

The McAlester City Council met in Regular session on Tuesday, July 24, 2012, at 6:00 P.M. after proper notice and agenda was posted, July 23, 2012, at 8:20 A. M.

Call to Order

Mayor Harrison called the meeting to order.

Pastor David Massey, McAlester Ministerial Fellowship gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, Travis Read, Robert Karr, Buddy Garvin, Sam Mason & Steve Harrison
Absent: None
Presiding: Steve Harrison, Mayor

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

Citizen's Comments on Non-agenda Items

There were no citizen comments.

Consent Agenda

- A. Approval of the Minutes from the June 26, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for July 4 – July 17, 2012. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$208,118.09; Parking Authority - \$108.52; Nutrition - \$2,133.07; Landfill Re./Sub-Title D - \$4,252.50; Tourism Fund - \$15,350.70; SE Expo Center - \$16,137.79; E-911 - \$7,072.97; Economic Development - \$24,070.79; Fleet Maintenance - \$7,996.74 and Worker's Compensation - \$54,862.68.
- C. Authorize the Mayor to sign a Campus Police Agreement between the McAlester Public Schools and the City of McAlester for FY 2012-2013. *(Jim Lyles, Police Chief)*

Manager Stasiak requested that "Item B" be removed for individual consideration.

A motion was made by Councilman Titsworth and seconded by Councilman Smith to approve Consent Agenda items "A and C."

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

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

Mayor Harrison declared the motion carried.

Items removed from Consent Agenda

- B. Approval of Claims for July 4 – July 17, 2012. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$208,118.09; Parking Authority - \$108.52; Nutrition - \$2,133.07; Landfill Re./Sub-Title D - \$4,252.50; Tourism Fund - \$15,350.70; SE Expo

Center - \$16,137.79; E-911 - \$7,072.97; Economic Development - \$50161.34; Fleet Maintenance - \$7,996.74 and Worker's Compensation - \$54,862.68.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to approve the Claims for July 4 through July 17, 2012.

Before the vote, Manager Stasiak requested that a payment to Northern Escrow, on page seventeen (17), in the amount of \$22,070.79 be pulled from the claims. He explained that everything on the Elks Road Project had been finalized and he was requesting that the final payment be included in tonight's Claims and increase the payment to Northern Escrow to \$50,131.34. He distributed the documentation showing the final order to close the project.

Councilman Titsworth asked if the number of joint cuts had been in the engineering?

Robert Vaughan addressed the Council explaining that smaller rectangular panels would hold up better.

Mayor Harrison restated the motion as "approve the Claims for July 4 through July 17, 2012, changing the payment to Northern Escrow to \$50,131.34. There was no further discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to open a Public Hearing addressed two (2) ordinances amending the Fiscal year 2011-2012 Budget and the Fiscal year 2012-2013 Budget.

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

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

Mayor Harrison declared the motion carried, and the Public Hearing was opened at 6:05 P.M.

Public Hearing

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2392 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2011-2012; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2425 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2012-2013; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

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

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:06 P.M.

Scheduled Business

1. Consider, and act upon, an Ordinance amending Ordinance No. 2392 which established the budget for fiscal year 2011-2012; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, Chief Financial Officer)*

Executive Summary
Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2429

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2392 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2011-2012; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Councilman Smith and seconded by Councilman Read to approve **ORDINANCE NO. 2429.**

Before the vote, Ms. Ervin addressed the Council reviewing the amendments. She explained that the first and second exhibits were to transfer Worker's Compensation expenses and Severance/Leave Payouts to the appropriate departments; she added that the third exhibit was to transfer funds for Severance/Leave payouts. She informed the Council that this was the first year to allocate Worker's Compensation expenses among the departments.

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

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

Mayor Harrison declared the motion carried.

Councilman Read moved to approve the EMERGENCY CLAUSE, seconded by Councilman Garvin. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

2. Consider, and act upon, an Ordinance amending Ordinance No. 2425 which established the budget for fiscal year 2012-2013; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, Chief Financial Officer)*

Executive Summary
Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2430

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2425 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2012-2013; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to approve **ORDINANCE NO. 2430.**

Before the vote, Ms. Ervin reviewed the amendment with the Council explaining that Exhibits 1 and 2 were for the City's percentage of the 2012 CDBG grant and Exhibits 3 and 4 were to appropriate funds for additional Fire payroll expenditures.

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

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

Mayor Harrison declared the motion carried.

Councilman Garvin moved to approve the EMERGENCY CLAUSE, seconded by Councilman Karr. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon, the funding of McAlester Main Street Association in the amount of \$28,000 and for FY 2012-2013. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve the funding of \$28,000 to McAlester Main Street Association for FY 2012-2013 and approval of FY 2012-2013 Budget.

A motion was made by Councilman Garvin and seconded by Councilman Karr to approve the funding of McAlester Main Street Association in the amount of \$28,000.00 for FY 2012-2013 and approval of the FY 2012-2013 Budget.

Before the vote, Manager Stasiak commented that the City had been working with the Main Street Association and he distributed an updated budget and verification of the amount that was owed to the former Main Street director.

Mayor Harrison introduced Linda Barnett the State Director of Main Street Program.

Ms. Barnett addressed the Council explaining the services that the Main Street Program supplied to communities and support that was required from participating cities.

There was a lengthy discussion among the Council, including Ms. Barnett, members of the McAlester Main Street Association, Ms. Ervin, Manager Stasiak and the City Attorney concerning the local Associations' fund raising efforts, how the Association had helped "Downtown" and "Old Town", the original request for funding four (4) years ago, more consistent reporting, sponsorships, the number of merchants that were members, the amount that was owed to the former Director, if the Choctaw Nation was involved in the Association, and the Association being more responsible for their budget.

Mayor Harrison asked for clarification of the motion. Was this to approve the funding or the contract and if the motion needed to be revised.

Mr. Ervin explained that funding was synonymous with approving the contract but the Council could revise the motion if they chose to.

He also commented on the Scope of Services on the first page which included the requirement for the City and Main Street to establish a set of measurable goals and objectives. He added that requirement could include monthly reporting back to the Council on activities and the budget.

Mr. Ervin commented that the goals and objectives could be updated as needed.

Mayor Harrison stated that it would be worth while to set down with the board and review the goals and objectives.

Mr. Ervin stated that the Council could approve the contract with the addition of additional objective for monthly reporting at least until a director was selected. He added that the contract could be amended as needed.

Ms. Barnett stated that she would be able to help with developing measurable goals and objectives.

Mayor Harrison stated that Councilman Garvin and he would work with Main Street on developing goals and objectives. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

4. Consider, and act upon, an Agreement for Engineering Services with Meshek & Associates, PLC for Phase II Stormwater Management Program Assistance for the City of McAlester to meet Oklahoma Department of Environmental Quality (ODEQ) requirements and EPA's National Pollutant Discharge Elimination System (NPDES).
(John C. Modzelewski, P.E., City Engineer and Public Works Director)

Executive Summary

Motion to approve an Agreement for Engineering Services with Meshek & Associates, Inc. for Phase II Stormwater Management Program activities during FY 2012-2013 for a fee not to exceed \$50,000.

A motion was made by Councilman Garvin and seconded by Vice-Mayor Mason to approve an Engineering Services with Meshek & Associates, Inc. for Phase II Stormwater Management Program activities during FY 2012-2013 for a fee not to exceed \$50,000.

Before the vote, John Modzelewski addressed the Council reminded the Council that in July of 2008 the City Council had approved the selection of Meshek & Associates PLC as the City's engineering consultant for the Phase II Stormwater Management Program. he added that the requirements of the first permit had been completed and that the Oklahoma Department of Environmental Quality was preparing the requirements for the next permit cycle of the NPDES Phase II Stormwater Management Program and this agreement would allow Meshek & Associates PLC to continue working with the City of McAlester to be in compliance with the NPDES Permit Phase II requirements.

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

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

NAY: None

Mayor Harrison declared the motion carried.

5. Discussion on the opportunity to Privatize/Franchise the City of McAlester's entire temporary and permanent roll off/compactor work within the city limits. *(John C. Modzelewski, P.E., City Engineer and Public Works Director)*

Executive Summary

Discussion, and possible action, to consider an opportunity to Privatize/Franchise the City of McAlester's entire temporary and permanent roll off/compactor work within the city limits.

John Modzelewski addressed the Council informing them that after further calculations it was realized that the City was losing money with the roll-off business within the City. He added that he wanted to begin a discussion to address this matter. he stated that the cost of going to Alderson, the age of the truck and roll-off containers, fuel and maintenance were all issues that had not been previously considered. He added that the Council could choose to franchise or privatize the service, that the City would no longer have the expense and the employee would be transferred into the Street Department.

There was a lengthy discussion among the Council including Mr. Modzelewski and the City Attorney concerning a franchise, opening the service up to free enterprise, opening a new cell at the landfill, the Commerce Clause, the designation of truck routes to regulate truck traffic, business fees, and the City Attorney preparing an opinion regarding the City's ability to franchise the roll-off service.

Mayor Harrison suggested that the City Attorney look at the legal issues and the City Manager survey what other cities had done.

There was no vote on this item.

New Business

There was no new business.

City Manager's Report

Manager Stasiak reported on the repairs that had been accomplished on 14th Street in Fifth Ward, he asked the Council to take a look at it when they had a chance. He added that the Street Department had used the new Asphalt Zipper and that had made a major difference in time and quality for the repair. He reported that a P.O. had been issued for the surveying of Dancing Rabbit Road in the Steven Taylor Industrial Park. He then reminded the Council that a Special Meeting was being planned for July 31, 2012 to discuss bonding.

Remarks and Inquiries by City Council

Councilmen Smith, Titsworth, Read and Karr did not have any remarks for the meeting.

Councilman Garvin commented on the repairs to 14th Street in Fifth Ward, the quality of the work, how well the Asphalt Zipper had worked and the speed in which the repairs had been completed. He commented that it would be nice for the newspaper to do an article on the repairs as it was a very positive issue. He mentioned the "Old Town Festival" and that there were big plans for this year's event.

Vice-Mayor Mason commented on the improvement to 14th Street and the railroad crossing on it between Washington and Carl Albert Parkway

Mayor's Comments and Committee Appointments

Mayor Harrison commented on the Special Meeting on July 31, 2012 at 5:30 P.M. He stated that the Council would meet with the Bond Attorney and Financial Advisor.

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

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

Mayor Harrison declared the motion carried and the meeting was recessed at 7:34 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:36 P.M.

A motion was made by Vice-Mayor Mason and seconded by Councilman Garvin to recess the Regular Meeting for an Executive Session to discuss negotiations concerning employees and representatives of employee groups: IAFF in accordance with Title 25, Section 307.B.2 and for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks in accordance with Title 25, Section 307.B.4. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried, and the meeting was recessed at 7:37 P.M.

Executive Session

Recess into Executive Session in compliance with Section Title 25 Section 307 B (2) and 307 B (4) et.seq. Oklahoma Statutes, to wit:

- 1) Proposed executive session pursuant to Title 25, Sec. 307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups: IAFF

- 2) Proposed executive session pursuant to Title 25, Sec. 307 (B) (4) for Confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks.

Reconvene Council Meeting

Take any action as a result from Executive Session.

The Regular Meeting was reconvened at 8:41 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session to discuss negotiations concerning employees and representatives of employee groups: IAFF in accordance with Title 25, Section 307.B.2 and for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks in accordance with Title 25, Section 307.B.4. Only those matters were discussed, no action was taken, and the Council returned to open session at 8:41 P.M., and this constituted the Minutes of the Executive Session.

- 1) Consider, and act upon, the Mitchell Weeks Workers Compensation Claim.

Mayor Harrison moved to authorize the City Manager to negotiate a settlement subject to final approval by the City Council. The motion was seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

Adjournment

There being no further business to come before the Council, Councilman Garvin 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 Mason, Smith, Titsworth, Read, Karr, Garvin & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:42 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk