

The McAlester City Council met in Rescheduled Regular session on Thursday, December 27, 2012, at 6:00 P.M. after proper notice was posted, December 11, 2012 and agenda was posted, December 20, 2012, at 2:27 P.M.

**Call to Order**

Mayor Harrison called the meeting to order.

Stephanie Swinnea, All-Saints Episcopal Church, 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 Sam  
Mason & Steve Harrison

Absent: None

Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; William J. Ervin, City Attorney and Karen Boatright, Deputy City Clerk

**Citizen's Comments on Non-agenda Items**

Stephanie Giacomo, Executive Director of Pride In McAlester addressed the Council informing them that the only item that Pride had been focused on this month was the Holiday recycling drive. She then thanked the Council and McAlester residents for helping to make that drive a success.

Ginny Webb, Executive Director of McAlester Main Street Association addressed the Council informing them that Main Street's January calendar had been completed and she then distributed copies of the calendar. She invited the Council to all of Main Street's meeting.

**Consent Agenda**

- A. Approval of the Minutes from the December 11, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for December 5, 2012 – December 18, 2012. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$89,717.71; Parking Authority - \$77.15; Nutrition - \$1,398.22; Employee Retirement - \$2,608.13; Tourism Fund - \$170.51;

SE Expo Center - \$3,587.89; E-911 - \$12,483.40; CDBG Grants Fund - \$4,000.00 and Fleet Maintenance - \$7,057.31.

- C. Accept and place on file the MPower Quarterly Report for July-September 2012. *(Cora Middleton, City Clerk)*
- D. Accept and place on file the Oklahoma for Independent Living Quarterly Report for July-September 2012. *(Cora Middleton, City Clerk)*
- E. Consider and act to authorize Mayor Steve Harrison to attend a federal settlement conference on January 8, 2013, on behalf of the City of McAlester with full authority to settle the case, in Cox v. City of McAlester, case number CIV-12-100-KEW, EDOK. *(Joe Ervin, City Attorney)*

Councilman Read requested that item “E” be removed for individual consideration. Councilman Titsworth requested that item “C” be removed for individual consideration and Vice-Mayor Mason requested that item “A” be removed for individual consideration.

Councilman Read moved to approve Consent Agenda items “B and E”, seconded by Councilman Karr. 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**

- A. Approval of the Minutes from the December 11, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

A motion was made by Vice-Mayor Mason and seconded by Councilman Smith to approve the Minutes from the December 11, 2012 Regular Meeting of the McAlester City Council.

Before the vote, Vice-Mayor Mason commented that he had questions concerning the accuracy of the minutes and since the City Clerk was on vacation he had not had an opportunity to review the DVD of the meeting or discuss the minutes with her. He then moved to table the minutes until the next meeting. That motion was seconded by Councilman Read. 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.

- C. Accept and place on file the MPower Quarterly Report for July-September 2012. *(Cora Middleton, City Clerk)*

A motion was made by Vice-Mayor Mason and seconded by Councilman Smith to accept and place on file the MPower Quarterly Report for July-September, 2012.

Before the vote, Councilman Titsworth commented that after reviewing MPower's the newsletter and report he still was unable to see what had been accomplished. He added that he did not think the Council was getting information on how the money was being spent.

Councilman Read commented that he did not understand what the problem was with the report.

Councilman Titsworth restated his thoughts on the report.

Councilman Smith asked for clarification of the vote. There was no further discussion, and the vote was taken as follows:

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

NAY: Councilman Smith & Titsworth

Mayor Harrison declared the motion carried.

- E. Consider and act to authorize Mayor Steve Harrison to attend a federal settlement conference on January 8, 2013, on behalf of the City of McAlester with full authority to settle the case, in *Cox v. City of McAlester*, case number CIV-12-100-KEW, EDOK. *(Joe Ervin, City Attorney)*

A motion was made by Councilman Read and seconded by Councilman Smith to attend a federal settlement conference on January 8, 2013, on behalf of the City of McAlester with full authority to settle the case, in *Cox v. City of McAlester*, case number CIV-12-100-KEW, EDOK.

Before the vote, Councilman Read commented that he did not have a problem with the Mayor attending the settlement conference but he did not feel that any one member of the Council should have authority to settle the case. It should be a decision made by the entire Council.

City Attorney Ervin explained that the Federal Judge had ordered that one member of the Council with full authority to settle the case be present. He informed the Council that there would be representation from OMAG and the case was filed during the time period that the City had a \$10,000.00 deductible.

Councilman Read moved to modify the motion to "authorize up to the \$10,000.00 deductible."

Councilman Titsworth commented that normally an insurance company has some authority to settle a claim. Mr. Ervin stated that the OMAG representative would be present to authorize any amount over the deductible if needed. He added that at this time the amount of the deductible was all that was being asked for.

Councilman Smith seconded the motion to modify the original motion.

Mayor Harrison clarified that the motion would be to authorize up to the amount of the deductible. 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.

A motion was made by Councilman Smith and seconded by Councilman Read to open a Public Hearing to address an Ordinance concerning the use of tobacco. There was no discussion, and the vote was taken.

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

NAY: None

Mayor Harrison declared the motion carried, and the Public Hearing was opened at 6:16 P.M.

### **Public Hearing**

- **AN ORDINANCE TO AMEND SECTIONS 54-48. TO ARTICLE III, CHAPTER 54, OF THE CODE OF THE CITY OF MCALESTER, OKLAHOMA BY PROHIBITING TOBACCO USE ON CITY-OWNED PREMISES AND PROPERTIES.**

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 Karr 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 Public Hearing was closed at 6:17 P.M.

### **Scheduled Business**

1. TABLED - Discussion, and possible action, authorizing the mayor to sign a lease agreement between McAlester Regional Airport Authority and EagleMed, LLC for Corporate Hanger No. 30 located at the McAlester Regional Airport. *(Joe Ervin, City Attorney)*

Executive Summary

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

A motion was made by Councilman Titsworth and seconded by Councilman Smith to approve and authorize the mayor to sign a lease between the McAlester Regional Airport Authority and EagleMed, LLC for Corporate Hanger No. 30.

Before the vote, City Attorney Ervin informed the Council that the changes from the last meeting had been incorporated and some of the definitions in paragraph three (3) had been expanded.

There was a brief discussion among the Council and Attorney Ervin concerning insurance coverage, the length of the lease and the extension of the lease and reviewing the lease annually.

Patrick Barkley with EagleMed addressed the Council explaining the number of employees that would be employed for the service, the base salary totals and the number of patients that could be transported on the plane.

There was another brief discussion among the Council regarding the amount of the lease, the length of the lease, and possibly using a CPI adjustment for the lease.

Mayor Harrison moved to amend the lease by striking the language “and any Extension Terms, if exercised by the Lessee” from the Base Rent paragraph on Exhibit B. The motion was seconded by Councilman Smith.

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

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

NAY: None

ABSTAIN: (counted as no) Vice-Mayor Mason

Mayor Harrison declared the motion carried.

2. TABLED - Consider, and act upon, endorsing a Resolution of the remaining Trustees to dissolve the McAlester Parking Authority. *(Joe Ervin, City Attorney)*

Executive Summary

Staff recommends authorizing the Mayor to endorse a Resolution to dissolve the McAlester Parking Authority.

City Attorney Ervin commented that he had spoken with Manager Stasiak about this item not being ready to be brought back to the Council, but it appeared to have been tabled at the previous meeting. He stated that there was no action for the Council at this time and recommended that it be postponed indefinitely and brought back at an appropriate time after the other parties had signed off on the Resolution.

Vice-Mayor Mason inquired about the language of the item.

No action was taken.

3. Consider, and act upon, amending Section 54-48 to Article III Chapter 54 of the City of McAlester Code prohibiting the use of tobacco on City-owned premises and properties. *(Pam Kirby, HR Manager and Grant Writer)*

Executive Summary

Motion to approve amending Ordinance that will prohibit tobacco use on City-owned premises and properties, including buildings, facilities, City vehicles, Equipment, City Parks, Trails, Outdoor Facilities, Play Grounds, and Sports areas.

**ORDINANCE NO. 2447**

**AN ORDINANCE TO AMEND SECTIONS 54-48. TO ARTICLE III, CHAPTER 54, OF THE CODE OF THE CITY OF MCALESTER, OKLAHOMA BY PROHIBITING TOBACCO USE ON CITY-OWNED PREMISES AND PROPERTIES.**

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve **ORDINANCE NO. 2447.**

Before the vote, Manager Stasiak explained that this had to with going to a tobacco free environment and promoting a certified healthy community for the future of McAlester. He added that this would be quite a change from no smoking to no tobacco. He informed the Council that he had worked with Tammy Randazzo and Charoletta Lott from the Health Department and this could be tied to grant opportunities in the future.

Ms. Randazzo and Ms. Lott addressed the Council regarding the tobacco policy throughout Pittsburg County, potential grant opportunities, the City's current Merit Level and what other entities were involved with this program.

Manager Stasiak stated that the Ordinance that was before the Council was all new language and needed to be underlined. He added that this would be a good thing for the community.

Councilman Read asked if this applied to facilities that the City leased and how this would be enforced.

City Attorney Ervin explained that this applied to all City owned property, not property that the City leased. It was a change in the law.

Manager Stasiak explained that as the City become aware of incidents it would respond and it would be enforced through the Codes Department and could be fined up to \$500.00 and \$48.00 Municipal Court Costs.

There was a brief discussion among the Council regarding the language of the Ordinance, when the Ordinance would go into effect, who would furnish the signage, when they would be ready, who had submitted the Ordinance, tabling or postponing the item, including the Hospital and how this document compared to other cities Ordinances.

Councilman Smith moved to make the Ordinance effective ninety (90) days from passage. The motion was seconded by Councilman Titsworth.

Vice-Mayor Mason moved to modify the language to "owned or operated by the City of McAlester". The motion was seconded by Councilman Read.

Mayor Harrison stated that the vote would be on the Ordinance as amended by both motions. 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.

4. Consider, and act upon, a lease agreement between the City of McAlester and the U. S. Government to occupy the common/receptionist area and two offices located in the FAA Building at the airport for a term to begin on January 3, 2013 and ending January 2, 2015.  
*(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve lease between City of McAlester and the U.S. Government for a term beginning on January 3, 2013 and ending January 2, 2015.

Councilman Titsworth moved to approve a lease agreement between the City of McAlester and the U. S. Government to occupy the common/receptionist area and two offices located in the FAA Building at the airport for a term to begin on January 3, 2013 and ending January 2, 2015. The motion was seconded by Mayor Harrison.

Before the vote, Manager Stasiak explained that the City had been contacted by Mr. Mullin's staff regarding office space within the City. He explained that in discussion with Mr. Mullin's staff, he was informed that the Representatives budget had been cut and he could pay for staffing but not be able to rent office space. Manager Stasiak informed the Council of the changes that had been made to the lease and of an email from Ms. Vicki Brown.

Mayor Harrison informed the Council of his thoughts on the matter and commented that an occupied building stayed in better shape than an unoccupied building.

Karl Ahlgren, Chief of Staff for Congressman Mullin addressed the Council concerning the budget cuts that would affect the Congressman. He also explained the reason that Congressman Mullin wanted to maintain an office in McAlester and the other cities in the District.

There was a brief discussion among the Council and Mr. Ahlgren, Jason Self and City Attorney Ervin regarding the number of offices that Congressman Mullin wanted to maintain in the District, why they were not looking at office space in the Federal Court House, if the proposed building was being used by the City, if the City could legally lease in this manner, changing the lease to \$1.00 a month, having a Federal presence in McAlester and setting a precedent for other individuals.

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

AYE: Councilman Titsworth, Karr, Garvin & Mayor Harrison

NAY: Councilman Smith, Read & Mason

Mayor Harrison declared the motion carried.

### **New Business**

There was no new business.

### **City Manager's Report**

Manager Stasiak wished everyone a Happy New Year.

### **Remarks and Inquiries by City Council**

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

Councilman Karr inquired on the status of the Washington Street Bridge repair.

Councilman Garvin inquired about detouring traffic from the Washington Bridge to the Carl Albert Parkway Bridge and if the City was prepared to address the forecasted bad weather.

Manager Stasiak commented that the City was working with the Oklahoma Department of Commerce on the Washington Bridge repair. He informed Councilman Garvin that they could look into the detour and the City was preparing for the forecasted inclement weather.

Vice-Mayor Mason did not have any remarks for the evening.

### **Mayor's Comments and Committee Appointments**

Mayor Harrison commented on the low number of water breaks that the City had had during the bad weather.

### **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 Smith, Titsworth, Karr, Garvin, Mason, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 8:07 P.M.

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 8:08 P.M.

Councilman Garvin moved to recess the Regular Meeting for an Executive Session in accordance with Title 25, Section 307.B.4., for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly:

- a. Nakita Williams v. City of McAlester
- b. Randy Green v. City of McAlester – Update

The motion was seconded by Vice-Mayor Mason 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 Regular meeting was recessed at 8:09 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:
  - a. Nakita Williams v. City of McAlester
  - b. Randy Green v. City of McAlester – Update

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 8:49 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session for confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly:

- a. Nakita Williams v. City of McAlester
- b. Randy Green v. City of McAlester – Update

in accordance with Title 25, Sec. 307.B.4. Only that matter was discussed, no action was taken and the Council returned to open session at 8:49 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 Garvin, Mason, Smith, Titsworth, Read, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:50 P.M.

ATTEST:

\_\_\_\_\_  
Steve Harrison, Mayor

\_\_\_\_\_  
Karen Boatright, Deputy City Clerk