

The McAlester City Council met in Regular session on Tuesday, February 25, 2014, at 6:00 P.M. after proper notice and agenda was posted, February 24, 2014, at 10:41 A.M.

Call to Order

Mayor Harrison called the meeting to order.

Reverend Dr. Charles Neff of the First 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, Jason Barnett & Steve Harrison
Absent: Buddy Garvin
Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; John Modzelewski, City Engineer/Public Works Director; Kirk Ridenour, Economic Development Manager; Toni Ervin, CFO; Timmy Don Adams, Public Works Operations Supervisor; Tim Murray, Utility Maintenance Foreman; William J. Ervin, Jr., City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

Regina Peoples, Executive Director of Pride In McAlester addressed the Council updating them on Pride's activities in February and informed them that there were two (2) Community work days in March. The first was March 8, 2014, at Hutchison Park to work on the Choctaw village and the second would be March 15, 2014, behind Taco Mayo to pick up litter.

Ginny Webb, Executive Director of McAlester Main Street Program, updated the Council on the results from the recent membership drive and that the Community Garden group would be adding herbs to the planters in Down Town. She also commented that on March 10th a Representative with the State Historic Preservation Office would be in town to review Old Town and Down Town and would determine what could be done for the City.

Consent Agenda

- A. Approval of the Minutes from the February 11, 2014, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

- B. Approval of Claims for February 5, 2014 through February 18, 2014. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$114,920.87; Nutrition - \$1,389.03; Landfill Res./Sub-Title D - \$19,274.00; Employee Retirement - \$5,329.16; Tourism Fund - \$726.58; SE Expo Center - \$5,940.87; E-911 - \$6,552.17; Economic Development - \$886.93; Grants & Contributions - \$901.47; CDBG Grants Fund - \$1,420.00; Fleet Maintenance - \$56,440.74; Worker's Compensation - \$941.68 and CIP Fund - \$29,928.53.
- C. Consider, and act upon, to expend funds of \$2500.00 for the Mayor to attend the McAlester Stampede in Washington D.C. on May 6-9, 2014. (*Peter J. Stasiak, City Manager*)
- D. Tabled from Previous Meeting. Consider and act upon to concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No. 134947-TW. (*Cora Middleton, City Clerk*)
- E. Consider, and act upon, approving ADDENDUM NO. 6, to the Water Purchase Contract between the City of McAlester and Oklahoma State Penitentiary and authorizing the Mayor to sign ADDENDUM NO. 6. (*Cora Middleton, City Clerk*)
- F. Consider, and act upon, approving ADDENDUM NO. 6, 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. 6. (*Cora Middleton, City Clerk*)
- G. Concur with Mayor's Re-Appointment of Brent Grilliot, 528 E. Adams Avenue, McAlester 74501 to the McAlester Regional Health Center Authority for a term to expire February, 2020. (*Steve Harrison, Mayor*)

Vice-Mayor Read requested that items "D, E and F" be pulled for individual consideration.

Mayor Harrison commented that Manager Stasiak asked to have item "B" pulled from the Consent Agenda. Mayor Harrison stated that the Consent Agenda consisted of items "A, C, and G".

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve Consent Agenda items "A, C and G.

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

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

NAY: None

Mayor Harrison declared the motion carried.

Items Removed from Consent Agenda

- B. Approval of Claims for February 5, 2014 through February 18, 2014. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$114,920.87; Nutrition - \$1,389.03; Landfill Res./Sub-Title D - \$14,969.00; Employee Retirement - \$5,329.16; Tourism Fund - \$726.58; SE Expo Center - \$5,940.87; E-911 - \$6,552.17; Economic Development - \$886.93; Grants & Contributions - \$901.47; CDBG Grants Fund - \$1,420.00; Fleet Maintenance - \$56,440.74; Worker's Compensation - \$941.68 and CIP Fund - \$29,928.53.

A motion to approve Consent Agenda Item "B" was made by Councilman Smith and seconded by Vice-Mayor Read.

Before the vote, Manager Stasiak explained that two (2) payments had been made to Big Mac for the same service and that the duplicate payment had been voided. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

- D. Tabled from Previous Meeting. Consider and act upon to concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No. 134947-TW. (*Cora Middleton, City Clerk*)

A motion was made by Councilman Titsworth and seconded by Councilman Smith to concur with Oklahoma Municipal Assurance Group's recommendation to deny Claim No. 134947-TW.

Before the vote, Vice-Mayor Read stated that he had asked for this item to be removed to discuss the process used when staff responded to this type of claim. He commented that in the future when an employee responded, they needed to get pictures. He added that this could help in making decisions, no matter the insurances decision. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

- E. Consider, and act upon, approving ADDENDUM NO. 6, to the Water Purchase Contract between the City of McAlester and Oklahoma State Penitentiary and authorizing the Mayor to sign ADDENDUM NO. 6. (*Cora Middleton, City Clerk*)

A motion was made by Councilman Smith and seconded by Councilman Karr to approve ADDENDUM NO. 6, to the Water Purchase Contract between the City of McAlester and Oklahoma State Penitentiary and authorize the Mayor to sign ADDENDUM NO. 6.

Before the vote, there was discussion among the Council, Manager Stasiak and Attorney Ervin regarding the rate that was charged last year, what affected the amount that was charged and when the new rate would go into effect.

After the discussion, Vice-Mayor Read moved to table for further information. The motion was seconded by Councilman Smith. There was no further discussion, and the vote was taken as follows:

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

NAY: Councilman Titsworth

Mayor Harrison declared the motion carried.

F. Consider, and act upon, approving ADDENDUM NO. 6, 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. 6. *(Cora Middleton, City Clerk)*

A motion was made by Councilman Smith and seconded by Councilman Karr to approve ADDENDUM NO. 6, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 6 and authorize the Mayor to sign ADDENDUM NO. 6.

Vice-Mayor Read moved to table ADDENDUM NO. 6, to the Water Purchase Contract between the City of McAlester and Pittsburg County Rural Water District No. 6. The motion was seconded by Councilman Smith.

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

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

NAY: Councilman Titsworth

Mayor Harrison declared the motion carried.

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

AYE: Councilman Smith, Read, Titsworth, Barnett, Karr & 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 OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2467 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2013-14; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING SECTION 2-67. PERSONNEL POLICIES OF THE CODE OF ORDINANCES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

There were no comments from the Council or the audience. Councilman Smith moved to close the Public Hearing, seconded by Vice-Mayor Read. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:17 P.M.

Scheduled Business

1. Consider and act upon accepting the annual City of McAlester Audited Financial Statements and Independent Auditor's Report for Fiscal Year ending June 30, 2013.
(Mike Gibson, Cole & Reed and Toni Ervin, CFO)

Executive Summary

Motion to accept the annual Audit for Fiscal Year ending June 30, 2013 for the City of McAlester.

Councilman Smith moved to accept the City of McAlester Audited Financial Statements and Independent Auditor's Report for Fiscal Year ending June 30, 2013. The motion was seconded by Vice-Mayor Read.

Before the vote, Mike Gibson addressed the Council informing them that his firm had issued an unmodified opinion on the City's Financial Statements. He added that this was the opinion that was wanted.

Toni Ervin informed the Council that the Finance Department had filled out a CAFR report, explaining that this furnished a lot of historical information and they would be filing it with the GFOA.

Mr. Gibson explained that this report provided a lot of transparency and the City was hoping to receive the Certificate of Excellence. He added that the first time the report was filed the City might not received the certificate.

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

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

Mayor Harrison declared the motion carried.

2. A. McAlester Public Library Presentation and Discussion. (Presenter Mr. Bob Basolo)
- B. Consider and Act Upon to renew a Resolution supporting a new Public Library Building and endorsing a fund raising campaign by the Friends of the Library of McAlester, Inc.

Executive Summary
Motion to approve renewing Resolution.

Bob Basolo addressed the Council regarding the McAlester Public Library's activities. He then introduced Christine Sauro, Head Librarian. Ms. Sauro addressed the Council reviewing the various activities for all ages and how busy the Library was during the different seasons.

Mr. Basolo introduced Emily Dunnagen who explained the reason that the Friends of the Library needed a Resolution from the City of McAlester. She reviewed which entity provided or maintained the Library. She reviewed the statistical information regarding the reasons that McAlester needed a new library.

There was discussion among the Council including Mr. Basolo concerning the square footage of the proposed library, the site the group had located for the new library, the location, funding for the new library, the number of books that are discarded annually and the percentage of McAlester residents that use the library.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve RESOLUTION NO. 14-02, supporting the efforts of the Friends of the Library to raise funding for a new library.

Before the vote, Manager Stasiak commented that there were some recommended changes to the Resolution. He read the changes and commented that if the Council were okay with those changes they would be made prior to the Mayor signing the Resolution.

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

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

Mayor Harrison declared the motion carried

3. Consider, and act upon, an Ordinance amending Ordinance No. 2467 which established the budget for fiscal year 2013-2014; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. (*Toni Ervin, CFO*)

Executive Summary
Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2489

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2467 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2013-14; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Vice-Mayor Read and seconded by Councilman Smith to approve **ORDINANCE NO. 2489**.

Before the vote, Toni Ervin addressed the Council reviewing the exhibits to the amendment. She informed the Council that this amendment would appropriate funding for the 30 inch Pump Header Replacement Project, the Economic Development Strategic Analysis Project and donations for the Disc golf course and a Firewise Grant.

After a brief discussion concerning the Pump Header the vote was taken as follows:

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

Mayor Harrison declared the motion carried

Vice-Mayor 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, Barnett, Smith, Titsworth & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried.

4. Consider, and act upon, authorizing the appropriation of \$230,000 for the replacement of the 30 - inch header pipe at the Water Treatment Plant. (*John Modzelewski, P.E., City Engineer and Public Works Director*)

Executive Summary

Motion to approve the appropriation of \$230,000 for the replacement of the 30- inch header pipe at the Water Treatment Plant.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to authorize the appropriation of \$230,000 for the replacement of the 30 - inch header pipe at the Water Treatment Plant.

Before the vote, John Modzelewski explained that this was a follow up from the previous meeting where the replacement of the 30 inch header pipe was discussed and the funds for the replacement of the meter was requested to be added. He commented the meter would measure the amount of water that was treated.

Councilman Barnett clarified that after this appropriation the City would submit this project out for bid. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

5. Consider, and act upon, approval of Change Order No. 1, for an extension of six days to the existing contract with Austin Paving, LLC for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue. (*John Modzelewski, P.E., City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No. 1 for the extension of time to the construction contract with Austin Paving, LLC for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue.

A motion as made by Councilman Smith and seconded by Vice-Mayor Read to approve Change Order No. 1 for the extension of six (6) days to the construction contract with Austin Paving, LLC, for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue.

Before the vote, John Modzelewski addressed the Council explaining that adverse weather conditions were the reason for this request.

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

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

NAY: None

Mayor Harrison declared the motion carried.

6. Consider, and act upon, approval of Change Order No. 2 to the existing contract with Austin Paving, LLC for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue due to the unexpected relocation of an unidentified sewer service line. (*John Modzelewski, P.E., City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No. 2 for the unexpected relocation of an unidentified sewer service line.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve Change Order No. 2, with Austin Paving, LLC, for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue due to the unexpected relocation of an unidentified sewer service line.

Before the vote, John Modzelewski addressed the Council explaining that the company had encountered a sewer service line that had not been documented on any of the City maps.

There was a brief discussion among the Council, Mr. Modzelewski, Tammy Robinson and Jared Eddy, with EST Consultants, concerning where the private sewer line was located, why there were two (2) manholes instead of one (1), the base material, and using a concrete patch on street repairs instead of asphalt.

Vice-Mayor Read asked that Mr. Modzelewski read in detail what Change Order No. 2 actually would entail and the following information be entered verbatim into the minutes of the meeting.

Mr. Modzelewski stated “CIP No. 1: Seventeenth Street from Comanche to South Avenue. The following changes are made to the Contract Documents: This Change Order requests funding to relocate an unknown sewer service line. This work will require an extension of seven (7) days to the contract time and increase the contract by \$27,439.12 for a total contract price of \$611,481.17. The date for substantial completion will be July 8, 2014.”

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

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

NAY: None

Mayor Harrison declared the motion carried.

7. Discussion and possible action on Retail Sales Tax Incentive Program for McAlester Main Street District Businesses and Choctaw Corridor accepting application of enclosed business as an applicant. (*Toni Ervin, CFO*)

Executive Summary

Our recommendation would be to accept this business as an applicant and authorize Mayor to sign certificate of acceptance as a participant in the Retail Sales Tax Incentive Program.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to accept the applications of “The Urban Overlook” and “Back Alley Billiards” as participants in the Retail Sales Tax Incentive Program and authorize the Mayor to sign the certificates.

Before the vote, Toni Ervin addressed the Council explaining that both applicants meet the requirements to participate in the Program.

After a brief discussion regarding the locations of the businesses, the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

8. Consider, and act upon, an Ordinance on proposed revised Personnel Policies, including Drug and Alcohol Testing Policies, for amendment of the City Code section 2-67 and

repeal of any previous Personnel Policies, Employee Handbook, and Administrative Policies; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, CFO)*

Executive Summary

Staff recommends discussion of any changes, questions, concerns, and a motion to approve the Revised Personnel Policies.

ORDINANCE NO. 2490

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING SECTION 2-67. PERSONNEL POLICIES OF THE CODE OF ORDINANCES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve the revised Personnel Polices.

Before the vote, Toni Ervin addressed the Council explaining that the changes made to the City’s Personnel Policies were to bring them into legal compliance and no employee benefits had been changed.

After a brief discussion, the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

Vice-Mayor 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, Smith, Titsworth, Barnett & 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 he would be in National Incident Management System (NIMS) training for the next couple of days. He informed the Council that several employees were working on a “Fun Day” that would coordinate with Armed Forces Day and the first of the Movies in the Park. He added that all funds raised would be donated to Hope House.

Remarks and Inquiries by City Council

Vice-Mayor Read inquired about the money from AT&T for the tower lease. Manager Stasiak commented that the City should receive the funds ninety (90) days after the permit application.

Councilman Karr expressed his gratitude to the citizens of 4th Ward, commenting that it had been a privilege to serve on the Council. He stated that he believed that McAlester was moving in the right direction with the Administration and Council. He then thanked the City's Administration and Council.

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

Mayor's Comments and Committee Appointments

Mayor Harrison thanked Councilman Karr for his service on the Council.

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 Vice-Mayor Read. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:33 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:35 P.M.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to recess the Regular 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, claims, or actions, more particularly:

- City of McAlester v. Randy Green
- Fender v. City of McAlester
- Burris v. City of McAlester
- Wagoner v. City of McAlester

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

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

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:35 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:
 - City of McAlester v. Randy Green
 - Fender v. City of McAlester
 - Burris v. City of McAlester
 - Wagoner v. City of McAlester

Reconvene Council Meeting

The Regular Meeting was reconvened at 8:26 P.M. Mayor Harrison reported that the Council had recessed the Regular 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, claims, or actions, more particularly:

- City of McAlester v. Randy Green
- Fender v. City of McAlester
- Burris v. City of McAlester
- Wagoner v. City of McAlester

Only that matter was discussed, no action was taken and the Council returned to open session at 8:26 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 Read. There was no discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:26 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk