

The McAlester City Council met in Regular session on Tuesday, March 26, 2013, at 6:00 P.M. after proper notice and agenda was posted, March 22, 2013, at 10:21 A.M.

**Call to Order**

Mayor Harrison called the meeting to order.

Lay Minister Mimi Kelly of Grace United Methodist 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, Sam Mason & Steve Harrison  
Absent: Buddy Garvin  
Presiding: Steve Harrison, Mayor

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

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

Ginny Webb, Executive Director of McAlester Main Street Association addressed the Council informing them that the State Main Street Banquet was scheduled for May 7, 2013. She distributed invitations to the Council and asked that they RSVP by April 5, 2013, if they were interested in attending the banquet.

**Consent Agenda**

- A. Approval of the Minutes from the March 12, 2013 Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of the Minutes from the March 12, 2013 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of Claims for March 6 – March 19, 2013. *(Toni Ervin, Chief Financial Officer)*  
In the following amounts: General Fund - \$121,201.27; Parking Authority - \$162.57; Nutrition - \$1,595.89; Tourism Fund - \$2,896.80; SE Expo Center - \$22,920.77; E-911 -

\$6,3490.16; Economic Development - \$142,623.50; Gifts & Contributions - \$4,503.75; Fleet Maintenance - \$4,145.07 and Dedicated Sales Tax MPWA - \$7,991.94.

- D. Consider, and act upon, to expend funds of \$1500.00 each for the Mayor and City Manager to attend the McAlester Stampede in Washington D.C. (*Mayor Steve Harrison and Peter J. Stasiak, City Manager*)
- E. Consider and act upon, a request from the McAlester Main Street Board to retain City contributions in excess of expenses (\$4,500) during the absence of a director to establish an account for a master streetscape plan. (*Chris Walker, President, Main Street Board*)
- F. Consider, and act upon, an Agreement for Engineering Services with IMS Infrastructure Management Services to continue the development of a Pavement Management Program for the lump sum fee of \$22,521. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)

Manager Stasiak requested that item “D” be pulled for individual consideration.

Vice-Mayor Mason requested items “E and F” be pulled for individual consideration.

A motion was made by Councilman Smith and seconded by Councilman Garvin to approve Consent Agenda items “A, B and C”. There was no discussion and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

### **Items Removed from Consent Agenda**

- D. Consider, and act upon, to expend funds of \$1500.00 each for the Mayor and City Manager to attend the McAlester Stampede in Washington D.C. (*Mayor Steve Harrison and Peter J. Stasiak, City Manager*)

A motion was made by Councilman Karr and seconded by Councilman Smith to approve the expenditure of \$1,500.00 each for the Mayor and City Manager to attend the McAlester Stampede in Washington D.C.

Before the vote, Manager Stasiak informed the Council that after review of the expenses related to the McAlester Stampede it was determined that the amount needed to be increased to \$2,000.00 each. He added that Mr. Mark Jordan and Mr. Gene Walker were present to answer any questions and review the activities of the Stampede.

Mr. Walker addressed the Council regarding the upcoming Stampede in May and he reviewed the past years activities. He stressed the importance of having this event annually to help

represent the community's support of the Army Plant. He highlighted that this was not a pleasure trip and that the group was very busy during the two (2) full days they were in Washington D.C.

After a brief discussion among the Council and Mr. Walker regarding the performance of the lobbyist and how many individuals would be participating in the event, the vote was taken as follows:

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

NAY: Councilman Garvin & Mason

Mayor Harrison declared the motion carried.

E. Consider and act upon, a request from the McAlester Main Street Board to retain City contributions in excess of expenses (\$4,500) during the absence of a director to establish an account for a master streetscape plan. (*Chris Walker, President, Main Street Board*)

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve a request from the McAlester Main Street Board to retain City contributions in excess of expenses (\$4,500) during the absence of a director to establish an account for a master streetscape plan.

Before the vote, Chris Taylor addressed the Council explaining that Main Street would like to have a plan of what to do with the Downtown and Old Town areas. They would like to partner with the City and have the City establish a fund with the excess expense money to put toward a Master Plan.

Mayor Harrison asked if Main Street would retain the money and establish the fund or return the money to the City, who in turn would establish a dedicated fund.

Mr. Taylor commented that was what Main Street would like the City to do.

There was a brief discussion concerning what would happen to the money if Main Street was not funded in the future, having the money just returned to the City and who would contribute to the account.

City Attorney Ervin recommended that modify the motion if the City was going to establish the account.

Mayor Harrison asked Councilman Smith and Titsworth would to modify the motion to state "the City of McAlester accept the excess money from Main Street and establish an account dedicated for a master streetscape plan for Old Town and Downtown McAlester. Both Council members agreed to the modification.

There was further discussion among the Council, Mr. Taylor and Ginny Webb regarding how funds would be raised, and how the City Engineer would help with the initial ground work. Mayor Harrison restated the motion and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

F. Consider, and act upon, an Agreement for Engineering Services with IMS Infrastructure Management Services to continue the development of a Pavement Management Program for the lump sum fee of \$22,521. (*John C. Modzelewski, P.E., City Engineer and Public Works Director*)

A motion was made by Councilman Smith and seconded by Councilman Garvin to approve an agreement for Engineering Services with IMS Infrastructure Management Services to continue the development of a Pavement Management Program for the lump sum fee of \$22,521.

Before the vote, Vice-Mayor Mason asked why the City was proposing a Phase 2 program to complete a study that could have been completed when the consultant was present in Phase 1. He added that the City did not have the funding to accomplish Phase 1. He recommended doing Phase 2 at a later date when the City may have money.

There was discussion among the Council and Manager Stasiak concerning where Phase 2 would be surveying, how having this additional information could help with the passage of the coming proposition on the Special Election, if the infrastructure under the streets would be repaired when streets were addressed, and if this survey would cover the rest of the City.

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

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

Mayor Harrison declared the motion failed

Councilman Smith moved to open a Public Hearing to address four (4) Ordinances. The motion was seconded by Councilman Read.

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

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

Mayor Harrison declared the motion carried and the Public Hearing was opened at 6:58 P.M.

### **Public Hearing**

**AN ORDINANCE GRANTING TO CENTERPOINT ENERGY RESOURCES CORP., D/B/A CENTERPOINT ENERGY OKLAHOMA GAS, ITS SUCCESSORS AND ASSIGNS FOR A PERIOD OF TWENTY-FIVE YEARS FROM APPROVAL AND**

**ACCEPTANCE OF THIS ORDINANCE, A NONEXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM ALONG ACROSS OVER AND UNDER THE PUBLIC WAYS FOR THE TRANSPORTATION, DISTRIBUTION AND SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY OF MCALESTER; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS; PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE of (2%) OF GROSS SALES; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY; PROVIDING FOR ACCEPTANCE OF FRANCHISE BY GRANTEE AND OPERATIVE DATE THEREOF; 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.**

**AN ORDINANCE AMENDING SECTION 2.67, OF THE McALESTER CODE OF ORDINANCES; MORE PARTICULARLY BY AMENDING SECTION 1, "APPLICATION FOR USE OF SICK LEAVE BANK", ITEM "A" AND DECLARING AN EMERGENCY.**

**AN ORDINANCE AMENDING SECTION 2.67 OF THE CODE OF ORDINANCES; MORE PARTICULARLY PERSONNEL POLICIES SECTION 3.01, "VACATION LEAVE"; AND SECTION 3.02, "SICK LEAVE"; WHICH IS INCORPORATED INTO SECTION 2.67 OF THE CODE OF ORDINANCES OF THE CITY OF McALESTER, OKLAHOMA AND DECLARING AN EMERGENCY.**

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

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

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:59 P.M.

### **Scheduled Business**

1. Consider and Act Upon, authorizing the Mayor to sign an Ordinance granting to Centerpoint Energy Resources Corp., D/B/A Centerpoint Energy Oklahoma Gas, for a period of twenty-five years a non-exclusive franchise and providing for the submission of this ordinance to an election of the qualified voters of the City and providing for

acceptance of Franchise by Grantee and declaring an emergency. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve authorizing the Mayor to sign the Centerpoint Energy Ordinance and declaring an emergency.

### **ORDINANCE NO. 2458**

**AN ORDINANCE GRANTING TO CENTERPOINT ENERGY RESOURCES CORP. D/B/A CENTERPOINT ENERGY OKLAHOMA GAS, ITS SUCCESSORS AND ASSIGNS FOR A PERIOD OF TWENTY -FIVE YEARS FROM APPROVAL AND ACCEPTANCE OF THIS ORDINANCE, A NONEXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM ALONG, ACROSS, OVER AND UNDER THE PUBLIC WAYS FOR THE TRANSPORT A TION, DISTRIBUTION AND SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY OF MCALESTER.R; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS' PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE of (2%) OF GROSS SALES; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY' PROVIDING FOR ACCEPTANCE OF FRANCHISE BY GRANTEE AND OPERATIVE DATE THEREOF; AND DECLARING AN EMERGENCY.**

A motion was made by Councilman Smith and seconded by Councilman Read to approve **ORDINANCE NO. 2458**, addressing CenterPoint's franchise for gas utilities with in the City of McAlester.

Before the vote, Manager Stasiak informed the Council that the current agreement with CenterPoint was ending after twenty-five (25) years and that the fee had not increased during that period.

There was discussion among the Council, City Attorney Ervin and Manager Stasiak regarding the format of the Ordinance, if the City had conducted a survey of other communities about what their fee was, how the fee was calculated and not increasing the fee at this time.

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

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

NAY: None

Mayor Harrison declared the motion carried.

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

AYE: Councilman Mason, Karr, Garvin, 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. 2459**

**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 Smith and seconded by Councilman Garvin to approve **ORDINANCE NO. 2459**, amending Fiscal Year 2012-2013 Budget.

Before the vote, Ms. Ervin addressed the Council reviewing the exhibits to the amendment with them. She explained that this amendment would make the changes to decrease the projected revenues and also reduce various expenditures to help cover the current budget shortfalls.

After a brief discussion regarding which departments would be affected by this amendment and correcting the date in the Ordinance concerning its' date of adoption, the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

3. Consider and Act Upon, amending Section 2.67 of the McAlester Code of Ordinances; Personnel Policies Section 1, Application for use of Sick Leave Bank, Item "A" of the

non-uniform Personnel Policies for the City of McAlester, dated January 2000 and Declaring an Emergency. *(Peter J. Stasiak, City Manager)*

Executive Summary

Staff recommends motion to approve policy and Emergency Clause as presented.

**ORDINANCE NO. 2460**

**AN ORDINANCE AMENDING SECTION 2.67, OF THE McALESTER CODE OF ORDINANCES; MORE PARTICULARLY BY AMENDING SECTION 1, “APPLICATION FOR USE OF SICK LEAVE BANK”, ITEM “A” AND DECLARING AN EMERGENCY.**

A motion was made by Councilman Smith and seconded by Councilman Garvin to approve **ORDINANCE NO. 2460**, amending the City of McAlester’s Personnel Policies.

Before the vote, Manager Stasiak informed the Council that currently employees can donate excess sick leave once a year and other employees can apply for time out of that bank should they experience a serious or long term illness of themselves, their spouses, children or parents. The problem with this has been when an employee exhausts their sick leave but still has comp and vacation time. They apply for and receive time from the Sick Leave Bank and then come back and take vacation. This change would require an employee to exhaust all leave before being eligible to apply for time from the Sick Leave Bank. He added that this change has been recommended by the Sick Leave Bank Committee.

After a brief discussion concerning how employees donate to the Sick Leave Bank and the possibility of combining sick and vacation time, the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

A motion to approve the EMERGENCY CLAUSE was made by Councilman Titsworth and seconded by Councilman Karr. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and Act Upon, amending Section 2.67 of the McAlester Code of Ordinances; Personnel Policies Section 3.01, Vacation Leave and Section 3.02, Sick Leave of the non-uniform Personnel Policies for the City of McAlester, dated January 2000 and Declaring an Emergency. *(Peter J. Stasiak, City Manager)*

Executive Summary

Staff recommends motion to approve policy and Emergency Clause as presented.

**ORDINANCE NO. 2461**

**AN ORDINANCE AMENDING SECTION 2.67 OF THE CODE OF ORDINANCES; MORE PARTICULARLY PERSONNEL POLICIES SECTION 3.01, “VACATION LEAVE”; AND SECTION 3.02, “SICK LEAVE”; WHICH IS INCORPORATED INTO SECTION 2.67 OF THE CODE OF ORDINANCES OF THE CITY OF McALESTER, OKLAHOMA AND DECLARING AN EMERGENCY.**

A motion was made by Councilman Garvin and seconded by Councilman Karr to approve **ORDINANCE NO. 2461**, amending the City of McAlester’s Personnel Policies.

Before the vote, Manager Stasiak explained that currently when an employee needs to use either Sick or Vacation leave they have to take it in four (4) hour increments. He added that this ran into problems for employees that did not need the entire four (4) hours to go to the doctor or dentist. He informed the Council that this would not cause any additional effort to administer the smaller increments.

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

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

Mayor Harrison declared the motion carried.

A motion was made by Councilman Read and seconded by Councilman Titsworth to approve the EMERGENCY CLAUSE. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

**New Business**

There was no new business.

**City Manager’s Report**

Manager Stasiak updated the Council on the City of McAlester’s current financial status and projections for both the General Fund and MPWA through the end of the 2012-2013 Fiscal Year. He commented that the staff and many employees had contributed to the decreases in expenditures to help cover the short falls. Manager Stasiak then reviewed the current staffing levels and explained that all were being accomplished by cross training of employees. He added that the City had been stabilized at this time.

Councilman Karr inquired about the frozen position in Patrol. Manager Stasiak explained that this had been created when one of the Police Officers had retired.

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

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

Councilman Karr asked about the large amount of water that had been drained from the Buffalo Water Tower. Manager Stasiak stated that it was part of the annual maintenance contract with Utility Services.

Councilman Garvin inquired about the status of the environmental study. Mr. Modzelewski explained that there was one more interview that needed to be done and then the consultant would be wrapping the study up.

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

Mayor Harrison stated that he like to reappoint a Council Sub-Committee of Vice-Mayor Mason, Councilman Garvin and Councilman Read to the discussions with MPower for a draft of their Economic Development Services contract for the coming fiscal year, since the City was about to go into the budget process. He also asked that any of the other Councilmen that had input that they would like to provide to please get that input to the Sub-Committee in the next week or two.

### **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 7:37 P.M.

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 7:39 P.M.

A motion was made by Vice-Mayor Mason and seconded by Councilman Garvin to recess the Regular Council Meeting for an Executive Session in accordance with Title 25, Sec. 307.B.4, for confidential communications between a public body and its attorney concerning a pending investigations, claim, or actions, more particularly:

- a) Nakina Williams v. City of McAlester

- b) Randy Green v. City of McAlester
- c) Cox v. City of McAlester
- d) McCormick v. City of McAlester
- e) IAFF v. PERB and The City of McAlester

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

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

Mayor Harrison declared the motion carried and the Regular Meeting was recessed at 7:39 P.M.

### **Executive Session**

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

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) Nakina Williams v. City of McAlester
- b) Randy Green v. City of McAlester
- c) Cox v. City of McAlester
- d) McCormick v. City of McAlester
- e) IAFF v. PERB and The City of McAlester

### **Reconvene into Open Session**

The Regular Meeting was reconvened at 8:28 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) Nakina Williams v. City of McAlester
- b) Randy Green v. City of McAlester
- c) Cox v. City of McAlester
- d) McCormick v. City of McAlester
- e) IAFF v. PERB and The City of McAlester

In accordance with Title 25, Sec. 307.B.4. Only those matters were discussed, no action was taken and the Council returned to open session at 8:28 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 Vice-Mayor Mason. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:29 P.M.

ATTEST:

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

\_\_\_\_\_  
Cora Middleton, City Clerk