

Council Conference Room  
Municipal Building  
June 30, 2008

The McAlester City Council met in Special session on Monday, June 30, 2008, at 6:00 P.M. after proper notice and agenda was posted June 26, 2008, at 9:40 P.M.

**CALL TO ORDER**

Mayor Lewis called the meeting to order. Council Roll Call was as follows:

Present: Weldon Smith, Sam Mason, Buddy Garvin, Haven Wilkinson & Mayor Lewis

Absent: Travis Read & Donnie Condit

Presiding: Don Lewis, Mayor

Staff Present: Robert Ivester, City Attorney and Cora Middleton, City Clerk

**SCHEDULED BUSINESS**

Mayor Lewis called the Special Meeting to order.

Councilman Wilkinson moved to recess the Special Meeting for an Executive Session to discuss the status of negotiations between the City and the IAFF, Local No. 2284, including any interest arbitration award for a collective bargaining agreement for FY 2007-2008 and for confidential communications with legal counsel concerning any claims of Local No. 2284 in connection with any interest arbitration award upon advice of counsel that public disclosure would impair the ability of the public body to process any such claim, in accordance with Sec. 307.B.2 and 4. The motion was seconded by Councilman Garvin.

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

AYE: Councilman Smith, Wilkinson, Garvin, Mason & Mayor Lewis

NAY: None

Mayor Lewis declared the motion carried and the meeting was recessed at 6:02 P.M.

Mayor Lewis invited the Council-elect to attend the Executive Session.

**EXECUTIVE SESSION**

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

- Consideration and possible action to enter into executive session to discuss status of negotiations between the City and the IAFF, Local No. 2284, including any

interest arbitration award for a collective bargaining agreement for FY 2007-2008 and for confidential communications with legal counsel concerning any claims of Local No. 2284 in connection with any interest arbitration award upon advice of counsel that public disclosure would impair the ability of the public body to process any such claim, all as authorized pursuant to 25 O.S. Section 307(B)(2) and (4).

### **RECONVENE INTO OPEN SESSION**

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*Take any action as a result from Executive Session.*

The Regular Meeting was reconvened at 7:18 P.M. Mayor Lewis reported that the Council had recessed the Regular Meeting for an Executive Session to discuss the status of negotiations between the City and the IAFF, Local No. 2284, including any interest arbitration award for a collective bargaining agreement for FY 2007-2008 and for confidential communications with legal counsel concerning any claims of Local No. 2284 in connection with any interest arbitration award upon advice of counsel that public disclosure would impair the ability of the public body to process any such claim, in accordance with Sec. 307.B.2 and 4. Only those matters were discussed and the Council returned to open session at 7:18 P.M.

Councilman Garvin moved to accept the Arbitration decision on IAFF Local No. 2284. The motion was seconded by Councilman Wilkinson.

Before the vote, Councilman Smith commented that he would like to read from correspondence that was received from Interest Arbitrator Michael Vanderburg. Councilman Smith read the following "The issue of wages is the point in the analysis that I believe the Opinion of Mr. Bennett contains error. The Union and the City had reached an agreement on wages. There may have been a mistaken reliance on press reports, and there may have been a failure to be thorough in the negotiations process, but the facts are that the Union and the City reached an agreement and that this agreement was the 5% proposal of the City. It was only when the Union realized that the Police had negotiated a 6% raise that the Union wanted out of the deal it actually made and declared impasse. Unfortunately for that position, the law of Oklahoma (51 O.S. § 51-106) does not allow them to void their lawful agreement and start over. They are bound by the agreement they actually made. The most that can be said for the declaration of impasse and the invocation of arbitration is that the arbiters must decide which proffered language in the respective last best offers, most accurately and properly records the agreement as actually made. The mistake here is that allowing the Union to avoid the consequences of the agreement they admit they actually made, not only approaches a determination of bad faith, but it completely undermines the entire legal foundation for the obligation to collectively bargain. If one side can simply ignore their agreements, than the negotiations can never be binding (Midwest City) and the requirement of good faith (Stone) becomes meaningless. Effectively, this proposed decision reverses Johnson and imposes an ongoing obligation to renegotiate settled provisions of the contract. This the Arbitration Board has no power to do. I cannot reward this kind of conduct by the Union. They are bound by the agreement they actually made on wages. The substance of the

wage dispute is not properly before this board, and it is the City's Last Best Offer that contains the language that most accurately reflects the agreement both sides admit they made."

Councilman Smith commented that the first meeting he attended, as a Councilman; the agenda included the IAFF negotiations. He added that he thought they had been completed at that time.

Mayor Lewis asked that a copy of the letter that Councilman Smith had read from be given to the City Clerk.

Councilman Mason asked the City Attorney, if this motion passes, can the City legally appropriate and encumber the necessary funds now and amend the Budget at a later date.

Mr. Ivester stated that he thought it would be legal.

Mayor Lewis stated that the motion did not include the appropriation of the funds. He then asked Councilman Garvin if he would include the wording to appropriate the necessary funding.

Councilman Garvin stated that he would like to add, "To direct the City Manager to encumber the amount necessary to fund that decision."

Councilman Wilkinson stated that he was okay with that addition and would continue to second the motion.

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

AYE: Councilman Wilkinson, Garvin & Mayor Lewis

NAY: Councilman Mason & Smith

Mayor Lewis declared the motion carried.

### **ADJOURNMENT**

There being no further business to come before the Council, Councilman Wilkinson moved for the Special Meeting to be adjourned. The motion was seconded by Councilman Garvin and the vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Smith & Mayor Lewis

NAY: None

Mayor Lewis declared the motion carried, and the meeting was adjourned at 7:25 P.M.

ATTEST:

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Don R. Lewis, Mayor

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Cora Middleton, City Clerk