

The McAlester City Council met in a Regular session on Tuesday, October 27, 2015, at 6:00 P.M. after proper notice and agenda was posted, October 22, 2015 at 4:30 P.M.

Call to Order

Mayor Harrison called the meeting to order.

Councilman Buddy Garvin gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, John Titsworth, Travis Read, Robert Karr, Buddy Garvin, Jason Barnett & Steve Harrison
Absent: None
Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; Toni Ervin, CFO; John Modzelewski, City Engineer/Public Works Director; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizens Comments on Non-Agenda Items

There were no Citizen's comments.

Consent Agenda

- A. Approval of the Minutes from the October 6, 2015, Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of the Minutes from the October 12, 2015, Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of the Minutes from the October 13, 2015, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- D. Approval of Claims for October 7, 2015 through October 20, 2015. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$125,518.56; Parking Authority - \$136.71; Nutrition - \$1,250.49; Landfill Res./Sub-Title D - \$3,778.00; Tourism Fund - \$3,270.49; SE Expo Center - \$2,288.54; E-911 - \$9,916.34; Economic Development - \$19,462.78; Grants & Contributions - \$50.24; Fleet Maintenance - \$12,714.83; Worker's Compensation - \$941.68; CIP Fund - \$246,929.00 and Technology Fund - \$327.93.
- E. Consider and act upon, authorization of payment to Carstensen Construction, Inc., Contractor's Application for Payment #1, in the amount of \$97,137.70, for the construction of road and infrastructure improvements related to CIP#4A and funded through the McAlester Public Works Authority Construction Fund Series 2013 Project Account. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director)*
- F. Consider and act upon, authorization of payment to Carstensen Construction, Inc., Contractor's Application for Payment #5, in the amount of \$579,276.80, for the construction of road and infrastructure improvements related to CIP#4 and funded through the McAlester Public Works Authority Construction Fund Series 2013 Project Account. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director)*

- G. Consider and act upon, authorization of payment to Collins Waterworks, LLC., Invoice No. 1028, in the amount of \$11,350.00, for the construction of water improvements related to Economic Development and funded through the McAlester Public Works Authority Construction Fund Series Note Indenture, dated as of December 1, 2011, Project Account. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)
- H. Consider and act upon, authorizing the Mayor to sign a “Planned Maintenance (PM) Agreement” between the City of McAlester and Clifford Power System, Inc. (CPS) to perform periodic Planned Maintenance on eight generators located in various City-owned facilities. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)
- I. Consider and act upon, authorizing the Mayor to sign a five (5) year lease agreement with Med-Trans Corporation for hangar and land lease at McAlester Regional Airport. (*Peter Stasiak, City Manager*)
- J. Concur with the Mayor’s reappointment of Mr. David Cantrell to serve on the Community Tree Board for a term ending September, 2017. (*Steve Harrison, Mayor*)
- K. Concur with the Mayor’s reappointment of Ms. Tedi Graham to serve on the Community Tree Board for a term ending September, 2017. (*Steve Harrison, Mayor*)
- L. Concur with the Mayor’s reappointment of Ms. Sabra Tate to serve on the Community Tree Board for a term ending September, 2017. (*Steve Harrison, Mayor*)
- M. Concur with the Mayor’s appointment of Ms. Stephanie Giacomo to serve on the Community Tree Board for a term ending September, 2017. (*Steve Harrison, Mayor*)
- N. Consider and act upon, to authorize the Mayor to cast his vote on the proposed Oklahoma Municipal League By-Laws Amendments dated September 24, 2015. (*Cora Middleton, City Clerk*)

Mayor Harrison requested that item “D” be removed for individual consideration.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve Consent Agenda items “A, B, C and E through N”. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Titsworth, Karr, Garvin, Barnett & Mayor Harrison
 NAY: None

Mayor Harrison declared the motion carried.

Items Removed from Consent Agenda

- D. Approval of Claims for October 7, 2015 through October 20, 2015. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$125,518.56; Parking Authority - \$136.71; Nutrition - \$1,250.49; Landfill Res./Sub-Title D - \$3,778.00; Tourism Fund - \$3,270.49; SE Expo Center - \$2,288.54; E-911 - \$9,916.34; Economic Development - \$19,462.78; Grants & Contributions - \$50.24; Fleet Maintenance - \$12,714.83; Worker’s Compensation - \$941.68; CIP Fund - \$246,929.00 and Technology Fund - \$327.93.

A motion was made by Councilman Karr and seconded by Vice-Mayor Read to approve Claims for October 7, 2015 through October 20, 2015.

Before the vote, Mayor Harrison explained that he had pulled this item because there was a payment to him and he would abstain. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Karr, Read, Titsworth, Garvin, Barnett & Smith
 NAY: None

ABSTAIN: Mayor Harrison (counted as no)

Mayor Harrison declared the motion carried.

Scheduled Business

1. Discussion and update on Financials. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Discussion.

CFO Ervin addressed the Council reviewing the City's current financial status. She explained the City and MPWA were not quite making the budget with expenditures but they were watching their expenses, which were under budget at this time. She also explained that the revenues and expenses for the MPWA were skewed because of the recent refinancing of the bonds. She then reviewed the City's sales tax receipts, the three (3) year pattern that she had seen, the increase in the use tax receipts, police fines and water sales.

Mayor Harrison asked if there was any indication of what was causing the use tax to increase.

CFO Ervin commented that information could be tracked and be presented by code to the Council.

There was no vote on this item.

2. Consider and act upon, authorizing the Mayor to sign the McAlester Regional Airport (MLC) Five Year Capital Improvement Plan. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director)*

Executive Summary

Motion to authorize the Mayor to sign the McAlester Regional Airport (MLC) Five Year Capital Improvement Plan.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to authorize the Mayor to sign the McAlester Regional Airport (MLC) Five Year Capital Improvement Plan.

Before the vote, Director Modzelewski addressed the Council explaining that the FAA's Airport Development Office was in the process of confirming projects for FY 2016. He stated that Manager Stasiak and Airport Manager Mellor had met with the FAA officials and discussed the need to fix the Airport's rotating beacon. Director Modzelewski added that there was \$46,043 in funds that would expire next year if the City did not do a project and LBR, the City's airport consultant recommended doing this project.

Councilman Smith asked if the \$46,000 would cover the beacon and Director Modzelewski stated that the estimate was close to that amount.

There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Karr, Garvin, Barnett, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon, a Professional Services Agreement with Infrastructure Solutions Group, LLC dba Mehlburger Brawley for engineering services required for the design of the 2015 Community Development Block Grant (CDBG) Small Cities Water Improvements. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director)*

Executive Summary

Motion to approve and authorize the Mayor to sign the Professional Services Agreement with, Infrastructure Solutions Group, LLC dba Mehlburger Brawley for Professional Engineering Services to complete work required for the 2015 Community Development Block Grant (CDBG) Small Cities Water Improvements. The Lump Sum fee for Engineering design is \$23,500 and Resident Project Representative during construction is \$8,900.00.

A motion was made by Councilman Karr and seconded by Councilman Smith to approve and authorize the Mayor to sign the Professional Services Agreement with, Infrastructure Solutions Group, LLC dba Mehlburger Brawley for Professional Engineering Services to complete work required for the 2015 Community Development Block Grant (CDBG) Small Cities Water Improvements.

Before the vote, Director Modzelewski addressed the Council explaining that this years' grant was more than in the past. He stated that with the City's match the total amount would be \$258,012.00 and two (2) project areas had been identified in the northwestern part of McAlester. He added that the proposed projects would be to replace the old water mains with new mains adequate in size and material to serve the areas for the next thirty (30) to forty (40) years. He added that the fee for the Engineering design was \$23,500 and the Resident Project Representative fee would be \$8,900.00. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Karr, Smith, Garvin, Barnett, Titsworth, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and act upon, Change Order No. 7 to the contract with Carstensen Contracting, Inc. for the construction of CIP#4 Improvements and authorize the Mayor to sign Change Order No. 7. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No. 7 to the contract with Carstensen Contracting, Inc. and authorizing the Mayor to sign Change Order No. 7 which increases the Contract Price from \$3,030,346.23 to \$3,041,288.49.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve Change Order No. 7 to the contract with Carstensen Contracting, Inc. and authorizing the Mayor to sign Change Order No. 7 which increases the Contract Price from \$3,030,346.23 to \$3,041,288.49.

Before the vote, Director Modzelewski addressed the Council explaining that this Change Order included the addition of a two (2) foot six (6) inch retaining wall and would add an additional four (4) days to the project.

After a brief discussion among the Council including Director Modzelewski and Richard Petricek, with Poe & Associates concerning the retaining wall and if it had been missed by the engineers, the vote was taken as follows:

AYE: Councilman Smith, Read, Garvin, Barnett, Titsworth, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

5. Discussion of the possible redrawing of the current ward boundaries. (*Steve Harrison, Mayor*)

Executive Summary

Discussion.

Mayor Harrison explained that he had asked for this to be included in the agenda. He commented on documents that had been furnished to the Council related to the election that changed the City's Charter. He then reviewed the section that addressed redrawing the City's Wards, explaining that the change allowed the City of McAlester to exclude the prison population from the number of citizens. He stated that Councilman Smith had contacted the professor in Ada that had helped with the previous Ward redrawing and he had taken a look at the preliminary numbers. Mayor Harrison commented that the professor had indicated that with the preliminary information the Wards would be within the allowances to set the Wards boundaries back to where they had previously been.

There was a brief discussion among the Council regarding the procedure that needed to be followed. Mayor Harrison stated that he would like to get started and asked the Councilmen to have their nominees for the Ward Commission to the City Manager by next Thursday. Councilman Smith asked if the City Clerk could send out a reminder at the first of next week.

There was no action taken on this item.

6. Consider and act to provide written notice of termination of the Professional Services Agreements with EST, Inc. for Construction Management Services related to CIP #2, CIP#4, and CIP #4A. (*Peter Stasiak, City Manager*)

Executive Summary

Staff recommends written notice of termination be forwarded to EST, Inc.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to provide written notice of termination of the Professional Services Agreements with EST, Inc. for Construction Management Services related to CIP #2, CIP#4, and CIP #4A.

Before the vote, Manager Stasiak addressed the Council explaining that this was about EST's oversight contracts with the City of McAlester. He stated that during all of the pre-construction meetings, City staff discussed Change Order procedures and expressed that Change Orders had to be approved by the City Council prior to the work being performed. He reviewed articles from Carstensen's Contracts and commented that Poe & Associates had been asked to review numbers in the contracts. He further commented on the comments that had been made by Mr. Hunter with EST at the October 2nd meeting and informed the Council of a meeting with representatives from EST that had occurred on Monday and he had spoken with Director Modzelewski. Manager Stasiak added that he had requested meeting notes from EST but had not received them at this time.

There was a lengthy discussion among the Council, Shane Long, Vice-President EST, Manager Stasiak and Attorney Ervin concerning language in the contract, inconsistencies with direction, who had authority to approve changes to the contracted work, how contractors would hope to balance a project, the process that produces Change Orders for the Council's consideration, the contract being identical with a contract with another engineering firm and what would need to be done if the Council chose not to terminate tonight.

Councilman Smith moved to table this item until the next meeting. The motion was seconded by Councilman Garvin.

Before the vote, Manager Stasiak commented that he hoped to have the requested meeting notes before the next meeting. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Garvin, Barnett, Titsworth, Read, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

New Business

There was no New Business.

City Manager's Report

- Report on activities for the past two weeks.

Manager Stasiak thanked Councilman Garvin for his kind words about Pam Kirby. He informed the Council that Sandy Creek Canal Wall repair was complete, the City had received the FEMA reimbursement for the damage at the Softball Complex, the ODOT meeting would be posted, the Notice to Proceed on the 9th and Illinois project had been given to the contractor, Finley & Cook, the City's auditors would be in the City next week and this Thursday, October 29th was the OML Dinner at Pete's in Krebs. He added that if any of the Council wished to attend they could still get tickets.

Remarks and Inquiries by City Council

Councilman Karr expressed condolences to Pam Kirby’s family.

Councilman Garvin asked that all of the children that would be Trick-or-Treating Saturday evening to be careful.

Councilman Smith, Titsworth, Read and Barnett did not have any comments for the evening.

Mayor’s Comments and Committee Appointments

Mayor Harrison expressed condolences for Pam Kirby. He then stated that there was one (1) vacancy on the Expo Board and if any of the Council had recommendations to give him the names.

Recess Council Meeting

Mayor Harrison asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Smith moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Karr. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Garvin, Barnett, Titsworth, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:33 P.M.

Reconvene Council Meeting

The meeting was reconvened at 7:35 P.M.

Adjournment

There being no further business to come before the Council, Councilman Karr moved for the meeting to be adjourned. The motion was seconded by Councilman Garvin.

There was no discussion, and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Smith, Titsworth, Read, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 7:35 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk