

The McAlester City Council met in regular session on Tuesday, July 14, 2009, at 6:00 P.M. after proper notice and agenda was posted, July 8, 2009, at 9:11 A.M.

CALL TO ORDER

Mayor Priddle called the meeting to order.

INVOCATION & PLEDGE OF ALLEGIANCE

- Charles Neff, Pastor, First United Methodist Church

ROLL CALL

Council Roll Call was as follows:

Present: Chris Fiedler, Donnie Condit, John Browne, Haven Wilkinson, Buddy Garvin, Sam Mason & Mayor Priddle

Absent: None

Presiding: Kevin E. Priddle, Mayor

Staff Present: Mark Roath, City Manager; Pete Stasiak, Planning & Community Development Director; Dave Medley, Utilities Director; William J. Ervin, Jr., City Attorney and Karen Boatright, Deputy Clerk

CITIZENS' COMMENTS ON NON-AGENDA ITEMS

None

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- A. Approval of Minutes from the June 23, 2009, Special Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- B. Approval of Minutes from the June 23 2009, Regular Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- C. Approval of Minutes from the June 29, 2009, Special Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- D. Concur with Mayor's reappointment of Dr. Kenneth Miller to the McAlester Economic Development Service, Inc. for a term that expires June, 2012.** *(Kevin E. Priddle, Mayor)*
- E. Concur with Mayor's reappointment of Jack Inman to the McAlester Economic Development Service, Inc. for a term that expires June, 2012.** *(Kevin E. Priddle, Mayor)*
- F. Concur with Mayor's appointment of Pam Pulchny to the Americans with Disabilities Act Board for a term that expires August, 2010.** *(Kevin E. Priddle, Mayor)*
- G. Pledge and Guarantee document which authorizes the annual renewal of the Participation Agreement with the Association for Landfill Financial Assurance.** *(David Medley, Utility Director)*
- H. Approval of Claims for June 24, 2009 through June 30, 2009.** *(Sherry Alessi, Assistant Chief Financial Officer)*

- I. **Approval of Claims for June 24, 2009 through June 30, 2009.** (*Sherry Alessi, Assistant Chief Financial Officer*)
- J. **Approval of Claims for July 1, 2009 through July 14, 2009.** (*Sherry Alessi, Assistant Chief Financial Officer*)
- K. **Approval of Claims for July 1, 2009 through July 14, 2009.** (*Sherry Alessi, Assistant Chief Financial Officer*)

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Councilman Mason requested that item “B” be removed for individual consideration.

Councilman Wilkinson moved for approval of items “A and C through K” of the consent agenda. The motion was seconded by Vice-Mayor Garvin. There was no discussion and the vote was taken as follows:

AYE: Councilman Fiedler, Browne, Wilkinson, Garvin, Mason & Mayor Priddle
 NAY: None

Mayor Priddle declared the motion carried.

ITEMS REMOVED FROM CONSENT AGENDA

- B. **Approval of Minutes from the June 23 2009, Regular Meeting of the McAlester City Council.** (*Cora Middleton, City Clerk*)

Vice-Mayor Garvin moved for approval of Minutes from the June 23, 2009, Regular Meeting of the McAlester City Council. The motion was seconded by Councilman Fiedler.

Before the vote, Councilman Mason asked if the City Manager had been notified of the amended scheduling order. Mr. Ervin stated that they had not received the amended scheduling order, and it should have stated that the scheduling order would be available within ten (10) days of being filed with the District Court.

Mayor Priddle commented that the minutes needed to be amended to say “that the amended scheduling order would be furnished within ten (10) days of filing with the District Court.”

Councilman Mason commented that Mr. Ruminer had stated that the Council would be furnished with a letter explaining that the previous application had been a preliminary application and he would furnish the Council with a copy of that letter. He noted that he would like the minutes to reflect that the letter had not been received. He then inquired about the status of the grant and stated that he had heard that it had been awarded. Mr. Stasiak said that the City had not submitted the final application, but he had been notified through an email that the grant had been awarded to the City.

Mayor Priddle stated that the motion would be to approve the Minutes from the June 23 2009, Regular Meeting of the McAlester City Council with the above mentioned amendment.

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

AYE: Councilman Condit, Browne, Wilkinson, Garvin, Mason, Fiedler & Mayor Priddle
 NAY: None

Mayor Priddle declared the motion carried.

PUBLIC HEARING

All persons interested in any ordinance listed under Scheduled Business shall have an opportunity to be heard in accordance with Article 2, Section 2.12(b) of the City Charter.

Councilman Wilkinson moved to open the Public Hearing to discuss the City seeking funding assistance from the Oklahoma Department of Commerce. This funding is available through the Community Development Block Grant (CDBG) 2009 State Small Cities Program and to discuss an ordinance amending General Zoning Ordinance No. 1843 (1989) and accompanying map by rezoning property (as described) in the ordinance from I-2 (Heavy Industrial) to C-4 (Restricted

Commercial). The motion was seconded by Councilman Browne. There was no discussion and the vote was taken as follows:

AYE: Councilman Browne, Wilkinson, Garvin, Mason, Fiedler, Condit & Mayor Priddle
NAY: None

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

- **Public Hearing: Public Hearing for the City of McAlester to seek funding assistance from the Oklahoma Department of Commerce. This funding is available through the Community Development Block Grant (CDBG) 2009 State Small Cities Program.**
- **An Ordinance amending General Zoning Ordinance No. 1843 (1989) and accompanying map by rezoning property (as described) in the ordinance from I-2 (Heavy Industrial) to C-4 (Restricted Commercial).**

There were no comments from the audience or the Council regarding the two ordinances and Mayor Priddle asked for a motion to close the Public Hearing.

Vice-Mayor Garvin moved to close the Public Hearing, seconded by Councilman Wilkinson. There was no discussion, and the vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle
NAY: None

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

SCHEDULED BUSINESS

- 1. Presentation of the “Yard of the Month”.** *(Kevin E. Priddle, Mayor and J. T. Collier, President of Pride-in-McAlester)*

Executive Summary

This agenda item involves the naming of a “Yard of the Month”.

Mayor Priddle announced that this had been skipped at the previous meeting and therefore there would be two (2) properties of the month. He reviewed the requirements to meet the nomination and then announced the two properties as follows:

Don and Christie Schuller at 610 E. South Street
Eric and Georgia Horne at 800 W. Coal

- 2. Review of the City of McAlester Citizen Participation Plan for 2009.** *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves another review of the McAlester Citizen Participation Plan for 2009.

Councilman Fiedler moved to open the review of the City of McAlester Citizen Participation Plan for 2009. The motion was seconded by Councilman Condit.

Before the vote, Pete Stasiak addressed the Council stating that this had been adopted a month ago. Mayor Priddle stated that then there would be no need for action on the item tonight.

- 3. Consider, and act upon, an Ordinance amending General Zoning Ordinance No. 1843 (1989) and accompanying map by rezoning property (as described) in the ordinance from I-2 (Heavy Industrial) to C-4 (Restricted Commercial).** *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves a rezone request, which the purpose of the request was unstated.

ORDINANCE NO. 2328

AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATIONS OF THE ZONING DISTRICT FOR: LOTS 3, 4 AND THE WESTERLY 27FT. OF LOT 2 ALL IN BLOCK 330, CITY OF MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM I-2 (HEAVY INDUSTRIAL DISTRICT) TO C-4 (RESTRICTED COMMERCIAL).

Councilman Wilkinson moved for approval of **ORDINANCE NO. 2328**, seconded by Vice-Mayor Garvin.

Before the discussion, Pete Stasiak distributed revised copies of the Ordinance based on the comments by City Attorney William J. Ervin, Sr. He added that there had been no negative comments related to the rezoning. He commented that the individuals purchasing this property would be building a veterinary clinic.

There was a brief discussion concerning the condition of 14th Street and the railroad crossing at that location.

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

AYE: Councilman Garvin, Mason, Fiedler, Condit, Browne, Wilkinson & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

4. Consider, and act upon, Land Use Acceptance and accompanying map to grant Use Permitted After Review. *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves a request to expand the Mega Splash Car Wash.

Councilman Browne moved to approve the Land Use Acceptance and accompanying map to grant Use Permitted After Review. The motion was seconded by Councilman Condit.

Before the vote, Pete Stasiak explained that this was an existing car wash “Mega Splash” and they were planning to expand to add another car wash bay and equipment room, two (2) dog washes and a restroom and garage area for a detail shop. This had been heard by the Planning Commission and had been approved unanimously to send to the Council.

Councilman Browne asked that there be no loitering signs added to help curtail the noise level.

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

AYE: Councilman Mason, Fiedler, Condit, Browne, Wilkinson, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

5. Consider, and act upon, Land Use Acceptance and accompanying map to grant Use Permitted After Review. *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves the building of the new City of McAlester Fire Emergency Complex.

Councilman Fiedler moved to approve a Land Use Acceptance and accompanying map to grant Use Permitted After Review. The motion was seconded by Vice-Mayor Garvin.

Before the vote, Pete Stasiak explained that this was for the new City of McAlester Fire Emergency Complex located off of Village Avenue. He stated that under the current zoning was R-3 (Multi-Family Residential) and public buildings are permitted after review.

Councilman Mason inquired as to why on the Use Permitted After Review Land, Use Acceptance form the issuance of the building permit for said Development as hereby authorized by the McAlester City Council, knowing that the Contractor usually takes out the building permit. Mr. Stasiak stated that he would look into that and get back with the Council. Councilman Mason stated that he would like to amend this, and to maybe table this until the next meeting, so that Mr. Stasiak could come back with the information. Councilman Mason moved to strike the wording “the issuance of the building permit for said Development as hereby authorized by the McAlester City Council” on the Use Permitted After Review Land, Use Acceptance. Mayor Priddle seconded the motion.

Mayor Priddle clarified that the motion was to approve a Land Use Acceptance and accompanying map to grant Use Permitted After Review, striking the language, the issuance of the building permit for said Development as hereby authorized by the McAlester City Council.

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

AYE: Councilman Fiedler, Condit, Browne Wilkinson, Garvin, Mason & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

6. Consider, and act upon, a roadway easement for CenterPoint Energy on Steven Taylor Boulevard at the end of the cul-de-sac. *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves a request to grade and rock the roadway and install a locked gate to limit access.

Councilman Fiedler moved to approve a roadway easement for CenterPoint Energy on Steven Taylor Boulevard at the end of the cul-de-sac. The motion was seconded by Councilman Browne.

Before the vote, Pete Stasiak distributed maps to the Council; he then explained that his department had been approached by representatives of CenterPoint Energy regarding an easement at the end of the cul-de-sac on Steven Taylor Boulevard in the Industrial Park. He commented that this would give them access to their facilities. He added that they were requesting to grade and rock the road and install a locked gate. A key would be given to the City if required.

There was discussion among the Council and Manager Roath regarding any language in the document that would limit or deny access to others if the City at some time decided to sell or lease adjoining property in the future, granting an easement on a public road, losing the availability of approximately twenty eight (28) acres and giving CenterPoint permission to gravel the road and build a gate.

Mayor Priddle moved to table this item and send to the City Manager and City Attorney to develop a solution. The motion was seconded by Councilman Fiedler.

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

AYE: Councilman Wilkinson, Garvin, Mason Fiedler, Condit, Browne & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

7. Consider, and act upon, a Option Agreement and Resolution for the sale of city owned surplus real estate known as Lots 1, 2, & 3, Block 150, South McAlester, located on Tyler Avenue and situated between and adjacent to Ninth Street and Tenth Street in the City of McAlester, Oklahoma. *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves the sale of City owned land to Accessible Space, Inc. for \$1.00 contingent upon ASI receiving funding.

Councilman Mason moved to approve an Option Agreement and Resolution for the sale of city owned surplus real estate known as Lots 1, 2, & 3, Block 150, South McAlester, located on Tyler Avenue and situated between and adjacent to Ninth Street and Tenth Street in the City of McAlester, Oklahoma. The motion was seconded by Vice-Mayor Garvin.

Before the vote, Pete Stasiak addressed the Council explaining that this property was owned by the City and to his knowledge had no plans or need for the property. He explained that Oklahoman's for Independent Living had partnered with Accessible Space, Inc. (ASI) to purchase this land for \$1.00 contingent upon ASI receiving funding for the project from the Department of Housing and Urban Development (HUD). He added that he believed this was to be a thirteen (13) unit housing development for low-income senior. He then introduced Mr. Dan Billmark, Director of Real Estate Development for ASI.

Mr. Billmark addressed the Council explaining that ASI was the nations' largest provider of Section 811 housing. He added that this development would continue as Section 811 housing past the four (4) year requirement.

There was discussion among the Council concerning the interpretation of the purchase option, the City Attorney's opinion of the sale of the land and all recommendations of the opinion be addressed. During the discussion, Councilman Mason requested that the City Attorney's opinion be included verbatim in the minutes of this meeting. That opinion is as follows:

“From: William Ervin [<mailto:erwinlaw@sbcglobal.net>]
Sent: Monday, July 06, 2009 2:47 PM
To: Peter Stasiak
Cc: Mark Roath
Subject: City Authority to Sell Land to a Non Profit Organization

Dear Peter:

This is to respond to your inquiry of June 30, 2009 regarding the City's authority to sell land to a qualified non-profit organization for the sum of one dollar to facilitate its acquisition of a grant to build a 13 unit public housing apartment complex.

My general answer to your question is yes, the City can sell land it owns to a qualified non-profit organization for a nominal sum for such public purpose. However, there are some qualifying conditions for such sale.

First, the City's authority to sell land comes under Article 3 Sec. 3. 06 of the City's Charter. If valued at more than \$50,000.00, the sale would have to be approved by a majority of electors at an election held for such purpose or by passage of a non emergency ordinance by the City Council with public notice thereof and an election, if a valid petition for referendum is filed within 30 days. No such conditions exist for real property valued at less than \$50,000.00. These requirements presuppose the further condition that the real property be appraised in order to determine if the land's value is more or less than \$50,000.00. In my opinion, this would be a City responsibility and would not be met by ASI's HUD appraisal called for in paragraph 11(e) of the Option Agreement with ASI.

Second, the City possesses limited authority to sell real property under state statute Title 11 Okl. Stat. Sec. 22-101 provided the land was not acquired for and dedicated to a public use. I am assuming, given the amount and location of the land in question, that it was probably acquired by deed and without expending any dedicated public funds.

I have reviewed the Option Agreement proposed between the City of McAlester as Seller and Accessible Space, Inc. (ASI), a Minnesota non-profit corporation as Purchaser, dated May 22, 2009. I do consider the Option Agreement to establish a valid legal obligation upon the City to sell a one year option to purchase the land described in it, with possible extensions thereof, upon the terms and conditions contained for the sum of one dollar (\$1.00) for the option and the

sum of one dollar (\$1.00) for the land, if the option is exercised, regardless of its actual fair market value. I also reviewed the attached resolution and found it to be appropriate for the City Council's action.

The only reason such sale would be considered legal is if the purpose for which such sale is made for a nominal sum serves a valid public purpose beneficial to the City's citizens as a whole. Public housing has been established as such purpose. It is my recommendation that any document conveying title to such property to ASI contain a reversionary clause conditioned upon failure to continue such public use for which the real property was originally acquired. I further believe it would be in order to require ASI to produce a currently dated letter from IRS showing it to be a qualified tax-exempt organization.

If you require anything further in this matter, please let me know. I will return your file to you on this matter unless you pick it up first.

Bill"

Mayor Priddle asked Councilman Mason if he wished to amend the motion to include the recommendations of the City Attorney.

There was further discussion concerning paragraph 15 of the purchase option agreement.

Mayor Priddle moved to amend the motion to state approval of an Option Agreement and Resolution for the sale of city owned surplus real estate known as Lots 1, 2, & 3, Block 150, South McAlester, located on Tyler Avenue and situated between and adjacent to Ninth Street and Tenth Street in the City of McAlester, subject to requirements stated the City Attorney's email and possible modification of dates at a later time if appropriate. The motion was seconded by Councilman Fiedler.

Before the vote, there was discussion among the Council regarding the dates in the resolution and those dates needing to be advanced two (2) months.

Mayor Priddle restated the motion as approval of an Option Agreement and Resolution for the sale of city owned surplus real estate known as Lots 1, 2, & 3, Block 150, South McAlester, located on Tyler Avenue and situated between and adjacent to Ninth Street and Tenth Street in the City of McAlester, subject to requirements stated the City Attorney's email and the dates being advanced two (2) months.

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

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

8. Waiver of building and inspection fees for an apartment complex located between 9th and Adams and 9th and Jefferson. *(Pete Stasiak, Planning and Community Development Director)*

Executive Summary

This agenda item involves the waiving of building and inspection fees, approximately \$4,500, for an apartment complex to be constructed by Accessible Space, Inc.

Councilman Browne moved to approve a Waiver of building and inspection fees for an apartment complex located between 9th and Adams and 9th and Jefferson. The motion was seconded by Councilman Fiedler.

Before the vote, Pete Stasiak explained that this was another property that was going to be developed by Accessible Space, Inc. He stated that these fees were calculated to be approximately \$4,500.00.

There was discussion, among the Council and Mr. Billmark concerning Resolution No. 08-03, the City's stance on waiving fees, if this project qualified for five to one funding for matching,

the possibility of donating the fees as was done in a previous development, the time frame of the project and if there was any labor that the City could donate to help with the in-kind contribution.. It was pointed out that the amount that was donated was actually less than the total amount of fees received by the City. Councilman Mason suggested that the Council construct a budget amendment in the amount of \$4,500.00 to donate or contribute to the development.

Mayor Priddle moved to table the item and direct the City Manager to work up a budget amendment in the amount of \$4,500.00 to address this issue.

There was discussion among the Council concerning Resolution No. 08-03 and the possibility of a workshop to re-address the issues that lead to the development of Resolution No. 08-03.

Mayor Priddle restated the motion to table the item and direct the City Manager to work up a budget amendment in the amount of \$4,500.00 to address this issue. The motion was seconded by Councilman Condit.

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

AYE: Councilman Condit, Browne, Wilkinson, Garvin, Mason, Fiedler & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

9. Agreement with Mr. Roger Dalgren to obtain utility easement in Townsite Addition No. 4 for the 14th Street and Village Blvd. Utility Extension Project. (David Medley, Utilities Director)

Executive Summary

This agenda item involves a utility easement allowing the City to construct a sewer line.

Councilman Browne moved to approve an Agreement with Mr. Roger Dalgren to obtain utility easement in Townsite Addition No. 4 for the 14th Street and Village Blvd. Utility Extension Project. The motion was seconded by Councilman Condit.

Before the vote, David Medley addressed the Council explaining that this would obtain for the City a 20' wide by 1800' long utility easement and would be used by the 14th Street and Village Boulevard utility extension project. He added that this did not give Mr. Dalgren any additional sewer taps but increased the area for utilization of those taps.

There was discussion among the Council about the monetary value of 15 sewer taps and if the City would be tapping those lines at a later time.

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

AYE: Councilman Browne, Wilkinson, Garvin, Mason, Fiedler, Condit & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

10. Agreement with Mr. Sam Scott, Owner of Walnut Grove Living Center, to obtain utility easements in Townsite Addition No.4 for the 14th Street and Village Blvd. Utility Extension Project. (David Medley, Utilities Director)

Executive Summary

This agenda item involves a utility easement allowing the City to construct a water and sewer line.

Councilman Browne moved to approve an Agreement with Mr. Sam Scott, Owner of Walnut Grove Living Center, to obtain utility easements in Townsite Addition No.4 for the 14th Street and Village Blvd. Utility Extension Project. The motion was seconded by Councilman Condit.

Before the vote, David Medley explained that this agreement would obtain a 20' wide by approximately 1000' long utility easement along Highway 69 bypass. He added that this would require boring of a driveway at Walnut Grove Living Center in lieu of an open cut across the 40' driveway.

There was discussion among the Council as to why the easements were being obtained after the projects had been approved and bid and if a previous easement on Mr. Scott's property had been obtained.

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

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

11. Consider approving a Work Order for Melburger Brawley Corporation for engineering, surveying, inspection, and easement preparation required for the construction of the South US 69 Bypass Sewer Extension project. (David Medley, Utilities Director)

Executive Summary

This agenda item involves engaging Melburger Brawley Corporation to perform engineering services related to the above named project.

Councilman Fiedler moved to approve a Work Order for Melburger Brawley Corporation for engineering, surveying, inspection, and easement preparation required for the construction of the South US 69 Bypass Sewer Extension project. The motion was seconded by Councilman Wilkinson.

Before the vote, David Medley explained that this project would extend sewer services between Riverside Auto Complex and the New Covenant Church.

There was a brief discussion among the Council concerning extending the current contractors agreement.

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

AYE: Councilman Garvin, Mason, Fiedler, Condit, Browne, Wilkinson & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

12. Purchase nine (9) new equipped police package cars. (Jim Lyles, Police Chief)

Executive Summary

This agenda item involves the purchase and equipping nine new police cars.

Councilman Condit moved to approve the purchase of nine (9) new equipped police package cars. The motion was seconded by Councilman Fiedler.

Before the vote, Assistant Police Chief Darrell Miller addressed the Council explaining that several of the patrol cars needed to be replaced and that they were 2000 models with very high mileage. This purchase had been budgeted in the current years' budget. Manager Roath commented that a lease purchase had been quoted by First National Bank and that the payment for this year would not be over the amount that had been budgeted.

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

AYE: Councilman Mason, Fiedler, Condit, Browne, Wilkinson, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

13. Purchase one Animal Control Vehicle and transport unit. (Jim Lyles, Police Chief)

Executive Summary

This agenda item involves the purchase and equipping an animal control unit and cage.

Councilman Browne moved to approve the purchase of one Animal Control Vehicle and transport unit. The motion was seconded by Councilman Fiedler.

Before the vote, Assistant Police Chief Darrell Miller explained that the department had two Animal Control Officers and only one vehicle. He added that the purchase of this vehicle would allow more availability of the Officers.

Councilman Browne inquired about an Animal Control Officer being available on the weekends.

Assistant Police Chief Darrell Miller stated that there was an officer scheduled for duty for every day of the week unless they were on vacation or sick.

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

AYE: Councilman Fiedler, Condit, Browne, Wilkinson, Garvin, Mason & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

- 14. Consider, and act upon, a Partnership Request by Eastern Oklahoma State College for the use of the Southeast EXPO Center for the College & Career Day scheduled October 8th & set up October 7th, 2009, by partnering with them in the amount of \$2,250.00. (Jerry Lynn Wilson, EXPO Manager)**

Executive Summary

This agenda item involves the City partnering in the cost of the EXPO Center rental fee with Eastern Oklahoma State College for their College & Career Day.

Vice-Mayor Garvin moved to approve a Partnership Request by Eastern Oklahoma State College for the use of the Southeast EXPO Center for the College & Career Day scheduled October 8th & set up October 7th, 2009, by partnering with them in the amount of \$2,250.00. The motion was seconded by Councilman Condit.

Before the vote, Ms. Barbara Gilbertson addressed that Council explained that they had partnered with the College for this event for the past two (2) years. She stated that they had appreciated the City's help.

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

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle
NAY: None

Mayor Priddle declared the motion carried.

NEW BUSINESS

Councilman Wilkinson reported that he and the City had been contacted by Markwest Oklahoma Gas Co. last Thursday. He stated that he, Mr. Stasiak and Mr. Ervin, Sr. had worked on this item to bring it before the Council.

Mr. Stasiak addressed the Council explaining that Markwest was requesting an easement across a portion of city owned property. He added that this was the last piece that they needed to move their gas to their pipeline.

Glen Jones addressed the Council explaining that the company had attempted to solve this problem by crossing another piece of property but those owners did not want a pipeline across their land.

There was discussion among the Council and Mr. Jones about the number of acres, the condition of the property, where the pipeline would cross and if Markwest had considered offering to purchase a right of way across the land.

Mr. Jones indicated that Markwest was paying property owners \$85.00 per rod and per the contract the company would restore the land to its natural condition as soon as reasonably possible.

Councilman Mason asked if this was an item for discussion tonight and it would be brought back at a later date. Manager Roath commented that this could be voted on tonight considering the time needed to complete this project. Vice-Mayor Garvin inquired about the possibility of this opening any future drilling.

Mr. Jones stated that yes it should but he could not predict where or when that would occur.

Mayor Priddle asked if the changes recommended by the City Attorney had been made to the final agreement. Mr. Stasiak stated that the agreement that the Council had been given was the corrected or changed agreement. Mr. Ervin stated that the Council could vote on this.

Councilman Mason moved that since no one was aware of this matter and Mr. Jones had stated a verbal approval would be sufficient and formally address this at the next meeting. Mayor Priddle stated he would second that motion with the clarification that the item would be only an informational item at the next meeting.

Councilman Browne commented that he felt that this was being overly complicated and that they should vote. Manager Roath agreed with Mr. Ervin and recommended that if the Council was of the mind to act positively and take a vote tonight. Mayor Priddle then withdrew his second to the verbal approval and formally ratify at the next Council meeting. There was no second and the motion died.

Councilman Wilkinson moved to approve the agreement to grant a right of way to Markwest Oklahoma Gas Company. Councilman Browne seconded the motion.

Before the vote, Manager Roath suggested that the City Attorney's opinion be entered as part of the motion. Mayor Priddle concurred with this suggestion and the opinion is as follows.

From: William Ervin [mailto:erwinlaw@sbcglobal.net]

Sent: Friday, July 10, 2009 10:01 AM

To: Mark Roath

Subject: Pipeline Right of Way Agreement - Grantor: City of McAlester - Grantee: Markwest Oklahoma Gas Co. LLC. - Tract: SW1/4 SE1/4 Sec. 4-T5N-R14E, Pittsburg County, OK.

Dear Mark:

I have reviewed the pipeline right of way agreement proposed to the City by Markwest Oklahoma Gas Co. LLC.

The agreement as presented is legally sufficient to create the grant of an easement across that property owned by the City as described in the agreement for the purposes stated and should be considered to create a perpetual encumbrance on the title of the real property in favor of grantee or its assigns should the City decide to approve and grant the easement.

I find nothing in the grant that would not be considered customary or usual. I would however mention that the provision dealing with Grantee's right of assignment is not what is typically seen. It is more typical to state that Grantee shall have the right to assign with the consent of Grantor, which consent shall not be reasonably withheld. Further, that any assignee shall continue to be responsible for all obligations and conditions of the agreement.

Further, in the To Have And To Hold clause of the agreement, there appears to be an error in the reference to "said Grantee, City of McAlester, a municipality," this should be changed to Markwest as Grantee. Also, in this clause, I would recommend striking the words that appear on the second and third line, "or useful to Grantee" as this appears to be an unnecessary extension of the grant beyond its actual use by Grantee. Further, I would strike the last sentence in this paragraph, which is a warranty of title and imposes an obligation to defend the title by the City. I am sure Grantee would take the easement without the warranty.

If further review or discussion is required, please call.

William J. Ervin, Sr.”

Councilman Mason stated that he had a problem with a new business item being presented to the Council and action being taken without any prior information. He felt that this did not meet the criteria for new business.

Mayor Priddle asked Mr. Ervin if a new business item had to be an emergency to be voted on. Mr. Ervin stated that it did not.

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

AYE: Councilman Fiedler, Browne, Wilkinson, Garvin & Mayor Priddle

NAY: Councilman Mason

Mayor Priddle declared the motion carried.

CITY MANAGER'S REPORT

Mr. Roath distributed a press release indicating that Ms. Gayla Duke had been hired as the new Chief Financial Officer and she would start on or before August 17, 2009. He also distributed another press release indicating that Mr. John Modzelewski had been hired as the new Public Works Director/City Engineer and would begin on or before August 10, 2009.

REMARKS AND INQUIRIES BY CITY COUNCIL

Councilman Fiedler thanked Mr. Roath for getting the two positions filled. He announced that on August 16, 2009 the American Red Cross Lemonade Stand Fund Raiser would be conducted at the north door of Wal-Mart and at Chaney-Harkins Funeral Home from 11:00 A.M. until 7:00 P.M.

Councilman Condit asked who was on the Committee to negotiate the MEDS contract.

Mayor Priddle stated that it was Vice-Mayor Garvin, Councilman Wilkinson and Councilman Condit.

Vice-Mayor Garvin stated that he had tried to contact Councilman Condit with no response but he did have information that they could review after the Council meeting.

Councilman Browne thanked everyone that had attended the recycling organizational meeting.

Councilman Wilkinson urged anyone that was out in the heat to drink plenty of fluids.

Councilman Mason commented on the difficulty pronouncing the new Public Works Directors name. He then requested an update on the status of the water treatment project, stating that this was dragging out and he hoped that other contracts would not carry on as long as this one had.

David Medley reported that the project was wrapping up and the only thing outstanding was a problem with a pump. He stated that he had repeatedly contacted the Contractor and the Engineer concerning the length this contract was taking.

Mayor Priddle commented that the Fourth of July Celebration had been very good. The Chamber had conducted their preliminary talent contest and that Fox 23 would be in McAlester the last week of July and broadcast live on July 31st including the talent contest finale.

RECESS COUNCIL MEETING

Mayor Priddle asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Browne moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Vice-Mayor Garvin and the vote was taken as follows:

AYE: Councilman Condit, Browne, Wilkinson, Garvin, Mason, Fiedler & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the Regular Meeting was recessed at 8:32 P.M.

RECONVENE COUNCIL MEETING

The Regular Meeting was reconvened at 8:34 P.M.

ADJOURNMENT

There being no further business to come before the Council, Councilman Wilkinson moved for the meeting to be adjourned, seconded by Councilman Mason. The vote was taken as follows:

AYE: Councilman Wilkinson, Garvin, Mason, Fiedler, Condit, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the meeting was adjourned at 8:35 P.M.

Kevin E. Priddle, Mayor

ATTEST:

Karen Boatright, Deputy Clerk