

The McAlester City Council met in Regular session on Tuesday, April 23, 2013, at 6:00 P.M. after proper notice and agenda was posted, April 22, 2013, at 10:53 A.M.

Call to Order

Mayor Harrison called the meeting to order.

Pastor Charles Neff, 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; John Modzelewski, City Engineer/Public Works Director; David Medley, Utilities Director; Brett Brewer, Fire Chief; Toni Ervin, Chief Financial Officer; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

Stephanie Giacomo Executive Director of Pride in McAlester addressed the Council reminding them that this Saturday, April 27, 2013, would be the last day for the Spring Clean up and again she urged all citizens to take advantage of the clean up.

Claude Bess, Oklahoma Mesonet, addressed the Council expressing the organizations' appreciation to the City for hosting a Mesonet site for twenty (20) years. He then presented the Mayor with a Certificate of Appreciation and a shadow box containing a used anemometer that had been signed by all of the Mesonet staff.

Consent Agenda

- A. Approval of the Minutes from the April 9, 2013 Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)
- B. Approval of Claims for April 3, 2013 through April 16, 2013. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$106,440.93; Parking

Authority - \$178.55; Nutrition - \$1,527.66; Landfill Res./Sub-Title D - \$5,079.00; Employee Retirement - \$1,331.70; Airport Grant - \$10,924.00; Tourism fund - \$3,413.08; SE Expo Center - \$5,318.35; E-911 - \$6256.00; Economic Development - \$84,569.38; CDBG Grants Fund - \$91,926.00; Fleet Maintenance - \$4,503.06 and Worker's Compensation - \$941.68.

- C. Ratify a One (1) year State Contract SW403 between City of McAlester and SimplexGrinnell in the amount of \$4,118 for maintenance and annual testing of Fire Alarm System in City Hall. (*John Modzelewski, PE, City Engineer and Public Works Director*)
- D. Accept and place on file the MPower 3rd Quarterly Report for Fiscal Year 2012-2013. (*Shari Cooper, Executive Director*)
- E. Accept and place on file the McAlester Main Street 3rd Quarterly Report for Fiscal Year 2012-2013. (*Ginny Webb, Executive Director*)
- F. Accept and place on file the Pride in McAlester 3rd Quarterly Report for Fiscal Year 2012-2013. (*Stephanie Giacomo, Executive Director*)
- G. Authorize the Mayor to sign XTO Energy, Inc. Division Order for Property No. 132143, Jernigen 01-08H05, Pittsburg County, Oklahoma. The DO is confirmation that the well has reached producing status, provides a legal description of the property and confirms the City's decimal interest in revenues. (*Cora Middleton, City Clerk*)
- H. Concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No.33302-ME. (*Cora Middleton, City Clerk*)
- I. Concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No.33297-ME. (*Cora Middleton, City Clerk*)
- J. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 5 and authorizing the Mayor to sign ADDENDUM NO. 5. (*Cora Middleton, City Clerk*)
- K. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 6 and authorizing the Mayor to sign ADDENDUM NO. 5. (*Cora Middleton, City Clerk*)
- L. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 7 and authorizing the Mayor to sign ADDENDUM NO. 5. (*Cora Middleton, City Clerk*)
- M. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 9 and authorizing the Mayor to sign ADDENDUM NO. 5. (*Cora Middleton, City Clerk*)

- N. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 16 and authorizing the Mayor to sign ADDENDUM NO. 5. *(Cora Middleton, City Clerk)*
- O. Consider, and act upon, approving ADDENDUM NO. 5, to the Water Purchase Contract between the City of McAlester and Oklahoma State Penitentiary and authorizing the Mayor to sign ADDENDUM NO. 5. *(Cora Middleton, City Clerk)*
- P. Consider, and act upon, approving ADDENDUM NO. 1, to the Water Purchase Agreement between the City of McAlester and Pliant, L.L.C. and authorizing the Mayor to sign ADDENDUM NO. 1. *(Cora Middleton, City Clerk)*

A motion was made by Councilman Smith and seconded by Councilman Read to approve the Consent Agenda. There was no discussion and the vote was taken as follows:

AYE: Councilman Smith, Read, Titsworth, Read, Karr, Mason & 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 addressing the proposed Capital Program for FY 2013/2014-2017/2018, the Final Performance Report for the CDBG-10 Small Cities Water Project and an Ordinance amending Chapter 46 of the City of McAlester Code of Ordinances. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried, and the Public Hearing was opened at 6:09 P.M.

Public Hearing

- A Public Hearing on the proposed Capital Program for FY 2013/2014 – 2017/2018 for the City of McAlester.
- Public Hearing on the CDBG-10 Small Cities Water Project; Final Performance Report.
- AN ORDINANCE AMENDING CHAPTER 46, ENVIRONMENT, OF THE MCALESTER MUNICIPAL CODE; BY AMENDING ARTICLE II, NUISANCES, SECTION 46-30, SAME-HEALTH NUISANCES AND ARTICLE III, LOT CLEANING, SECTION 46-53, PROHIBITED; RESPONSIBILITIES; REPEALING ALL CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

There no comments from the public 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:

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

NAY: None

Mayor Harrison declared the motion carried, and the Public Hearing was closed at 6:10 P.M.

Scheduled Business

1. Consider, and act upon, authorizing the Mayor to sign a contract between the City of McAlester and K-Bar Company to construct the Mallard Lane and Flamingo Road Drainage Improvements. (*John Modzelewski, PE, City Engineer and Public Works Director*)

Executive Summary

The recommendation is to enter into an agreement with K-Bar Company for a Total Bid equal to \$143,663.87 to construct the Mallard Lane and Flamingo Road Drainage Improvements. The funding source for this project is Account Number 41-5865405.

Councilman Karr moved to authorize the Mayor to sign a contract with K-Bar Company, in the amount of \$143,663.87, to construct the Mallard Lane and Flamingo Road Drainage Improvements. The motion was seconded by Councilman Smith.

Before the vote, John Modzelewski addressed the Council explaining that the project had been advertised on March 17, 2013 and March 24, 2013. H added that two bids had been received and opened on April 9, 2013 with K-Bar being the lowest, responsible and qualified bidder.

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

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

NAY: None

Mayor Harrison declared the motion carried.

2. Presentation of the McAlester Regional Health Center 3rd Quarterly Report for Fiscal Year 2012-2013. (*David Keith, CEO McAlester Regional Hospital*)

Executive Summary

Accept and place on file the McAlester Regional Health Center 3rd Quarterly Report for Fiscal Year 2012-2013.

David Keith, CEO McAlester Regional Health Center addressed the Council updating them on the past quarters activities and improvements at the Hospital. He reviewed the objectives of the hospital, the Safety Initiatives that had been implemented, the various certifications that the Hospital had received, he stressed that the quality of patient care was utmost important and the Primary Care Residency Program. He reviewed the Hospitals' need to expand the Emergency Room and Intensive Care Unit to accommodate the growing number of patients. Mr. Keith

reviewed the Hospital's areas of recruitment, the current staff, the improvements in communication and the implementation of Lean projects.

Melissa Walker, CFO McAlester Regional Health Center reviewed the Hospital's financial statements for the 3rd Quarter of fiscal year 2012-2013.

Mr. Keith discussed the projected reductions in Medicaid and what steps may be taken to address that in the future.

A motion was made by Councilman Read and seconded by Councilman Karr to accept and place on file the McAlester Regional Health Center 3rd Quarterly Report for fiscal year 2012-2013. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon Final Contractor's Pay Estimate No.3- Final for the construction of 2010 CDBG Water Improvements in an amount of \$140,340.00. (*David Medley, PE, Director of Utilities*)

Executive Summary

Motion to approve final payment to C.S. Day & Associates of Tahlequah, Oklahoma for the 2010 CDBG Water Improvements and authorizing the Mayor to sign the Final Application of Payment in the amount of \$140,340.00.

Mayor Harrison commented that it was his understanding that this item needed to be tabled at this time.

A motion to table item "3" was made by Councilman Titsworth and seconded by Councilman Read. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and Act Upon, final acceptance of FY-10 CDBG Small Cities Grant Waterline Project as completed and authorizing Mayor to sign closeout documents. (*Peter J. Stasiak, City Manager and Millie Vance, Grant Writer*)

Executive Summary

Motion to approve authorizing the Mayor to sign the FY-10 CDBG Small Cities Grant Waterline Project closeout documents.

Mayor Harrison stated that this item needed to be tabled as well.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to table item "4". There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

5. Discussion and update on Financials as of March 31, 2013. (*Toni Ervin, Chief Financial Officer*)

Executive Summary

Discussion and Update of Financial Reports as of March 31, 2013.

Ms. Ervin reviewed the financial projections of the City of McAlester as of March 31, 2013. She stated that these projections were out to the end of the fiscal year. She reviewed both the General Fund and the MPWA commenting how the projections would affect the City's end of year balances. She reminded the Council that expenditures were still under budget and the staff was continuing to control spending.

Manager Stasiak commented that the City was about one million under budget for expenditures which gave the City about a \$200,000.00 cushion.

Mayor Harrison commented that unless there were more negative surprises the City was okay for this fiscal year.

6. Consider, and act upon, authorizing the Mayor to sign a Resolution calling for a Special Election on the 13th day of August, 2013, submitting to the registered, qualified voters of the City of McAlester a question concerning a 25 year non-exclusive franchise with Centerpoint Energy Resources Corp., d/b/a/ Centerpoint Energy Oklahoma Gas and issue an Election Proclamation. (*Cora Middleton, City Clerk*)

Executive Summary

Motion to approve authorizing the Mayor to sign a Resolution calling for a Special Election on August 13, 2013 concerning a 25 year non-exclusive franchise with Centerpoint Energy Resources Corp., d/b/a/ Centerpoint Energy Oklahoma Gas and issue an Election Proclamation.

A motion was made by Councilman Smith and seconded by Councilman Karr approving and authorizing the Mayor to sign RESOLUTION NO. 13-03, calling for a Special Election on August 13, 2013, concerning a 25 year non-exclusive franchise with Centerpoint Energy Resources Corp., d/b/a/ Centerpoint Energy Oklahoma gas and issue an Election Proclamation.

Before the vote, Mayor Harrison asked the City Clerk if this had been her submission. Ms. Middleton explained that these were the follow up documents that actually called for the election.

Councilman Smith inquired about the "non-exclusive" franchise and Mayor Harrison commented that it was his understanding that Centerpoint would pay for the election.

City Attorney Ervin explained that this would allow other vendors to provide energy services in the City of McAlester and that Centerpoint would pay all costs related to the Special Election.

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

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

NAY: None

Mayor Harrison declared the motion carried.

7. 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 purchase of tools and equipment for the Brush Truck, with 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 Smith and seconded by Councilman Read to approve the purchase of tools and equipment for the Brush Truck, with 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, Chief Brewer addressed the Council reminding them that a few months ago the Department of Agriculture had donated a truck to the Fire Department. This purchase would outfit the truck with needed miscellaneous tools and equipment and the cost would not exceed \$6,000.00.

There was a brief discussion concerning where the quotes were coming from and what the balance would be after this purchase.

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

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

NAY: None

Mayor Harrison declared the motion carried.

8. Consider and act upon, a Resolution to adopt the Capital Improvement Program 2013/2014-2017/2018. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve the Resolution adopting the Capital Improvement Program for 2013/2014-2017/2018.

A motion to approve RESOLUTION NO. 13-04 adopting the Capital Improvement Program for 2013/2014-2017/2018, was made by Councilman Smith and seconded by Vice-Mayor Mason.

Before the vote, Manager Stasiak commented that this was a Charter required step in formally adopting the Capital Improvement Program and the public hearing had been conducted earlier this evening. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

9. Consider and act upon an Amendment to Airport Consultant LBR's contract with the City of McAlester. (*Mel Priddy, Director of Community Services*)

Executive Summary

Motion to approve an Amendment to LBR's contract with the City of McAlester.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve an Amendment to LBR's contract with the City of McAlester.

Before the vote, city Attorney Ervin explained that he had a conference call with LBR during which the company informed him that they had some studies that would be done in the next week or two. He commented that he thought the appropriate thing to do tonight would be to either pull the item or table it indefinitely and bring it back when LBR had the numbers from the tests.

Mel Priddy commented that it should be ready by the second week in May.

City Attorney Ervin commented that the testing was to see what type of rock the contractors would be dealing with in the area.

Mayor Harrison asked for a motion to table the item indefinitely. A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to table the item indefinitely. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

10. Consider and act upon a Personal Services Agreement with Jim Grego for hay baling on the McAlester watershed, the Steven Taylor Industrial Park and Hwy 31 west of Indian Nation Turnpike in the amount of \$7,250.00. (*Mel Priddy, Director of Community Services*)

Executive Summary

Motion to approve a Personal Services Agreement with Jim Grego for hay baling in the amount of \$7,250.00.

A motion was made by Councilman Smith and seconded by Councilman Read to approve a Personal Services Agreement with Jim Grego for hay baling in the amount of \$7,250.00.

Before the vote, Mel Priddy addressed the Council informing them that the Community Services Department had received six (6) bids for hay baling on the McAlester watershed, the Steven Taylor Industrial Park and Hwy 31 west of Indian Nation Turnpike. He commented that Mr. Grego had been the high bidder at \$7,250.00.

Vice-Mayor Mason expressed concern regarding the City of McAlester being adequately covered with the insurance that was provided.

City Attorney Ervin explained that as certificate holder the City would be covered in any event. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

11. Consider and act upon Re-Plat for “CVS McAlester Addition”. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve the Re-Plat for the “CVS McAlester Addition” and authorize the Mayor to sign the documents.

A motion was made by Councilman Smith and seconded by Councilman Read to approve the Re-Plat for the “CVS McAlester Addition” and authorize the Mayor to sign the documents.

Before the vote, City Manager Stasiak explained that the Planning and Zoning Commission had met on February 19, 2013 and voted unanimously to recommend approval of the Re-Plat. He stated that this would take four (4) lots and combine them into one (1) lot.

There was a brief discussion among the Council and Michael Dogget, Civil Engineer with Winkelmann & Associates regarding when construction would begin and the foreclosure of 10th Street through District Court.

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

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

NAY: None

Mayor Harrison declared the motion carried.

12. Consider, and act upon, an Ordinance of the City of McAlester, Oklahoma, amending Chapter 46, Environment, of the McAlester Municipal Code, Article II, Nuisances, Section 46-30, Same-Health Nuisances and Article III, Lot Cleaning, Section 46-53, Prohibited; Responsibilities; Repealing all Conflicting Ordinances; and Declaring an Emergency. (*Mayor Steve Harrison and Vice Mayor Sam Mason*)

Executive Summary

Motion to approve Ordinance amending Chapter 46, Environment, Article II, Nuisances, Section 46-30 and Article III, Lot Cleaning, Section 46-53.

ORDINANCE N O. 2462

AN ORDINANCE AMENDING CHAPTER 46, ENVIRONMENT, OF THE MCALESTER MUNICIPAL CODE; BY AMENDING ARTICLE II, NUISANCES,

SECTION 46-30, SAME-HEALTH NUISANCES AND ARTICLE III, LOT CLEANING, SECTION 46-53, PROHIBITED; RESPONSIBILITIES; REPEALING ALL CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to approve **ORDINANCE NO. 2462.**

Before the vote, there was discussion among the Council including Manager Stasiak and City Attorney concerning the Attorney's review of the document, the increase in the administrative fee, what would be done if there was no utility connection on the property, the new language in the Ordinance that required property owners to maintain the property to the right-of-way, reminding the citizens to not blow clippings into the street and possibly putting something in the water bill or newspaper to remind the citizens of the code addressing that problem.

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

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

NAY: None

Mayor Harrison declared the motion carried.

Councilman Read moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Titsworth.

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

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

NAY: None

Mayor Harrison declared the motion carried.

New Business

There was no new business.

City Manager's Report

Manager Stasiak reported that the City would be working with contractors looking at concrete panel replacement. They would be going out for quotes on the projects and would keep everyone advised on how the projects were developing.

Councilman Smith asked which areas were being proposed and what the cost could be.

Manager Stasiak commented that the areas would be prioritized in the major corridors and it would be difficult to estimate the costs since each project would be different.

Remarks and Inquiries by City Council

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

Councilman Titsworth inquired about the information that had been supplied regarding the air conditioning at the Expo and if the proceeds from the sale of the land to the Choctaw Nation could be used to install air conditioning at the Expo.

Manager Stasiak explained that the question had previously come up and this was for information purposes only. City Attorney Ervin commented that the Council could decide what purpose the money would be spent for. If it was decided that an economic development purpose was involved at the Expo then that funding could be used.

Councilman Karr thanked the Community Services Department for the job they did cleaning “A” Street. He also commented on the turn out at the Pow Wow. He then asked about the mention of the PBR at the Expo in the City Manager’s report.

Manager Stasiak commented that it would be for one (1) night and then there would be a concert held at the Choctaw Casino after the rodeo.

Mayor’s Comments and Committee Appointments

Mayor Harrison informed the citizens that there would not be another Council meeting until May 14th the day of the Special Election. He commented that there was only one (1) item on the ballot and if the citizens approved the proposition the City would be able to make arrangements to begin the much needed work on the streets in the City. He then urged all of the Citizens to vote yes on May 14th.

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, Mason, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:15 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:19 P.M.

Adjournment

There being no further business to come before the Council, Vice-Mayor Mason moved for the meeting to be adjourned, seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 7:20 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk