

The McAlester City Council met in Special session on Monday, July 28, 2014 at 5:30 P.M. after proper notice and agenda was posted, July 25, 2014 at 4:05 P.M.

Call to Order

Mayor Harrison called the meeting to order.

Roll Call

Council Roll Call was as follows:

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

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

Scheduled Business

1. Consider, and act upon, approval of Change Order No. 4R, for an extension of ten 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.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to approve Change Order No. 4R, , for an extension of ten 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.

Before the vote, Manager Stasiak explained that Change Order 4R was approved by Council for an extension of ten (10) days but never signed by Mr. McDonald. He added that after discussion between Mr. McDonald's attorney and the Attorney Ervin it is the City's recommendation for Mr. McDonald to sign the Change Order No. 4R which gets them to July 28, 2014.

There was discussion among the Council, Attorney Ervin, Engineer Modzelewski and Manager Stasiak concerning if the Change Order would change the City's legal standing with approving the Change Order, who kept track of the inclement weather, if this and the next change order was due to weather, what the additional language in the change order allowed, the situation with communications with Austin Paving, if work had taken place when it was supposed to have taken place, the number of extensions, and the various causes for the extension requests.

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

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

Mayor Harrison declared the motion carried.

2. Consider, and act upon, approval of Change Order No. 5, to the existing contract with Austin Paving, LLC for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue.

A motion was made by Smith and seconded by Vice-Mayor Read to approve Change Order No. 5, to the existing contract with Austin Paving, LLC for construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue.

Before the vote, Engineer Modzelewski addressed the Council explaining that this Change Order would extend the contract by forty-seven (47) days and change the substantial completion date to September 13, 2014.

There was discussion regarding the number of requested extension days, if the City Engineer agreed with these requests, the biggest reason for the delays, the original completion date, what days the contractor did or didn't work, communication problems, the penalties included in the contract, the addition of specific milestones if the Change Order was approved, and how the contractor planned to continue and complete the project.

Vice-Mayor moved to modify the completion date for Change Order No. 5 to September 16th from September 13th and milestones 1, 2 and 3 be included in Change Order No. 5 verbatim as shown in the submitted email and those changes be made prior to Mr. McDonald for approval. The motion was seconded by Councilman Smith.

Mayor Harrison asked Attorney Ervin if the Council needed to vote on the modification separately and then vote on the original motion.

Attorney Ervin asked if Councilman Smith was agreeable with modifying his motion. Councilman Smith indicated that he agreed with the modification.

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

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

Mayor Harrison declared the motion carried.

3. Consider, and act upon, an amendment to the Professional Services Agreement with EST, Inc. to provide Construction Management Services during the construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue.

A motion was made by Councilman Smith and seconded by Councilman Karr to authorize the Mayor to sign an amendment to the Professional Services Agreement with EST, Inc. to provide Construction Management Services during the construction of road and infrastructure improvements along Seventeenth Street from Comanche Avenue to South Avenue for a total fee of \$35,000.

Before the vote, Manager Stasiak explained that the original completion date was June 23rd and the project was now going eighty (80) days past that date. He added that EST was asking for a lump sum of \$35,000.00 to cover the extension of time.

There was discussion concerning what the original contract contained, how the additional amount was calculated, the amount of extensions and if the firm saw any further changes in their charges.

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

AYE: Councilman Smith, Karr & Mayor Harrison

NAY: Councilman Read & Titsworth

Mayor Harrison declared the motion failed.

Recess Council Meeting

Mayor Harrison asked for a motion to recess the Special Meeting to convene the McAlester Public Works Authority. A motion was made by Councilman Smith and seconded by Vice-Mayor Read to recess the Special Meeting to convene the McAlester Public Works Authority. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried and the Special Meeting was recessed at 6:34 P.M.

Reconvene Council Meeting

The Special Meeting was reconvened at 6:35 P.M.

A motion was made by Councilman Smith and seconded by Vice-Mayor Read to recess the Special 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

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

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

NAY: None

Mayor Harrison declared the motion carried and the Special Meeting was recessed at 6:35 P.M.

Executive Session

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

- 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

Reconvene Council Meeting

The Special Meeting was reconvened at 7:08 P.M. Mayor Harrison reported that the Council had recessed the Special 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. Only that matter was discussed, no action was taken and the Council returned to open session at 7:08 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 to adjourn the meeting. The motion was seconded by Vice-Mayor Read, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried and the meeting was adjourned at 7:10 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk