee Wimpee asked if there was any way to know if the cash advances were used for personal expenses. Mr. Crawford responded in the negative. He stated the cash advances were concerning, however, they all seemed to align with a local event or a travel event. He stated he was not defending the cash advances or saying they were proper as he had no documentation of how the cash advances were spent. Trustee Lester asked about the two different receipts for Renaissance hotels on the same date. Mr. Crawford responded most likely, as the receipts were for differing amounts, there was more than one individual traveling. Vice Chair Eudey asked if it could be known who made the cash advances. Mr. Crawford responded in the affirmative; it could be known whose card was used to make the cash advances. He stated he believed all cash advances were made with the executive director's card.

Trustee Johnnie Parks stated he was extremely surprised and completely caught off guard by the total lack of receipts as the contract indicated the Broken Arrow Economic Development Corporation was "responsible for maintenance of books of accounts with correct entries of all expenditures." Mr. Crawford stated the books and records were kept by the Chamber and there was an accounting of what was charged to the EDC; however, his findings questioned the purpose of the charges and why the expenditures were charged to the EDC. He explained most contracts had some type of protection mechanism in the contract which allowed one party to examine the books and records of another party, but this was different than a contract provision which required monthly reports with numbers and financial statements or packages of receipts before reimbursement. He stated the reimbursement provision was a part of the contract; however, it did not seem to have ever been exercised. He stated the yearly audits which were required contractually were not being conducted in a timely enough manner to be useful. He stated he recommended, as part of contractual protections in the future, requiring the annual financial audit to be completed more quickly, to enable a response to discrepancies. Trustee Wimpee stated she felt monthly expense reimbursement, as indicated in the contract, should be observed.

Trustee Lester asked if the purchases of October 11, 2017 and October 14, 2017 were tied to an economic deal. City Manager Spurgeon responded one of the charges was related to a dinner held at the Summit Club with Alpha Laval, but he was uncertain of the other charge. Trustee Wimpee asked if most of the hotel charges were matched up to Chamber trips or if there was a

possibility of any being a personal trip. Mr. Crawford responded if a hotel charge did not end up on the list of personal expenses, it was tied to a valid Chamber function.

City Manager Spurgeon mentioned the contract with the Broken Arrow Economic Development Corporation had been extended until December 31, 2018 to allow completion of the audit. Vice Chair Eudey concurred, but added the contract was extended at a lesser amount: \$12,000 dollars per month as opposed to \$32,000 per month.

City Manager Spurgeon stated he felt it was important to be mindful of the fact that the city had been under contract with this model for eleven years and during that time the city had experienced tremendous successes: the tax base had grown, jobs had been created, and an environment which promoted economic development and private investment was created. He stated this report was very difficult for him to read personally and it was disheartening to see that there was personal enrichment made with public dollars by previous trusted employees. He stated as City Manager he felt like a victim. He stated he felt the remaining Chamber employees did a wonderful job; the employees who had taken advantage were no longer with the Chamber. He stated the Human Resources investigation that had been done confirmed managerial issues and other hurtful issues which needed to be recognized; the audit was initialized in direct response to the HR investigation. He commended Mr. Cooper and Mr. Cundiff for taking responsibility and facilitating the investigations and the audit. He stated the City of Broken Arrow had been taken advantage of and it was time to determine how best to move forward. He stated it was important to remember that the city needed an economic development model with an administration which would continue to promote recruitment and retention. He stated the Broken Arrow Economic Development Authority had a fiduciary responsibility, and he felt once the value of the personal enrichment was determined the EDC should be requested to reimburse the city and seek restitution from the individuals responsible. He stated he believed the reports on file for both entities should be forwarded to the Broken Arrow Police Department for review to determine if the reports should be referred to the District Attorney's Office; the District Attorney's Office could determine if prosecution was in order, and if not, the city would have done due diligence. He stated he believed in the current economic development model; it was incredibly successful, but needed proper controls and better accountability.

Chairman Thurmond agreed with City Manager Spurgeon; it was City Council and Broken Arrow Economic Development Authority's responsibility to be stewards of the tax payer's dollars. He stated he looked forward to hearing what controls the Chamber and EDC planned to put into place to ensure this did not happen again.

18-1233

Presentation by Chairman of the Broken Arrow Economic Development Corporation and Chairman of the Broken Arrow Chamber of Commerce regarding the Broken Arrow Economic Development Corporation financial status

Mr. Mike Cooper stated he agreed with City Manager Spurgeon's suggestions. He stated he agreed with Chairman Thurmond; the Chamber of Commerce and Economic Development Corporation Boards understood the importance of public dollars and the responsibility of protecting public funds. He stated when he was made aware of the allegations he and Mr. Cundiff immediately met at the Chamber offices and initiated all the necessary arrangements. He stated the Chamber engaged an accounting firm to make a transitional audit review of financial actions within the Chamber and EDC to determine what changes needed to be made to ensure nothing of this sort happened again. He stated the review was designed to evaluate the effectiveness or short comings of current management practices, identify areas of improvement from a financial management perspective, and identify industry best practices to compare and contrast with Chamber internal policies and procedures. He stated in order for the Chamber to function appropriately the newly vacant positions were filled with knowledgeable staff with an understanding of the industry. He thanked Ruth Littlefield and Kinnee Tilly for hard work, time spent, and knowledgeable input. He stated upon entering the Chamber of Commerce the smiles on the faces of the employees were immediately noticed,

which he felt was a positive change in the atmosphere. He stated in September, when it was determined several actions did not follow established operation procedures for accounting of expenditures for the Chamber and Economic Development Corporation (EDC), two things occurred: one, beginning in June, with Ruth Littlefield's expertise, certain financial controls were immediately implemented to marry with financial controls which Scott Wise and Ted Cundiff and others had recommended. He stated once the financial controls were all implemented and the Chamber/EDC was comfortable with operating more efficiently and transparently, he would ensure the employees were aware of what was expected of staff and the Boards. He stated employee handbooks, as well as board member handbooks would be distributed and signed. He stated he took these allegations seriously and had not hesitated a moment to take action to implement changes which would enable a successful Chamber and EDC organization for the Community of Broken Arrow.

Mr. Ted Cundiff, the 2018 Chairman of the Broken Arrow Economic Development Corporation, echoed the sentiments of City Manager Spurgeon; he felt the EDC, Chairman and Board were aligned with rectifying and ensuring the city was made whole regarding any funding issues. He stated there were many activities which went on in the EDC and Chamber which overlapped. He stated the EDC wanted to assure Council that he and the EDC took these accusations seriously and made the appropriate adjustments immediately by initiating investigations in all areas. He stated Crawford and Associates was engaged separately from the city by the EDC. He stated both the EDC and the Chamber had separate engagements to do due diligence through audit reports to the Boards. He explained much of what was seen in Broken Arrow Economic Development Authority's report showed up in the EDC's report as well; specifically the EDC's report mimicked the same deficiencies. He stated his report was still in draft form. He stated a subcommittee led by Scott Wise was created jointly with the Chamber to address issues for both the Chamber and EDC. He reported Mr. Wise worked hand in hand with Mr. Crawford to ensure Mr. Crawford was getting all necessary information, as well as determining deficiencies in policies and procedures which may not have been in Mr. Crawford's scope. He stated as the 2018 Chairman of the Broken Arrow Economic Development Corporation and on behalf of the Board of Directors he assured the Broken Arrow Economic Development Authority and City Council that these issues were going to be rectified and policies and procedures would be put into practice to ensure these issues would never happen again. He stated a financial committee, with cross board member representation of both entities, would be created to review finances at a much more detailed level than ever previously. He stated the EDC Board planned to have all new policies and procedures fully implemented before the year's end. He stated new leadership would be created in the near future to continue the support of Broken Arrow and the positive momentum. He stated he agreed with Mr. Spurgeon, there had been positive growth and activity in Broken Arrow and he wanted to be certain the positive momentum continued. He stated new leadership would be held firmly to new policies and procedures. He stated the Board fully intended to continue to follow the mission of the EDC in fulfilling the needs of the city while supporting growth and prosperity in Broken Arrow.

Trustee Parks stated in the 35 years that he had been on City Council and involved with the city this was, without a doubt, the most disappointed he had ever been. He stated throughout the years there was a strong relationship between the City and the Chamber and he worried the relationship might be negatively affected, which would hurt the whole community. He stated going through the audit he saw room for improvement for the city, as well as the Chamber/EDC. He stated he agreed with City Manager Spurgeon; it was important to recover the lost city funds and to ensure any illegal activity was prosecuted. He thanked the individuals who came forward and made the initial allegations which prompted the investigations. He stated he was excited to see the actions being taken. He stated it was extremely important that all involved work together to rectify the situation.

Trustee Lester stated he had been a part of the City of Broken Arrow for 25 years and this was one of the worst situations he had encountered; however, he did not want to discount the good

things that had happened between the Chamber, the EDC, the school district and the city. He stated today positive steps were being taken.

Vice Chair Eudey stated he was a true believer in the current model of the Economic Development Corporation acting as a third party role between the three entities which promoted communication with economic prospects; the EDC had a successful track record. He stated some challenges had been discovered in the last few years, but this was an opportunity to improve. He stated having been involved in both the Broken Arrow Economic Development Authority and the Chamber he was exceedingly disappointed. He stated he had known many of the staff of the Chamber, both past and present and he did not feel there was a staffing problem; there was a leadership problem. He thanked past employees of the Chamber for dedication to an entity which did great things for the community. He thanked the current employees of the Chamber for staying, working through these issues; he appreciated the dedication to community service. He stated he was anxious to see the new policies and procedures implemented. He stated he agreed the reports should be forwarded to the Police Department. He stated this was an opportunity to move forward with a relationship which had shown great fruit, improve it, and continue the amazing progress of the City of Broken Arrow.

Trustee Wimpee echoed Vice Chair Eudey regarding Chamber staff. She stated reading the Human Resources report had been disturbing and she commended those who continued to produce great work and fantastic events. She stated she felt things were currently moving in a positive direction. She stated these reports needed to be brought into the light and she agreed with bringing the case to the Police Department for review.

Chairman Thurmond thanked the past and present members of the Chamber. He stated the relationship between the Chamber and the city was extremely important. He stated he agreed with all the comments made.

5. Adjournment

The meeting adjourned at approximately 6:18 p.m.

MOTION: A motion was made by Johnnie Parks, seconded by Scott Eudey.

Move to adjourn

The motion carried by the following vote:

Aye: 5 - Debra Wimpee, Johnnie Parks, Mike Lester, Scott Eudey, Craig Thurmond

Attest:

Chairman

Secretary