

The McAlester City Council met in Regular session on Tuesday, September 25, 2012, at 6:00 P.M. after proper notice and agenda was posted, September 21, 2012, at 3:54 P. M.

Call to Order

Mayor Harrison called the meeting to order.

Stephanie Swinnea, All-Saints Episcopal 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; David Medley, Utilities Director; Brett Brewer, Fire Chief; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

Lloyd Wold addressed the Council regarding the silhouettes that had been removed from the City street signs.

Consent Agenda

- A. Approval of the Minutes from the September 11, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for September 5, 2012 – September 18, 2012. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$168,400.09; Parking Authority - \$71.19; Nutrition - \$1,759.90; Tourism Fund - \$119.85; SE Expo Center - \$3,377.41; E-911 - \$6,893.41; Fleet Maintenance - \$8,378.89; Dedicated Sales Tax-MPWA - \$1,500.00 and CIP - \$51,971.98.
- C. Concur with Mayor's Re-appointment of Mark Emmons to the McAlester Planning Commission for a term to expire May, 2014. *(Steve Harrison, Mayor)*

- D. Concur with Mayor's Re-appointment of Harvey Bollinger to the McAlester Planning Commission for a term to expire May, 2014. *(Steve Harrison, Mayor)*
- E. Concur with Mayor's Re-appointment of John McNally to the McAlester Planning Commission for a term to expire May, 2014. *(Steve Harrison, Mayor)*
- F. Concur with Mayor's Re-appointment of Karen Stobaugh to the McAlester Planning Commission for a term to expire May, 2015. *(Steve Harrison, Mayor)*
- G. Concur with Mayor's Re-appointment of Primus Moore to the McAlester Planning Commission for a term to expire May, 2015. *(Steve Harrison, Mayor)*
- H. Concur with Mayor's Re-appointment of Karl Scifres to the McAlester Planning Commission for a term to expire May, 2015. *(Steve Harrison, Mayor)*
- I. Concur with Mayor's Re-appointment of John McNally to the McAlester Board of Adjustment for a term to expire March, 2014. *(Steve Harrison, Mayor)*
- J. Concur with Mayor's Re-appointment of Susan Kanard to the McAlester Board of Adjustment for a term to expire March, 2015. *(Steve Harrison, Mayor)*
- K. Concur with Mayor's Re-appointment of Karen Stobaugh to the McAlester Board of Adjustment for a term to expire March, 2015. *(Steve Harrison, Mayor)*
- L. Concur with Mayor's Appointment of Bill Nicholson to the McAlester Board of Ethics for a term to expire July, 2016. *(Steve Harrison, Mayor)*
- M. Consider, and act upon, award of bid to Alivia Chemical Solutions for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: aluminum sulfate and copper sulfate. *(David Medley, PE, Director of Utilities)*
- N. Consider, and act upon, award of bid to Brenntag Southwest for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: chlorine, powder activated carbon, and poly-aluminum ferric halide. *(David Medley, PE, Director of Utilities)*
- O. Consider, and act upon, award of bid to Southwest Chemical Services for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: 30% Caustic, Polymer 40% (Dadmac), Polyphosphate, and 20% Sodium Permanganate. *(David Medley, PE, Director of Utilities)*

Councilman Read requested that item "L" be removed for individual consideration and Councilman Smith requested that item "O" be removed for individual consideration.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve Consent Agenda items "A through K and M and N."

Before the vote, Councilman Read asked about the requirements to serve on the City's boards and he asked that those requirements be covered in the agenda to insure they are being met.

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.

Items Removed from Consent Agenda

- L. Concur with Mayor's Appointment of Bill Nicholson to the McAlester Board of Ethics for a term to expire July, 2016. *(Steve Harrison, Mayor)*

A motion was made by Councilman Read and seconded by Councilman Smith to concur with Mayor's appointment of Bill Nicholson to the McAlester Board of Ethics for a term to expire July, 2016.

Before the vote, Councilman Read asked if Mr. Nicholson lived in the City of McAlester and Councilman Karr asked about limits on number of boards that a citizen could serve on.

Mayor Harrison stated that Mr. Nicholson did live in the City of McAlester and if an individual served on the "Ethics Board" they could not serve on any other board.

Councilman Read commented that there were requirements for other boards and he would like to see that information for the appointments.

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

- O. Consider, and act upon, award of bid to Southwest Chemical Services for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: 30% Caustic, Polymer 40% (Dadmac), Polyphosphate, and 20% Sodium Permanganate. *(David Medley, PE, Director of Utilities)*

A motion was made by Councilman Smith and seconded by Councilman Titsworth to award bid to Southwest Chemical Services for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: 30% Caustic, Polymer 40% (Dadmac), Polyphosphate, and 20% Sodium Permanganate.

Before the vote, David Medley addressed the Council informing them that the low bidder of the Polymer 40% (Dadmac) had been Altivia and not Southwest Chemical Services. He asked that they correct this error.

City Attorney Ervin stated that the Council could amend the prior passage of item “M” to include the Polymer 40% (Dadmac) and address item “O” and remove that chemical from that item.

Councilman Smith moved to remove the 40% Polymer (Dadmac) from the award to Southwest Chemical Services. The motion was seconded by Councilman Titsworth. 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.

Councilman Smith moved to award the bid for Polymer 40% (Dadmac) to Altivia. 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.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to open a Public Hearing to address two (2) Ordinances. There was no discussion, and the vote was taken.

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

Mayor Harrison declared the motion carried, and the Public Hearing was opened at 6:18 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), 106.71(b) AND 106.71(c) OF THE MCALESTER CITY CODES FIXING WATER RATES AND REGARDING LOW INCOME GUIDELINES.

There were no comments from the Public or the Council and Councilman Smith moved to close the Public Hearing.

The motion was seconded by Councilman Titsworth 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 and the Public Hearing was closed at 6:19 P.M.

Scheduled Business

1. 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. 2438

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 Karr and seconded by Councilman Titsworth to approve **ORDINANCE NO. 2438**, amending fiscal year 2012-2013 budget.

Before the vote, Ms. Ervin reviewed the budget amendment with the Council explaining that this would appropriate funds for one (1) additional fire recruit and additional health insurance per the 2012-2013 IAFF contract.

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.

Councilman Read moved to approve the EMERGENCY CLAUSE, seconded by Vice-Mayor Mason.

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.

2. Consider and Act Upon, an Ordinance amending Ordinance 2235 & 2214 Sections 106.71 (a), 106.71 (b) and 106.71 (c) of the McAlester City Codes Fixing Water Rates and regarding low income guidelines. This will not increase or decrease water rates. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

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

ORDINANCE NO. 2439

AN ORDINANCE AMENDING SECTIONS 106.71(a), 106.71(b) AND 106.71(c) OF THE McALESTER CITY CODES FIXING WATER RATES AND REGARDING LOW INCOME GUIDELINES.

A motion was made by Councilman Karr and seconded by Councilman Garvin to approve **ORDINANCE NO. 2439.**

Before the vote, Ms. Ervin addressed the Council informing them that the changes that had been recommended at the previous Council Meeting had been incorporated into the Ordinance.

City Attorney Ervin informed the Council that a provision had been made that the \$11.00 decrease would be amended by the analysis of the CPI also.

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.

3. Discussion, and possible action, authorizing the mayor to sign a lease agreement between McAlester Regional Airport Authority and City of McAlester, McAlester, Oklahoma, and EagleMed, LLC for Corporate Hanger No. 30 located at the McAlester Regional Airport for a term of five (5) years beginning October 1, 2012 and ending on October 1, 2017.

Executive Summary

Motion to approve the lease agreement between McAlester Regional Airport Authority and City of McAlester, McAlester, Oklahoma, and EagleMed, LLC and authorize the Mayor to sign the said documents.

City Manager Stasiak requested that this item be pulled until the attorneys representing EagleMed and the City Attorney had time to review the contract.

4. Discussion, and possible action, on approval of certain costs related to the Fire Department. Funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services. *(Brett Brewer, Fire Chief)*

Executive Summary

Motion to approve the cost of graphics to the McAlester Fire Department's "Fire Training Trailer", funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services.

A motion was made by Councilman Read and seconded by Councilman Smith to approve the cost of graphics to the McAlester Fire Department's "Fire Training Trailer", funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services.

Before the vote, Fire Chief Brewer addressed the Council explaining this request of funds was to have the graphics applied to the Fire Safety Trailer at a cost not to exceed \$800.00.

Councilman Read asked if those funds could be used for that type of expenditure.

Chief Brewer commented that the trailer was considered equipment and it had been explained to him it could be used for anything other than salaries.

City Attorney Ervin added that this would be improvements to equipment and the graphics included reflective striping.

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

5. Consider, and act upon, a Resolution declaring certain buildings as dangerous by reason of being dilapidated and a detriment to the welfare of the public and community. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve a Resolution declaring certain buildings as dilapidated and subject to removal.

A motion was made by Councilman Read and seconded by Councilman Smith to approve a Resolution declaring certain buildings as dilapidated and subject to removal.

Before the vote, Manager Stasiak reviewed the two (2) locations that were before the Council for consideration. He informed the Council that the structure at 200 W. Carl Albert Parkway had been taken down to the concrete. He stated that the owner of the structure at 404 E. Chadick was in the process of "Quick Claiming" the property and was requesting a sixty (60) day extension. He added that the new owners were supposed to come to City Hall and apply for a remodel permit. Manager Stasiak requested a sixty (60) day extension on 404 E. Chadick and commented that the structure at 200 W. Carl Albert Parkway was for all intents and purposes had been demolished.

There was a brief discussion among the Council regarding both properties, and strictly following the Ordinance that was currently in place, and informing the new owners of the condemnation action.

City Attorney Ervin recommended that the City proceed with this action. There was no further 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.

6. Consider and Act Upon, bids for the Water Treatment Plant Residuals Handling Improvements Project. On Tuesday, September 11, 2012, two Contractors submitted a bid, J.S. Haren Company of Athens, Tennessee and BRB Contractors, Inc. of Topeka, Kansas. The bids were in the amount of \$1,592,000 and \$1,559,600 respectively. Due to the bid being considerably higher than the City's budgeted amount and the Engineers Estimate of \$645,000, the Engineer, Mehlburger Brawley, and the Utility Department recommends rejection of bid and direction to re-bid. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to reject the bids received on September 11, 2012 by J.S. Haren Company and BRB Contractors, Inc. and directing the Utilities Department to re-bid the project.

A motion was made by Councilman Smith and seconded by Councilman Read to reject the bids received on September 11, 2012 by J.S. Haren Company and BRB Contractors, Inc. and direct the Utilities Department to re-bid the project.

Before the vote, David Medley addressed the Council explaining that the two (2) bids that had been received for the Water Treatment Plant Residuals Handling Improvements Project had been considerably higher than the amount that had been budgeted for the project and the Engineers estimate.

There was a brief discussion concerning discussion with the Engineers, possibly adopting an ordinance addressing this type of occurrence and modifying the scope of the project.

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.

7. Consider, and act upon, authorizing the Mayor to sign a 2013 Grant Agreement with the Oklahoma Highway Safety Office.

Executive Summary

Motion to approve authorizing the Mayor to sign the 2013 Grant Agreement with the Oklahoma Highway Safety Office.

A motion was made by Councilman Smith and seconded by Councilman Read to authorize the Mayor to sign a 2013 Grant Agreement with the Oklahoma Highway Safety Office.

Before the vote, Manager Stasiak explained that this was an overtime grant for the City of McAlester's police officers and the City of McAlester had been using this grant for many years. There 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

8. Discussion and Update on Re-codification and Shred-it Agreements. *(Joe Ervin, City Attorney)*

Executive Summary

Update on the Re-codification and Shredding Agreements.

City Attorney Ervin informed the Council that he believed that both contracts had been finalized and signed by the Mayor. He added that the final changes to both of the contracts had been accepted by the other parties.

Vice-Mayor Mason thanked the City Clerk and the City Attorney for their work in bringing these contracts to completion.

There was no vote on this item.

New Business

There was no new business.

City Manager's Report

Manager Stasiak did not have a report for the evening.

Remarks and Inquiries by City Council

Councilmen Smith and Titsworth had no comments for the evening.

Councilman Read asked about the regular reports that were supposed to be submitted by "Main Street".

Manager Stasiak stated that he had not followed up on those reports but would contact "Main Street" and remind them of their obligation to the City.

Councilman Karr reminded everyone of the October 6th Pride In McAlester clean up.

Councilman Garvin commented that on October 6th a group of volunteers would be cleaning up areas of North Town in preparation for the Wild West Festival. He then informed the Council of some of the activities that had been planned for the festival.

Vice-Mayor Mason commend on the “Main Street” contract and the action plan that should have been furnished to the City with in sixty (60) days of the contract being adopted. He then commented on the status of the “Marketing Alliance” contract stating that was anxious to get this accomplished in the next few days.

Mayor’s Comments and Committee Appointments

Mayor Harrison commented on the City of McAlester’s fire department hosting the Fire Fighters Training the coming weekend. He then asked Chief Brewer to speak about that activity.

Chief Brewer briefly reviewed the activities for the next weekend explaining that there would be various trainings at both the Kiamichi Vo-Tech and the Expo center.

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 7:03 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:05 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: Outlaw Construction v. City of McAlester. The motion was 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 and the Regular Meeting was recessed at 7:06 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: Outlaw Construction v. City of McAlester.

Reconvene into Open Session

Take any action as a result from Executive Session.

The Regular Meeting was reconvened at 8:00 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: Outlaw Construction v. City of McAlester. Only that matter was discussed, no action was taken and the Council returned to open session at 8:00 P.M., and this constituted the Minutes of the Executive Session.

Adjournment

There being no further business to come before the Council, Councilman Smith moved for the meeting to be adjourned, seconded by Councilman Titsworth. 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, and the meeting was adjourned at 8:00 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk