

The McAlester City Council met in a Regular session on Tuesday, November 10, 2015, at 6:00 P.M. after proper notice and agenda was posted, November 9, 2015 at 4:02 P.M.

Call to Order

Mayor Harrison called the meeting to order.

City Attorney William J. Ervin gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, Travis Read, Jason Barnett & Steve Harrison
Absent: John Titsworth, Robert Karr & Buddy Garvin,
Presiding: Steve Harrison, Mayor

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

Citizens Comments on Non-Agenda Items

Sherri Swift, City of McAlester Finance Accountant addressed the Council informing them of the City's participation in Public Service Company of Oklahoma's "Peak Performers Program that the City had participated in this past summer. Ms. Swift briefly described the program for the Council she then presented them with a check in the amount of \$17,834.25 that had been awarded to the City for its' participation in the program.

Consent Agenda

- A. Approval of the Minutes from the October 27, 2015, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of the Minutes from the November 2, 2015, Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of Claims for October 21, 2015 through November 3, 2015. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$80,712.90; Nutrition - \$1,020.05; Landfill Res./Sub-Title D - \$3,845.00; Tourism Fund - \$5,439.04; SE Expo

Center - \$5,361.18; E-911 - \$450.07; Economic Development - \$6,727.50; Grants & Contributions - \$600.00; CDBG Grants fund - \$7,797.00; Fleet Maintenance - \$10,091.77; CIP Fund - \$33,619.35 and Technology Fund - \$94.29.

- D. Concur with the Mayor's reappointment of Dr. Michael Boyer to serve on the Airport Advisory Board for a term ending October 31, 2016. *(Steve Harrison, Mayor)*
- E. Concur with the Mayor's reappointment of Mr. Stephen Otis to serve on the Airport Advisory Board for a term ending October 31, 2016. *(Steve Harrison, Mayor)*
- F. Concur with the Mayor's reappointment of Mr. Mike Hogan to serve on the Airport Advisory Board for a term ending October 31, 2016. *(Steve Harrison, Mayor)*
- G. Concur with the Mayor's reappointment of Mr. Cecil Craig to serve on the Airport Advisory Board for a term ending October 31, 2016. *(Steve Harrison, Mayor)*
- H. Concur with the Mayor's reappointment of Mr. Carlton Bass to serve on the Airport Advisory Board for a term ending October 31, 2017. *(Steve Harrison, Mayor)*
- I. Concur with the Mayor's reappointment of Mr. David Verner to serve on the Airport Advisory Board for a term ending October 31, 2017. *(Steve Harrison, Mayor)*
- J. Concur with the Mayor's reappointment of Mr. Randy Walters to serve on the Airport Advisory Board for a term ending October 31, 2017. *(Steve Harrison, Mayor)*
- K. Concur with the Mayor's appointment of Mr. Brandon John to serve on the Airport Advisory Board for a term ending October 31, 2017. *(Steve Harrison, Mayor)*
- L. Accept and place on file the McAlester Main Street 1st Quarter Performance Report. *(Lacey Sudderth, Executive Director)*
- M. Consider and act upon, authorizing the Mayor to sign the "Evidence of Tax Exempt Status" and "Sales Tax Exemption Certificate" for the Illinois Avenue Drainage Improvements project. *(John C. Modzelewski, P.E., City Engineer and Public Works Director)*
- N. Consider and act upon, authorizing the Mayor to sign the Smart Phone meter reading system agreement. This is the current company that does our meter reader's Handhelds contract. This is an upgrade in services and a savings in cost. *(Toni Ervin, Chief Financial Officer)*
- O. Consider and act upon, authorization of payment to Carsentsen 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 **2014** Project Account. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director)*

Note: Previous request was for payment to be drafted from 2013 funding. Those funds have been depleted.

- P. Consider and act upon, authorization of payment to Carsentsen Construction, Inc., Contractor's Application for Payment #5, in the amount of \$557,360.70, for the construction of road and infrastructure improvements related to CIP#4 and funded through the McAlester Public Works Authority Construction fund Series 2014 Project Account. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)
Note: Previous request was for payment to be drafted from 2013 funding. Those funds have been depleted.
- Q. Consider and act upon, authorization of payment to T. McDonald Construction, Inc., Contractor's Application for Payment #12, in the amount of \$364,325.68, for the construction of road and infrastructure improvements related to CIP#3 and funded through the McAlester Public Works Authority Construction fund Series 2014 Project Account. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)
- R. Consider and act upon, authorization of payment to Infrastructure Solutions Group, LLC; dba Mehlburger Brawley, Invoice # MC-14-06-12, in the amount of \$ 9,040.50, for Construction Management and Resident Project Representative Services related to CIP#3 and funded through the McAlester Public Works Authority Construction Fund Series 2014 Project Account. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)
- S. Consider and act upon, authorizing the Mayor to sign the Sales and Use Tax Administration Agreement recently agreed upon between the Oklahoma Tax Commission and Oklahoma Municipal League Liaison Board. This agreement replaces the current separate Sales and Use Tax Agreements. (*Toni Ervin, Chief Financial Officer*)

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve the Consent Agenda. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to open a Public Hearing to address two (2) Ordinances. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was opened at 6:09 P.M.

Public Hearing

AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR LOT 5, IN BLOCK 416, CITY OF MCALESTER, FORMERLY SOUTH MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT TO C-2 NEIGHBORHOOD CONVENIENCE DISTRICT.

AN ORDINANCE, AMENDING ARTICLE II DISCRIMINATION, SECTION 58-26 THROUGH 58-97 OF MCALESTER CITY CODES TO BRING ARTICLE II DISCRIMINATION INTO COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW, REPEALING ALL CONFLICTING ORDINANCES, PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

There were no comments from the audience or Council and Vice-Mayor Read moved to close the Public Hearing. The motion was seconded by Councilman Smith and the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:10 P.M.

Scheduled Business

1. Presentation of the McAlester Regional Health Center Audit for Fiscal Year 2015.
(*Darryl Linnington, CFO*)

Executive Summary
Presentation.

McAlester Regional Health Center (MRHC) CEO David Keith addressed the Council explaining that he and CFO Darryl Linnington were at the meeting to present the Health Center's fiscal year 2014-2015 annual audit.

Mr. Linnington addressed the Council and reviewed the Health Center's annual audit. During his review Mr. Linnington highlighted the various sections of the audit and the auditor's "Unmodified Opinion". Mr. Linnington commented that the Health Center was very strong financially.

Mayor Harrison asked how long the Health Center had used the audit firm they were currently using.

Mr. Linnington informed the Mayor that the Health Center had used this firm for approximately three (3) years and he was going to suggest an “RFP” for the next years’ audit.

There was no vote taken on this item.

2. Presentation and discussion of a Stormwater Utility Fee. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Director*)

Executive Summary

Presentation and discussion of the development of a Stormwater Utility Fee.

Director Modzelewski addressed the Council explaining that at the beginning of the year the Council had approved an agreement with Meshek & Associates and authorized the City to study the feasibility of a “Storm Water Utility” fee. He added that for the past several months the City had been working with Meshek and tonight was the culmination of that study. He added that Brandon Claborn with Meshek & Associates would be reviewing the information collected during the study.

Mr. Claborn addressed the Council and distributed a handout of the study that had been performed. He then reviewed the steps that had been taken during the study, the results of the study, examples of implementation, project maintenance and fee determination.

There was a lengthy discussion among the Council, Mr. Claborn and Manager Stasiak regarding Equivalent Service Units, the options for setting a fee, dedicating the funds, the survey of other communities storm water fees, how the fee would be calculated for residential and non-residential customers, the amount of money that each fee option might generate, how the funds would be used, how long the fee would last, this being a fee and not a tax, prioritizing projects, the City requesting direction and having full Council input.

There was no vote taken on this item.

3. Consider and act upon, an Ordinance amending the general zoning ordinance and accompanying map thereto known as General Zoning Ordinance No. 1843 (1989), by changing the classification of the zoning district for Lot 5, in Block 416, City of McAlester, formerly South McAlester, Pittsburg County, State of Oklahoma from R1-B (Single-Family Residential District) to C-2 (Neighborhood Convenience District). (*Leroy Alsup, Community and Economic Development Director*)

Executive Summary

Motion to act upon and approve the above Ordinance changing the classification of the zoning district for the property identified in the Ordinance from R1-B (Single-Family Residential District) to C-2 (Neighborhood Convenience District) and authorizing the Mayor to sign the ordinance.

ORDINANCE NO. 2549

AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR LOT 5, IN BLOCK 416, CITY OF MCALESTER, FORMERLY SOUTH

MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM R-1B SINGLE-FAMILY RESIDENTIAL DISTRICT TO C-2 NEIGHBORHOOD CONVENIENCE DISTRICT.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve **ORDINANCE NO. 2549**, rezoning a parcel of land from R-1B (Single-Family Residential District) to C-2 (Neighborhood Convenience District).

Before the vote, Director Alsup addressed the Council explaining that the Planning and Zoning Commission had met on October 20, 2015 and approved the rezoning request. He added that this property was located in the Wade Watts Corridor and the property to the west and southwest was zoned C-2 (Neighborhood Convenience District).

After a brief discussion concerning a typographical error in the Ordinance, the vote was taken as follows:

AYE: Councilman Smith, Read, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and act upon, a “Use Permit After Review” in the “Wade Watts Corridor” for the use of the property at 1401 Wade Watts Avenue as a “barbershop and beauty shop”. *(Leroy Alsup, Community and Economic Development Director) Reference Note: If the rezoning ordinance proposed for this property at 1401 Wade Watts Avenue is approved by the City Council, it is recommended that this agenda item should be pulled.*

Executive Summary

Motion to approve a “Use Permit After Review” in “Wade Watts Corridor” for the use of the property at 1401 Wade Watts Avenue as a “barbershop and beauty shop” and to authorize the Mayor to sign the “Use Permit after Review” approval form.

This item was not considered.

5. Consider and act upon, an ordinance amending Article II Discrimination, Section 58-26 through Section 58-97 of McAlester City Codes to bring Article II Discrimination into compliance with applicable state and federal law; repealing all conflicting ordinances, and declaring an emergency. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Staff recommends a motion to approve updates in McAlester City Code Article II. Discrimination.

ORDINANCE NO. 2550

AN ORDINANCE, AMENDING ARTICLE II DISCRIMINATION, SECTION 58-26 THROUGH 58-97 OF MCALESTER CITY CODES TO BRING ARTICLE II DISCRIMINATION INTO COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW, REPEALING ALL CONFLICTING ORDINANCES, AND PROVIDING FOR A SEVERABILITY CLAUSE.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve **ORDINANCE NO. 2550**, amending areas of Section 58 of the City of McAlester Code of Ordinances.

Before the vote, CFO Ervin addressed the Council explaining that some of the language contained in this section had been outdated and needed to be changed to comply with all applicable laws.

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

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

Mayor Harrison declared the motion carried.

Mayor Harrison commented that the EMERGENCY CLAUSE could not be considered and the Ordinance would become effective in thirty (30) days.

6. **TABLED FROM OCTOBER 27, 2015 MEETING:** Consider and act upon, 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

Consider and act upon sending written notice of termination to EST, Inc.

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

Before the vote, Manager Stasiak informed the Council that he had reviewed the information that he had received since the previous meeting. He stated that this information included emails, audio recordings and minutes from various meetings. He added that the audio recordings had been transcribed and he had listened to them twice, once with the City Attorney. He then reviewed the actions that had prompted this issue and informed the Council that he had received another Change Order but had not been able to verify the quantities.

After a lengthy discussion, among the Council, Manager Stasiak, City Attorney Ervin and Shane Long with EST, Inc. regarding problems with the submission of Change Orders, reasons for the City to terminate the agreements with EST, Inc., what was said on the recordings that were made of some of the construction progress meetings, errors that had been made, who had the authority to approve any work that was not included in the agreement, if McAlester was the only City to have the issue of how Change Orders were approved, and what role EST, Inc. had in preventing the Contractor from doing work before a Change Order had been approved. Vice-Mayor Read moved to table this matter until a full Council was present. The motion was seconded by Councilman Smith.

Mayor Harrison commented that there were still a lot of questions on what got the City to this point. There was no further discussion, and the vote was taken as follows.

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

7. Consider and act upon, to authorize the Mayor to sign a Resolution allowing the City Manager limited authority to approve certain construction contract change orders for purposes of efficiency, flexibility and economy. (*Joe Ervin, City Attorney*)

Executive Summary

Staff recommends authorization for the City Manager to approve certain construction contract change orders subject to specific restrictions and conditions.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve RESOLUTION NO. 15-14, allowing the City Manager limited authority to approve certain construction contract Change Orders.

Before the vote, Manager Stasiak commented that this item was based on past conversations to allow the City Manager limited authority to approve Change Orders between Council meetings. He added that any such approved Change Order would be placed on the next Council meeting agenda.

After discussion, among the Council and Attorney Ervin concerning the authorization limit that this would give the City Manager, not allowing bid splitting, all Change Orders still coming before the Council, changing some of the language in the Resolution, changing the language in the contracts and following up with an Ordinance at the next meeting, the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

8. Discussion and possible action to accept recommended goals and objectives for the City manager for FY2015-2016. (*Weldon Smith, Councilman Ward One*)

Executive Summary

Discussion.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to accept the recommended goals and objectives for the City Manager for FY 2015-2016.

Before the vote, Councilman Smith commented that this had been previously discussed and was in the Charter. He reviewed the potential goals listed in the agenda item and commented that this was a way to set up goals for other departments. He added that time limits could be adjusted as needed.

Manager Stasiak stated that many of these goals or objectives were already underway, a draft RFP for the comprehensive plan was ready and would be given to Director Alsup and the City had experienced financial stability the last four (4) to five (5) years.

Mayor Harrison and Vice-Mayor Read thanked Councilman Smith for putting this together.

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

AYE: Councilman Smith, Read, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

9. Consider and act upon, a Resolution establishing a Ward Commission for the City of McAlester. *(Steve Harrison, Mayor)*

Executive Summary

A motion to approve the establishment of a Ward Commission for the City of McAlester per the City Charter. The Charter provides that said Ward Commission shall consist of seven members, with each City Council person appointing one member and those six members, with the affirmative vote of at least four, choosing the seventh member who shall be chairman.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve RESOLUTION NO. 15-15, establishing a Ward Commission for the City of McAlester.

Before the vote, Mayor Harrison commented that if this passed the initial meeting would be scheduled and the six (6) members would select a Chairman. He commented that it appears to be a fairly simple task to go back to how the Wards were before the last change. There was no other discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

New Business

Manager Stasiak presented the Council with a Change Order to the contract with Carstensen Contracting, Inc. for CIP #4. He explained that this had come in and it could delay progress, on the project, if the Council did not consider it tonight. He added that this would address the conflict of the proposed storm drain and existing sewer main that was not in the location shown on the City's sewer atlas used for the design. He added that it would add four (4) days and \$3,672.71 to the contract.

Vice-Mayor Read moved to approve Change Order No. 3 to the contract with Carstensen Contracting, Inc. for CIP #4. The motion was seconded by Councilman Smith and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

City Manager's Report

- Report on activities for the past two weeks.

Manager Stasiak reported that a detour had been set up on Electric Avenue to perform warranty work on sections of the road that was failing. He informed the Council that Lowe's had donated landscaping materials in the amount of \$1,800.00 and those items were being used in the Disc Golf Course. He added that Lowe's had also donated all of the flooring and fixtures for the Genealogy Building's restrooms which was around \$1,000.00.

Remarks and Inquiries by City Council

There were no comments from the Council.

Mayor's Comments and Committee Appointments

Mayor Harrison reminded everyone that the City's Veteran's Day Parade was tomorrow at 6:00 P.M.

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 Vice-Mayor Read. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried and the meeting was recessed at 8:24 P.M.

Reconvene Council Meeting

The meeting was reconvened at 8:25 P.M.

Adjournment

There being no further business to come before the Council, Vice-Mayor Read moved for the meeting to be adjourned. The motion was seconded by Councilman Smith.

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

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

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:25 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk