

Council Chambers
Municipal Building
September 11, 2012

The McAlester City Council met in Regular session on Tuesday, September 11, 2012, at 6:00 P.M. after proper notice and agenda was posted, September 7, 2012, at 11:00 A. M.

Call to Order

Mayor Harrison called the meeting to order.

Linda Lowber, First Baptist Church gave the invocation and lead the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, John Titsworth, 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 Financial 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

Stephanie Shafer thanked the Council for the City's support for the past year. She informed them that Pride In McAlester had planted five (5) native trees on the Edmond Doyle Elementary School grounds. She stated that the coming Saturday they would be painting a building at 400 South Main with funds they had received through the "Fresh Paint Days" grants. On October 6th, the city wide litter pick up would take place. On October 13th, the Color Stampede and the Wild West Festival would take place in Old Town and then October 21st, 27th and 28th Pride would conduct their Fall Cleanup.

Consent Agenda

- A. Approval of the Minutes from the August 28, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

- B. Approval of Claims for August 22 through September 4, 2012. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$73,754.68; Nutrition - \$1,009.30; Tourism Fund - \$4,202.29; SE Expo Center - \$5,853.02; Economic Development - \$38,371.91; Fleet Maintenance - \$17,551.47; Worker's Compensation - \$941.68 and CIP Fund - \$5,040.84.

- C. Concur with Mayor's Re-appointment of John Goodyear to the McAlester Community Tree Board for a term to expire September, 2014. *(Steve Harrison, Mayor)*
- D. Concur with Mayor's Re-appointment of Doris Hackler to the McAlester Community Tree Board for a term to expire September, 2014. *(Steve Harrison, Mayor)*
- E. Concur with Mayor's Re-appointment of Karen Harrison to the McAlester Community Tree Board for a term to expire September, 2014. *(Steve Harrison, Mayor)*
- F. Concur with Mayor's Appointment of David Cantrell to the McAlester Community Tree Board for a term to expire September, 2013. *(Steve Harrison, Mayor)*

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to approve Consent Agenda. 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.

A motion was made by Councilman 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.

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

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

Public Hearing

- 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.
- AN ORDINANCE AMENDING SECTIONS 106.71(A) AND 106.71(C) OF THE MCALESTER CITY CODES FIXING WATER RATES; AND DECLARING AN EMERGENCY.

There were no comments from the Public or the Council and Vice-Mayor Mason moved to close the Public Hearing. The motion was seconded by Councilman Garvin 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 and the Public Hearing was closed at 6:07 P.M.

Scheduled Business

1. Tabled - Discussion and possible action, on a Resolution put forward by the Gaines Creek Association of Free Will Baptist opposing the removal of figurines depicting U.S. Military Kneeling in Silent Prayer from the 3rd Street intersection and asking the City of McAlester to reverse the decision and reinstall the silhouette. *(Peter J. Stasiak, City Manager)*

Executive Summary

Discussion and possible action, regarding silhouettes on City street signs.

Mayor Harrison commented that at the previous Council meeting this item had been deferred at the request of Councilman Smith.

Councilman Smith stated that he had felt that the Council needed more information before making a decision and his intent had been to postpone this matter not table it. He added that he had contacted the ACLJ and they had responded saying they could not get involved if the Council had an attorney representing them. He stated that he had contacted Mr. Ervin and asked for his assistance. He further commented that if the Council could receive information from two (2) organizations like the ACLJ they could make an informed decision. He then moved to postpone any action until they receive information from the ACLJ.

Mr. Ervin stated that he had spoken with an attorney with the ACLJ and he would be emailing more information to them in the next day. He commented that he felt that the Council would receive a response once the ACLJ had reviewed all requested information.

Councilman Titsworth seconded the motion to postpone action on this item.

Before the vote, James Prince, Lonnie Lu Anderson, Joe Watkins, Julia Dedmon, Carolyn McNatt, Art Dodd, Bill Murdock and Marlon Moore addressed the Council regarding their support of the re-installation of the silhouettes.

There was also a brief discussion among the Council regarding any decision the Council might make once the information was received and how long this item was to be postponed.

Mayor Harrison stated that the intent was to not bring back until the information from the ACLJ had been received.

There was no further 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.

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. 2437

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 Councilman Read and seconded by Councilman Smith to approve **ORDINANCE NO. 2437**, amending Fiscal Year 2012-2013 Budget.

Before the vote, Ms. Ervin reviewed the amendment with the Council commenting that this was for upgrades to the Fire Station's radio base station.

There was discussion among the Council including Ms. Ervin and Manager Stasiak concerning the upgrades, the total amount of the upgrades, if this would be bid, where the funding was to come from and how it would improve communication among the rural stations and the City of McAlester. There was no further 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. The motion was seconded by Councilman Karr. 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.

3. Consider and Act Upon, an Ordinance amending Ordinance 2235 Sections 106.71 (a) and 106.71 (c) of the McAlester City Codes Fixing Water Rates and Declaring an Emergency. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Motion to approve Ordinance amending Sections 106.71 (a) and 106.71 (c) of the McAlester City Codes.

A motion was made by Vice-Mayor Mason and seconded by Councilman Smith to approve an Ordinance amending Sections 106.71 (a) and 106.71 (c) of the McAlester City Codes.

Before the vote, Ms. Ervin informed the Council that this had been done to allow the low volume discount to update automatically each year, with the CPI, and not have to be brought before Council each year.

There was discussion among the Council regarding the rate that had been inserted into the Ordinance, inserting a formula in place of a rate and having the rates available to the public, how many citizens actually took advantage of the discount, how the City notified its customers that did qualify for the discount of any changes, the wording of the Ordinance, applying the same CPI index to adjust amount of the discount and rates and directing the staff to make the suggested adjustments to the Ordinance and bring it back to the Council.

There was no vote on this item.

4. Consider and act upon awarding bid in the amount of \$27,171.00, for one new and unused One Ton Truck for the Waste Water Maintenance Department. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve the award of bid to Nix Ford, McAlester, Oklahoma, for the purchase of one (1) New and Unused 2012 F-350 1 Ton Truck.

A motion was made by Councilman Read and seconded by Councilman Karr to award a bid in the amount of \$27,171.00, for one new and unused One Ton Truck for the Waste Water Maintenance Department, to Nix Ford, McAlester, Oklahoma.

Before the vote, Manager Stasiak informed the Council that the City Engineer had established a monitoring system to track maintenance costs for each of the City vehicles and equipment. He stated that this vehicle would replace a vehicle that had had several major repairs and it was not worth the money the City would need to put into it for the current needed repairs.

There was a brief discussion among the Council regarding the rear end ratio, if the bid included the Knapehide body, the number of bids received and how the specifications had been set for this vehicle.

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

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

NAY: Councilman Titsworth

Mayor Harrison declared the motion carried.

5. Consider, and act upon, the Collective Bargaining Agreement between the City of McAlester and the International Association of Fire Fighters (IAFF) Local No. 2284, effective July 1, 2012 through June 30, 2013 and to include 2012-2013 Memorandum of Understanding. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to accept the IAFF 2012-2013 Collective Bargaining Agreement; this includes a 2012-2013 Memorandum of Understanding.

A motion was made by Councilman Read and seconded by Councilman Garvin to accept and authorize the Mayor to sign the Collective Bargaining Agreement between the City of McAlester and the International Association of Fire Fighters (IAFF) Local No. 2284, effective July 1, 2012 through June 30, 2013 and to include 2012-2013 Memorandum of Understanding.

Before the vote, Manager Stasiak read the letter from the Union which stated that the Union had voted on and approved the “City’s Proposal to basically roll the agreement with some minor changes as proposed by the City and submitted to our Representative, Rick Beams, President of the PFFO just following the last negotiation session.” He then reviewed the changes to the contract with the Council. He added that the Memorandum of Understanding added one firefighter for fiscal year 2012-2013.

There was a brief discussion among the Council regarding the inclusion of the MOU, clarification of who was authorized to sign the contract, the approval being contingent on the IAFF signing the contract and the hard work that had been put into negotiating this contract. 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.

6. Final review of Marketing Alliance Agreement with City Attorney changes and comments. *(Peter J. Stasiak, City Manager)*

Executive Summary

The agreement was approved on August 28, 2012, subject to City Attorney changes. This is a final review of Market Alliance Agreement with City Attorney recommended changes.

City Attorney Ervin reviewed the recommended changes to the contract with the Council. He also commented that if there were any other changes to the contract to let him know.

Vice-Mayor Mason commented that the Council was still approving the funding based on the acceptance and execution of the contract by Marketing Alliance.

There was no vote on this item.

New Business

There was no new business.

City Manager’s Report

Manager Stasiak informed the Council that two (2) weeks ago the City had been contacted by the “Make a Wish Foundation” that they needed help in granting the wish of a young man in the McAlester area that had been diagnosed with cancer his wish of receiving a hot tub. Two (2) of

the City's employees donated their time and with donated cement were able to set the hot tub on the property of the young mans' family

Remarks and Inquiries by City Council

Councilman Smith, Titsworth, Read, and Karr had no comments for the evening.

Councilman Garvin stated that October 13th the Wild West Festival would be held in Old Town.

Vice-Mayor Mason inquired about the status of the Codification contract and the Shredding contract.

City Attorney Ervin stated that he was not sure as of the last communication and would have the answer available tomorrow concerning the Codification contract. He commented that he had not received any communication back from the Shredding company regarding the recommended changes.

Vice-Mayor Mason stated that he would like to see the Codification contract back at the next meeting. He then asked if all the surplused items had been disposed of.

Manager Stasiak stated that everything that the Council had approved as surplus had been sold or salvaged.

Mayor's Comments and Committee Appointments

Mayor Harrison did not have any comments for the evening.

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 Titsworth. 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 7:30 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:31 P.M.

Councilman Smith moved to recess the Regular Meeting for an Executive Session in accordance with Title 25, Sec. B.4 for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: City of McAlester v.

Randy Green, Case No. C-06-844; Jerry McCormick v. McAlester, USDC ED OK 11-CV-166; Michelle & Jerry McCormick v. McAlester, et.al., USDC ED OK 12-CV-62. The motion was seconded by Councilman Titsworth. There was no 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 and the Regular Meeting was recessed at 7:32 P.M.

Executive Session

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

- 1) 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: City of McAlester v. Randy Green, Case No. C-06-844; Jerry McCormick v. McAlester, USDC ED OK 11-CV-166; Michelle & Jerry McCormick v. McAlester, et.al., USDC ED OK 12-CV-62

Reconvene into Open Session

Take any action as a result from Executive Session.

The Regular Meeting was reconvened at 8:06 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session in accordance with Title 25, Sec. B.4 for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: City of McAlester v. Randy Green, Case No. C-06-844; Jerry McCormick v. McAlester, USDC ED OK 11-CV-166; Michelle & Jerry McCormick v. McAlester, et.al., USDC ED OK 12-CV-62. Only those matters were discussed, no action was taken and the Council returned to open session at 8:06 P.M., and this constituted the Minutes of the Executive Session.

Adjournment

There being no further business to come before the Council, Councilman Garvin moved for the meeting to be adjourned, 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 meeting was adjourned at 8:07 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk