

Council Chambers  
Municipal Building  
September 8, 2009

The McAlester City Council met in regular session on Tuesday, September 8, 2009, at 6:00 P.M. after proper notice and agenda was posted, September 4, 2009, at 9:35 A.M.

**CALL TO ORDER**

Mayor Priddle called the meeting to order.

**INVOCATION & PLEDGE OF ALLEGIANCE**

- **Kay Crawford, Pastor, Harvester Church**

**ROLL CALL**

Council Roll Call was as follows:

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

Absent: John Browne

Presiding: Kevin E. Priddle, Mayor

Staff Present: Jim Lyles, Police Chief; John Modzelewski, Public Works Director/City Engineer; Pete Stasiak, Planning and Community Development Director; William J. Ervin, Jr., City Attorney and Cora Middleton, City 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 the Minutes from the August 25, 2009, Regular Meeting of the McAlester City Council. (Cora Middleton, City Clerk)**
- B. Approval of Claims for August 26, 2009 through September 8, 2009. (Gayla Duke, Chief Financial Officer)** In the following amounts: General Fund - \$104,113.06; Nutrition - \$747.45; SE Expo Ctr/Tourism Fund - \$95, 134.19; E-911 - \$1,284.16; Economic Development - \$282.50 and Federal Forfeiture -\$4,355.00.

Councilman Fiedler moved for approval of the Consent Agenda. The motion was seconded by Councilman Mason. There was no discussion and the vote was taken as follows:

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

Mayor Priddle declared the motion carried.

Mayor Priddle opened the Public Hearing at 6:07 P.M.

#### PUBLIC HEARING

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*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.*

- **An Ordinance amending the Code of Ordinances, Chapter 2, Article VII, Section 2-259 related to establishing the McAlester City Emergency Ambulance Fund, and declaring an emergency.**
- **An Ordinance amending Ordinance No. 2327 which established the budget for fiscal year 2009/2010; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency.**

There were no comments on either of the items from the public or the Council and Councilman Fiedler moved to close the Public Hearing. The motion was seconded by Councilman Condit.

The vote was taken as follows:

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

Mayor Priddle declared the motion carried and the Public Hearing was closed at 6:08 P.M.

#### SCHEDULED BUSINESS

- 1. Presentation, and status report, on Allegiance Communications service delivery in the McAlester market.** *(T.M. Woody Wood, Regional Manager Vice-President, Allegiance Communications)*

##### Executive Summary

*This agenda item involves a status report on Allegiance Communications service in McAlester.*

Councilman Fiedler moved to open the presentation and discussion on Allegiance Communications service delivery in the McAlester market. The motion was seconded by Councilman Condit.

Woody Wood addressed the Council regarding the cable service in McAlester. He reported that KTUL Channel 8 had been re-established in the area and that McAlester had been the first community to get Channel 8 back. He briefly reviewed the problems that had occurred with the conversion to digital cable. Mr. Wood updated the Council about some of the steps that the company had recently implemented. He stated that they had credited approximately \$30,000.00 to customers that had been having trouble paying for the service. They had started a promotion

for non-customers to offer entry level service at a price of \$24.95 a month until the end of the year. He commented that they were in the process of hiring more people for their call centers and they were adding another vendor for internet telephone.

Mayor Priddle thanked Mr. Wood for his work. There was then a brief discussion about the problems with the listed phone numbers and if the Oklahoma City stations would be available in the future. Mayor Priddle commented that since this was not an action item there would be no need for a vote.

**2. Discussion, and possible action, related to a McAlester Code of Conduct.** (*Donnie Condit, Councilmember; Chris Fiedler, Councilmember and John Browne, Councilmember*)

Executive Summary

*This agenda item involves a proposed McAlester Code of Conduct.*

Councilman Condit moved to approve the Code of Conduct for the City of McAlester. The motion was seconded by Councilman Fiedler.

Before the vote, Councilman Condit commented that this document was a work in progress and not set. He then recommended that if there were many concerns about the document, that it be tabled and sent back to the Committee for further review.

Mayor Priddle thanked the committee for their work on the document.

There was discussion among the Council and the City Attorney regarding some of the language in the document, and how some sections could be addressed by written policy instead of being included in the Code. It was also suggested that any ordinances mentioned in the Code be included with the approved document. Mayor Priddle suggested that the changes be made and then the document be brought back for further consideration by the Council.

Steve Belcher addressed the Council expressing concern about protection for employees that report alleged unethical behavior. He also asked who would conduct investigations into misconduct.

Mayor Priddle and the City Attorney stated that investigations would be conducted by either the Ethics Board or the Police Department.

There was further discussion about various changes to the language in the document. Mayor Priddle suggested that the City Manager have copies made to distribute to the employees and the Ethics Board. He then asked that the employees review the document and submit their thoughts and concerns to help the Council in completing the Code.

Councilman Fiedler moved to table the document for thirty (30) days to allow for input from the employees and the Ethics Board. The motion was seconded by Councilman Condit.

Before the vote, Vice-Mayor Garvin stated that employees sign for the preliminary Code to verify they had received it.

Councilman Mason commented that inevitably it was the Council's responsibility to produce the Code of Conduct.

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

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

NAY: None

Mayor Priddle declared the motion carried.

3. **Consider, and act upon, an Ordinance amending the Code of Ordinances, Chapter 2, Article VII, Section 2-259 related to establishing the McAlester City Emergency Ambulance Fund, and declaring an emergency.** *(Sam Mason, Councilmember)*

Executive Summary

*This agenda item involves the establishment of a "McAlester City Emergency Ambulance Fund."*

**ORDINANCE NO. 2331**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING THE CODE OF ORDINANCES, CHAPTER 2, ARTICLE VII, SECTION 2-259 RELATED TO ESTABLISHING THE McALESTER CITY EMERGENCY AMBULANCE FUND; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

Councilman Mason moved to approve **ORDINANCE NO. 2331**, seconded by Councilman Fiedler.

Before the vote, Councilman Mason commented that this would allow tracking of the ambulance service operations.

There was a brief discussion regarding where the ambulance revenue currently was recorded, how this would segregate those revenues and expenses in the future, and how it would insure for ambulance service in the future.

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

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

NAY: None

Mayor Priddle declared the motion carried.

Councilman Fiedler moved for approval of the EMERGENCY CLAUSE, seconded by Councilman Mason. There was no discussion, and the vote was taken as follows:

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

Mayor Priddle declared the motion carried.

**4. Consider, and act upon, issuing a Notice of Termination to the McAlester Economic Development Service, Inc., related to their contract with the City. (Sam Mason, Councilmember)**

Executive Summary

*This agenda item involves issuing a Notice of Termination to MEDS related to their contract with the City.*

Councilman Mason moved to issue a Notice of Termination to the McAlester Economic Development Service, Inc., related to their contract with the City. The motion was seconded by Councilman Fiedler.

Before the discussion, Councilman Mason requested that the following statement be included verbatim in the minutes of the meeting.

“I request the following be included verbatim in the minutes of this meeting. September 8, 2009. This agenda item relates to the current year contract between the City of McAlester and MEDS. The motion is to issue a notice of termination in accordance with Section 3. B. of that contract which states:

“The City or MEDS may terminate and/or cancel this Contract, or any part thereof, at any time during its term upon thirty days notice, for any reason without incurring obligation or penalty of any kind. The effective date of notice for termination or cancellation shall be the date of council or MEDS board action providing for said termination or cancellation. With the current MEDS Executive Director having recently announced his resignation from that position, it is clearly an appropriate time for this council to review our overall approach to economic development. As reported today in the McAlester News-Capital, Mr. Mills told the News-Capital on Aug. 26, and I quote, "I think it's time for a change. I agree. As you know, not only does the City of McAlester provide almost all the funding to MEDS, but we also now have on staff Mr. Pete Stasiak as our Community Development and Planning Director. The question which must be answered is whether this city should continue to fund both an internal and an external economic development effort. In the current economic climate with our sales tax revenue already \$500,000 under budget only three months into the fiscal year, this funding question is critical and should be taken up and resolved by this council. By terminating the contract, the city council, city management, and MEDS' board will be able to review the situation and determine the best way forward. If it is decided by everyone that MEDS should hire a new executive director and continue to be funded by the City, then a new contract can be entered into at that time. If, on the other hand, this contract is not terminated, I need to make a couple of points: MEDS has not provided a work plan as required within thirty days after the effective date of the contract. They were notified of this failure by copy of a letter dated August 21, 2009 under the signature of the City Manager. Without an executive director, it is doubtful any work plan will be forthcoming any time soon. It's also unclear to me how any work plan can be achieved without an executive director.

If the contract is not terminated and the City continues to make payments to MEDS, there is no provision in the contract for the return of any such payments. Given that MEDS already appears to have sufficient funds for its short-term needs, why should we continue to make additional payments at this time? There is also provision under contract Section C. - City Right to Suspend Services. One of the conditions is that if MEDS "has failed to comply with any requirements in this contract. The failure would be connected with Section 4.0. "MEDS shall employ and assign qualified MEDS Employees as necessary and appropriate to provide services under this Contract"  
Sam Mason”

There was a lengthy discussion among the Council and Dr. Kenneth Miller regarding tabling this item to allow the MEDS Executive Board time to review their options, reinstating the contract if it should be terminated, MEDS possibly becoming an advisory committee to the City with the Director being a Department Head or other employee, appointing a sub-committee of the Council to work with the MEDS Board in the search for a new director and making sure that economic development is done the correct way.

Bill Derichsweiler addressed the Council expressing his concerns if the MEDS contract is terminated.

Mayor Priddle clarified that a yes vote would be to terminate the MEDS contract.

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

AYE: Councilman Mason

NAY: Councilman Wilkinson, Garvin, Fiedler, Condit & Mayor Priddle

Mayor Priddle declared the motion failed. He then appointed a sub-committee of Councilman Condit, Vice-Mayor Garvin and his self to work with the MEDS Executive Board.

**5. Consider, and act upon, a 2009-2010 Provisional State and Local Task Force Agreement between the United States Department of Justice, Drug Enforcement Administration and the McAlester Police Department. (Jim Lyles, Police Chief)**

Executive Summary

*This agenda item involves an agreement with the DOJ and DEA.*

Councilman Condit moved to approve a 2009-2010 Provisional State and Local Task Force Agreement between the United States Department of Justice, Drug Enforcement Administration and the McAlester Police Department. The motion was seconded by Councilman Wilkinson.

Before the vote, Police Chief Lyles addressed the Council stating that this agreement had allowed the City to work with the DEA to combat the illegal drug activity and he asked that the Council approve this agreement for another two (2) years.

Councilman Mason expressed his concerns with the City funding a portion of this joint project.

There was a brief discussion among the Council regarding the funding, the DEA's reimbursement for overtime, the success of this joint project, the length of the agreement and the dates in the agreement.

Mayor Priddle moved for approval of the agreement subject to the date in paragraph seven (7) changed from September 30, 2010 to September 30, 2011 and verification by the DEA, Chief and the City Attorney. The motion was seconded by Councilman Wilkinson. There was no further discussion, and the vote was taken as follows.

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

NAY: None

Mayor Priddle declared the motion carried.

**6. Consider, and act upon, a Resolution authorizing the City of McAlester to seek a CDBG Small Cities Grant from the Oklahoma Department of Commerce. (Pete Stasiak, Planning and Community Development Director)**

Executive Summary

*This agenda item involves adopting a new Resolution, to replace an earlier submittal, to accompany the City's CDBG Application to the State.*

Councilman Condit moved for approval of a Resolution authorizing the City of McAlester to seek a CDBG Small Cities Grant from the Oklahoma Department of Commerce. The motion was seconded by Councilman Fiedler.

Before the vote, Pete Stasiak explained that this was to clean up a previous Resolution.

Vice-Mayor Garvin inquired as to how the projects for this grant had been chosen.

Mr. Stasiak stated that that this was a continuation of a project from 2006. He added that the water and sewer lines replacement had not been completed and they were still considered as dilapidated. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Priddle declared the motion carried.

**7. Consider, and act upon, an Ordinance amending Ordinance No. 2337 which established the budget for fiscal year 2009/2010; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. (Gayla Duke, Chief Financial Officer)**

Executive Summary

*This agenda item involves an amendment to the FY 2009/2010 Annual Budget for certain unanticipated expenditures.*

**ORDINANCE NO. 2332**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2327 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2009-2010; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

Vice-Mayor Garvin moved for approval of **ORDINANCE NO. 2332**, seconded by Councilman Condit.

Before the vote, Mayor Priddle commented on exhibit A-3, clarifying that it was for the Tulsa State Fair donations.

Ms. Duke stated that it was for the donations and the expenditures would not exceed the donations.

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

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

Mayor Priddle declared the motion carried.

Councilman Fiedler moved to approve the EMERGENCY CLAUSE, seconded by Vice-Mayor Garvin.

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.

- 8. Consider, and act upon, approval of an Engagement Letter with Hulme, Rahhal, Henderson, Inc., related to audited services for the fiscal year ending June 30, 2009.**  
*(Gayla Duke, Chief Financial Officer)*

Executive Summary

*This agenda item involves the engagement of the above named accounting firm to prepare an independent audit for fiscal year 2009/2010.*

Councilman Fiedler moved for approval of an Engagement Letter with Hulme, Rahhal, Henderson, Inc., related to audited services for the fiscal year ending June 30, 2009. The motion was seconded by Vice-Mayor Garvin.

Before the vote Ms. Duke explained that there was some language regarding the firm's assistance with the financial statements that needed to be changed, but other than that it was the same agreement as in the previous year.

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

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

NAY: None

Mayor Priddle declared the motion carried.

- 9. Consider, and act upon, authorizing the Mayor to sign a service contract with D & D Elevator to perform monthly scheduled maintenance on all elevator equipment for the period from July 1, 2009 to June 30, 2010. (John Modzelewski, Public Works Director/City Engineer)**

Executive Summary

*This agenda item involves an elevator maintenance contract for this fiscal year.*

Vice-Mayor Garvin moved to authorize the Mayor to sign a service contract with D & D Elevator to perform monthly scheduled maintenance on all elevator equipment for the period from July 1, 2009 to June 30, 2010. The motion was seconded by Councilman Wilkinson.

Before the vote, John Modzelewski addressed the Council explaining that D & D Elevator was locally owned, and operated, and had been performing maintenance on the City's elevators in the past. He added that approving the contract would allow the City to be in compliance with the Oklahoma Elevator Safety Act.

There was a brief discussion, among the Council, the City Manager, the City Attorney and Mr. Modzelewski regarding the contract being retro back to July 1, 2009, the Expo not receiving any service in the past two (2) months, the company furnishing service for two (2) years without payment, amending the contract to begin September 1, 2009 and allowing Mr. Modzelewski review any previous claims for payment from the company.

Mayor Priddle moved to approve the contract subject to the start date of September 1, 2009 and give Mr. Modzelewski the authority to review any previous claims. The motion was seconded by Councilman Fiedler.

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

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

NAY: None

Mayor Priddle declared the motion carried.

- 10. Consider, and act upon, authorizing the Mayor to sign an Addendum to the Collection Services Agreement with American Municipal Services. (Gayla Duke, Chief Financial Officer)**

Executive Summary

*This agenda item involves an Addendum to the Collection Services Agreement with AMS.*

Councilman Fiedler moved to authorize the Mayor to sign an Addendum to the Collection Services Agreement with American Municipal Services. The motion was seconded by Councilman Wilkinson.

Before the vote, Ms. Duke informed the Council that she would have an ordinance at the next meeting that would allow the City to recoup the fees for collection services. She explained that this was allowed by House Bill 1800.

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

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

NAY: None

Mayor Priddle declared the motion carried.

### **NEW BUSINESS**

None

### **CITY MANAGER'S REPORT**

Manager Roath commented that he did not have anything to report at this time.

### **REMARKS AND INQUIRIES BY CITY COUNCIL**

Councilman Fiedler commented that the Tulsa State Fair project was coming along very well.

Vice-Mayor Garvin reminded everyone about the "Old Town" Festival on Saturday, September 19<sup>th</sup>.

Councilmen Condit, Wilkinson and Mason stated that they did not have any remarks for this meeting.

Mayor Priddle commented that he did not have any remarks either.

### **RECESS COUNCIL MEETING**

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

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

NAY: None

Mayor Priddle declared the motion carried, and the Regular Meeting was recessed at 7:45 P.M.

### **RECONVENE COUNCIL MEETING**

The Regular Meeting was reconvened at 7:46 P.M.

Vice-Mayor Garvin moved to recess the Regular Meeting for an Executive Session to discuss pending litigation with Joyce Ramsey in accordance with Title 25, Section 307.B.4 and to discuss the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of any individual salaried public officer or employee: City Manager, in accordance with Title 25, Section 307.B.1. The motion was seconded by Councilman Fiedler.

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

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

NAY: None

Mayor Priddle declared the motion carried and the Regular Session was recessed at 7:47 P.M.

#### EXECUTIVE SESSION

*Recess into Executive Session in compliance with Section 307, et.seq. Oklahoma Statutes, to wit:*

- **Section 307 (B) (4) – Discussion concerning pending litigation with Joyce Ramsey.**
- **Section 307 (B) (1) – Discuss the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of any individual salaried public officer or employee: City Manager.**

#### RECONVENE INTO OPEN SESSION

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

The Regular Meeting was reconvened at 8:48 P.M. Mayor Priddle reported that the Council had recessed the Regular Meeting for an Executive Session to discuss pending litigation with Joyce Ramsey in accordance with Title 25, Section 307.B.4 and to discuss the employment, hiring, appointment, promotion, demotion, disciplining, or resignation of any individual salaried public officer or employee: City Manager, in accordance with Title 25, Section 307.B.1. Only those matters were discussed, no action was taken and the Council returned to open session at 8:48 P.M., and this constituted the Minutes of the Executive Session.

#### ADJOURNMENT

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

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

NAY: None

Mayor Priddle declared the motion carried, and the meeting was adjourned at 8:49 P.M.

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Kevin E. Priddle, Mayor

ATTEST:

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Cora Middleton, City Clerk