

The McAlester City Council met in Regular session on Tuesday, July 9, 2013, at 6:00 P.M. after proper notice and agenda was posted, July 3, 2013, at 4:02 P.M.

Call to Order

Mayor Harrison called the meeting to order.

Stephanie Swinnea, Pastor, All Saints Episcopal Church gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, Travis Read, Robert Karr, Buddy Garvin, Sam Mason & Steve Harrison
Absent: John Titsworth
Presiding: Steve Harrison, Mayor

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

Citizen's Comments on Non-agenda Items

There were no Citizens' comments.

Consent Agenda

- A. Approval of the Minutes from the June 11, 2013 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of the Minutes from the June 20, 2013 Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of Claims for June 19, 2013 to July 2, 2013. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$46,570.29; Nutrition - \$531.75; Employee Retirement - \$2,700.00; Tourism Fund - \$3,666.67; E-911 - \$66.89; Economic Development - \$7,122.16; Fleet Maintenance - \$13,687.66; Worker's Compensation - \$941.68; CIP Fund - \$14,319.84 and Federal Forfeiture Fund - \$33,360.00.
- D. Tabled from Previous Meeting – Consider, and act upon, authorizing the Mayor to sign a contract between the City of McAlester and the Oklahomans for Independent Living. *(Peter J. Stasiak, City Manager)*
- E. Ratify and approve a one-year term Participating Entity Addendum between Blackboard Connect Inc. and City of McAlester, OK – Pittsburg County OK E911 that provides a fully hosted alert notification system for emergency notifications. *(Peter J. Stasiak, City Manager)*
- F. Consider, and act upon, a Ratification of Lease Purchase between the First National Bank & Trust Company and the City of McAlester for a 2011 Freightliner m2106 33000#GVW Truck chassis IN: 1FVACYBS1BDAY3398 with any and all equipment, accessories and attachments to said vehicle; One new DuraPatcher Truck Mounted Style Spray Injection Road Repair Machine; and One new DuraPatcher 6,000 gal. Gravity Feed Vertical Emulsion Storage Tank. *(Toni Ervin, Chief Financial Officer)*

- G. Concur with Mayor's Appointment of Karen Kinkead, 2828 Peaceable Rd to the McAlester Library Board for a term to expire June, 2016. *(Steve Harrison, Mayor)*
- H. 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, 2013 through June 30, 2014. *(Peter J. Stasiak, City Manager)*
- I. Consider, and act upon, the Collective Bargaining Agreement between the City of McAlester and the Fraternal Order of Police, Lodge 97, effective July 1, 2013 through June 30, 2014. *(Peter J. Stasiak, City Manager)*
- J. Consider, and act upon, an Adoption Agreement between American Fidelity Assurance Company and the City of McAlester for Administrative Services for the Section 125 Cafeteria Plan. *(Toni Ervin, Chief Financial Officer)*

Councilman Read requested that item "D" be removed for discussion.

A motion was made by Councilman Smith and seconded by Councilman Read to approve the Consent Agenda items "A, B, C, E, F, G, H, I and J". There was no discussion and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

Items Removed from the Consent Agenda

- D. Tabled from Previous Meeting – Consider, and act upon, authorizing the Mayor to sign a contract between the City of McAlester and the Oklahomans for Independent Living. *(Peter J. Stasiak, City Manager)*

A motion was made by Councilman Read and seconded by Councilman Smith to authorize the Mayor to sign a contract between the City of McAlester and the Oklahomans for Independent Living.

Before the vote, Councilman Read commented about voting on the correct agreement. Manager Stasiak explained that there had been a copying problem. There was no further discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to open a Public Hearing addressing two (2) Ordinances. There was no discussion, and the vote was taken as follows:

AYE: Councilman Mason, Karr, Read, Garvin, Smith & 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 TO VACATE (CLOSE) A SEWER EASEMENT IN THE FOLLOWING LOCATION: LOTS 4, 5, AND 6, IN BLOCK 19, CITY OF MCALESTER, FORMERLY SOUTH MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA.**

- **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCALESTER, OKLAHOMA, AMENDING THE CODE OF ORDINANCES, CHAPTER 62, SECTION 246. DESIGNATION OF THE FLOODPLANE ADMINISTRATOR, REPEALING ALL CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.**

There were no comments or inquiries from the Council or the public and Councilman Smith moved to close the Public Hearing. The motion was seconded by Vice-Mayor Mason, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried, and the Public Hearing was closed at 6:07 P.M.

Scheduled Business

1. Discussion and request from Ms. Janell Brooks regarding rezoning at 804 E. Monroe. *(Peter J. Stasiak, City Manager)*

Executive Summary

For discussion only.

Manager Stasiak explained the rezone request had been denied by the Planning and Zoning Committee and at the last Council meeting Ms. Brooks had requested an appeal, before the Council, regarding the Planning Committee's decision.

Gaylord Brooks addressed the Council regarding Ms. Brooks appeal. He explained that there were several businesses on the East Monroe and after speaking with several of their neighbors found that they all supported the re-zone request. He added that one of the restrictions that the Planning Committee noted was that the lot was required to contain fifty thousand (50,000) square feet.

There was discussion among the Council, Mr. and Ms. Brooks, the City Attorney and Mr. Harvey Bollinger, from the Planning Committee regarding the amount of square footage contained in the property, what type of business Ms. Brooks intended to operate on the property, what the other properties were currently zoned, the other zoning options that were available for that area, if lot size had ever been waived for that particular zoning, the amount of traffic and what might happen if that property were to be zoned as C-2.

Mr. Bollinger further explained the discrepancies that the property had with the Ordinance that regulated that type of zoning. City Attorney Ervin commented that H-1 zoning would best fit that area and Ms. Brooks' proposed business could be granted with a variance.

Vice-Mayor Mason recommended that Ms. Brooks go back to the Planning Committee with a request of H-1 and then if she has any problems to go to the Board of Adjustment or Council for a variance.

There was no vote on this item.

2. Presentation and discussion of Public Private Partnership opportunity for the Operation and Maintenance of the City of McAlester's Water Treatment Plant. *(John C. Modzelewski, P.E., CFM, City Engineer and Public Works Directors)*

Executive Summary

Discussion, and possible action, to authorize staff to proceed with Request for Qualifications to pursue a Public Private Partnership opportunity for the Operation and Maintenance of the City of McAlester's Water Treatment Plant.

John Modzelewski informed that Council that with the work that had been done with the Budget he had been looking at ways to improve the operations of the Water Treatment Plant and one (1) of those options were with a Public Private Partnership. He then introduced Ed Schwab with Severn Trent Services.

Mr. Schwab reviewed the process of entering into a public private partnership and stressed that this was not privatization. He then reviewed many of the myths that were associated with a public private partnership.

There was discussion among the Council, Mr. Schwab, Shane Jeff and Manager Stasiak concerning the advantages that were available with a public private partnership, how a public private partnership could lower cost, improve efficiency of the process, reduced risk, continued control of the Water Treatment Plant, additional training, retaining current staff, guaranteed performance, capital investments, how the financial arrangements would work, what the next step would be and the typical amount of savings to a municipality.

There was no vote on this item.

3. Consider, and act upon, authorizing the Mayor to sign the Proposed Award from the Oklahoma Office of Homeland Security - 2010 Homeland Security Grant Program; Orae Project; #260.113 in the amount of \$2,498.64. (*Brett Brewer, Fire Chief*)

Executive Summary

Motion to approve 2010 Homeland Security Grant Program; Orae Project; #260.113 in the amount of \$2,498.64.

A motion was made by Councilman Smith and seconded by Councilman Read to approve and authorize the Mayor to sign the proposed award from the Oklahoma Office of Homeland Security – 2010 Homeland Security Grant Program; Orae Project; #260.113 in the amount of \$2,498.64.

Before the vote, Fire Chief Brewer addressed the Council explaining that the grant would be used to replace four (4) gas detectors on the Hazmat Unit. There was no other discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

4. Consider and act upon, a “Use Permitted After Review” for medical, office, and retail use. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve and act upon a “Use Permitted After Review” for medical, office, and retail use and authorizing the Mayor to sign the documents.

Councilman Smith moved to approve a “Use Permitted After Review” for medical, office, and retail and authorizing the Mayor to sign the documents. The motion was seconded by Councilman Read.

Before the vote, Manager Stasiak explained that this was an existing building located on the Wyandotte Corridor. The applicant had requested a Use Permitted After Review for medical, office, and retail and that Caring Hands was planning to move into the building.

Vice-Mayor Mason commented that a sign indicating that Caring Hands was moving in even prior to Council action and that could be considered putting the cart before the horse. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

5. Consider and act upon, the closing of a sewer easement in the following location: Lots 4, 5, and 6, in Block 19, City of McAlester, formerly South McAlester, Pittsburg County, State of Oklahoma. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve and act upon the closing of a sewer easement in the following location: Lots 4, 5, and 6, in Block 19, City of McAlester, formerly South McAlester, Pittsburg County, State of Oklahoma and authorizing the Mayor to sign the attached Ordinance.

ORDINANCE NO. 2471

AN ORDINANCE TO VACATE (CLOSE) A SEWER EASEMENT IN THE FOLLOWING LOCATION: LOTS 4, 5, AND 6, IN BLOCK 19, CITY OF MCALESTER, FORMERLY SOUTH MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA

A motion was made by Councilman Karr and seconded by Councilman Smith to approve **ORDINANCE NO. 2471**, closing a sewer easement in the following location: Lots 4, 5, and 6, in Block 19, City of McAlester, formerly South McAlester, Pittsburg County, State of Oklahoma.

Before the vote, Manager Stasiak explained that while working with Ryan Hackett it was discovered that the sewer line did not go through the utility easement. Mr. Hackett was asking that the easement be moved over the sewer line. There was no other discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

6. Consider and act upon, Re-Plat of Block 19, Lots 4, 5, and 6. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve the Re-Plat of Block 19, Lots 4, 5, and 6 and authorize the Mayor to sign the documents.

A motion was made by Councilman Karr and seconded by Councilman Smith to approve the Re-Plat of Block 19, Lots 4, 5, and 6.

Before the vote, Manager Stasiak explained that Mr. Hackett had purchased three (3) lots in the City of McAlester and he was asking that those lots because of their size be re-platted into seven (7) lots. He added that this had gone before the Planning Commission and had been unanimously voted to recommend the re-plat to the Council.

There was a brief discussion among the Council and Manager Stasiak concerning if this had gone before the Board of Adjustment because of the variance request. There was no further discussion, Mayor Harrison clarified that the vote was on the Re-Plat, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

7. Consider, and act upon, a “Pledge and Guarantee” document which authorizes the annual renewal of the City of McAlester’s Participation Agreement with the Association for Landfill Financial Assurance (ALFA). (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Directors*)

Executive Summary

Motion to approve the “Pledge and Guarantee” document and authorize the Mayor to sign after review and approval by City Attorney’s Office.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to approve the “Pledge and Guarantee” document which authorizes the annual renewal of the City of McAlester’s Participation Agreement with the Association for Landfill Financial Assurance (ALFA) and authorize the Mayor to sign after review and approval by the City Attorney’s Office.

Before the vote, John Modzelewski addressed the Council explaining that this was the annual renewal of the Participation Agreement. There was no other discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

8. Consider, and act upon, amending Chapter 62, Land Development Code, Article V, Zoning, Division 4, Flood Hazard Overlay District and Flood Damage Prevention, Section 62-246, Designation of floodplain administrator. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Directors*)

Executive Summary

Motion to approve the Land Development Code, as amended, and declaring an emergency.

ORDINANCE NO. 2472

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCALESTER, OKLAHOMA, AMENDING THE CODE OF ORDINANCES, CHAPTER 62, SECTION 246. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR, REPEALING ALL CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

Councilman Smith moved to approve **ORDINANCE NO. 2472**, changing the Floodplain Administrator from Cliff Pitner, CFM to John C. Modzelewski, P.E., CFM. The motion was seconded by Councilman Read.

Before the vote, John Modzelewski addressed the Council explaining that since Mr. Pitner had retired the Ordinance needed to be changed to reflect the new Floodplain Administrator.

After a brief discussion concerning David Medley becoming a Certified Floodplain Administrator, the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

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

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

Mayor Harrison declared the motion carried.

9. Consider, and act upon, authorizing the mayor to sign an Engagement Letter with Cole & Reed, P.C. for audit services for the fiscal year ending June 30, 2014. (*Toni Ervin, Chief Financial Officer*)

Executive Summary

Motion to authorize the Mayor to sign an Engagement Letter with Cole & Reed, P.C.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to authorize the Mayor to sign an Engagement Letter with Cole & Reed, P.C. for audit services for the fiscal year ending June 30, 2013.

Before the vote, Toni Ervin addressed the Council explaining that this recommendation had been made by the Audit & Finance Advisory Board after their review of all RFP's that had been received by the City of McAlester. There was no other discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

10. Consider, and act upon, a Work Order for Professional Services with Mehlburger Brawley for engineering services required for the design of the 2013 Community Development Block Grant (CDBG) Small Cities Water Improvements. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Directors*)

Executive Summary

Motion to approve and authorize the Mayor to sign the Work Order for Professional Services for Mehlburger Brawley for Professional Engineering Services to complete work required for the 2013 Community Development Block Grant (CDBG) Small Cities Water Improvements upon review and approval of the City Attorney's office. Estimated fee for Professional Services including Engineering and Inspection is \$20,349.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve and authorize the Mayor to sign the Work Order for Professional Services for Mehlburger Brawley for Professional Engineering Services to complete work required for the 2013 Community Development Block Grant (CDBG) Small Cities Water Improvements upon review and approval of the City Attorney's office. Estimated fee for Professional Services including Engineering and Inspection is \$20,349.

Before the vote, John Modzelewski addressed the Council informing them that once again the City had been awarded a CDBG Small Cities grant for water improvements. He stated that the City had sent out RFP's as required by the Department of Commerce and of the RFP's received Mehlburger Brawley had rated the highest.

There was discussion among the Council, John Modzelewski and David Medley regarding the firms that submitted bids for the project, where the firms were located, how the firm was selected, the criteria for selection, the DEQ requirements, and the advantage to having a local firm work on these projects.

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

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

NAY: Councilman Read

Mayor Harrison declared the motion carried.

11. Consider, and act upon, Final and Contractor's Pay Estimate No. 2 – Final for the Taylor Industrial Park 8-Inch Main Water Improvements Project resulting in a final contract amount of \$150,130.00. (*John C. Modzelewski, P.E., CFM, City Engineer and Public Works Directors*)

Executive Summary

Motion to approve final payment for the Taylor Industrial Park 8-Inch Main Water Improvements Project to R & M Utilities, Inc. of Prague, Oklahoma and authorization for the Mayor to sign the Final Application of Payment.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve the final for the Taylor Industrial Park 8-Inch Main Improvements Project to R & M Utilities, Inc. of Prague, Oklahoma and authorize the Mayor to sign the Final Application of Payment.

Before the vote, John Modzelewski addressed the Council explaining that this was the final payment for the 8-inch water line at the Industrial Park. It was the retainage that the City had held until the completion of the contract. He added that the inspections had shown that all requirements had been met.

Vice-Mayor Mason asked if the clean-up and dressing had been done. David Medley informed the Council that everything had been done. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Mason, Read, Garvin & 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 job descriptions and announcements for the Planning & Community Development Director and the Economic Development Director positions had been gotten out this week. He explained that the report the Council had before them contained attachments for the report that he had emailed to them previously. He stated that the preliminary numbers that the City had received from the Oklahoma Tax Commission had been \$52, 000.00 short and the Royalties were approximately \$100,000.00 which continued the upward trend. Manager Stasiak informed the Council that the Planning & Zoning Department had been working with the Choctaw Nation on the re-zoning for the Southside Business Development Center. He commented on the number of personnel that had enrolled in the Defined Contribution Plan. He then reviewed the various construction, Street and CIP projects that were happening in the City.

Remarks and Inquiries by City Council

Vice-Mayor Mason had no comments for the evening.

Councilman Garvin informed the Council that he had spoken with the McAlester School Board concerning "Safe Rooms". He inquired about the position for Economic Development Director, who was currently doing that function and what they were being paid. He asked about the progress of the Dahlgren property, the annexation and progress of the Turnpike construction project and the Airport project.

Manager Stasiak informed the Council that Carl Gullick was currently the Interim Economic Development Director and the position would be paid \$75,000.00 a year with benefits. He commented that Mr. Dahlgren was working with developers. He stated that he was working with the Ervin law firm and Richard Cotton on the Turnpike project and that staff had received a proposal from LBR to re-bid that project and hoped to bring it before the Council at the next meeting.

Councilman Karr commented on the Council addressing the Panhandler issue and the detours and different truck routes through the City.

Manager Stasiak informed Councilman Karr that staff was working on defining truck routes.

Councilman Read expressed concern about the City's assets that MPower had control of and the unsuccessful attempts to obtain those assets. He stated that it was time to instruct the City Attorney to take legal steps to get those records.

City Attorney Ervin commented that there could be an action item on the next agenda regarding the MPower issue and he would continue his efforts to obtain the records.

Vice-Mayor Mason and Councilman Smith both agreed that MPower was something that needed to be legally addressed in a timely manner.

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

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

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:53 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:54 P.M.

Adjournment

There being no further business to come before the Council, Councilman Karr 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, Smith, Read, Garvin, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 7:44 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk