

The McAlester City Council met in regular session on Tuesday, December 8, 2009, at 6:00 P.M. after proper notice and agenda was posted, December 3, 2009, at 4:38 P.M.

CALL TO ORDER

Mayor Priddle called the meeting to order.

INVOCATION & PLEDGE OF ALLEGIANCE

- J. T. Carnell, Church of the Nazarene

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: Peter J. Stasiak, Acting City Manager/Planning and Community Development Director; David Medley, Utilities Director; Gayla Duke, Chief Financial Officer; John Modzelewski, Public Works Director/City Engineer; William J. Ervin, City Attorney and Cora Middleton, City Clerk

CITIZENS' COMMENTS ON NON-AGENDA ITEMS

Dan Heathcock addressed the Council expressing his concerns about the water quality in the City of McAlester. He commented that he felt the citizens would approve a bond if it was specifically for water system improvements.

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 November 24, 2009, Regular Meeting of the McAlester City Council.** *(Cora Middleton, City Clerk)*
- B. **Concur with Mayor's appointment of Gail Watkins to the Audit & Finance Advisory Committee for a term that expires May 11, 2011.** *(Kevin E. Priddle, Mayor)*
- C. **Concur with Mayor's reappointment of Tedi Graham to the McAlester Library Board for a term that expires December 31, 2014.** *(Kevin E. Priddle, Mayor)*

- D. Concur with Mayor's reappointment of Don Jones to the McAlester Library Board for a term that expires December 31, 2014.** (*Kevin E. Priddle, Mayor*)
- E. Concur with Mayor's reappointment of Zoe Duran to the McAlester Library Board for a term that expires December 31, 2014.** (*Kevin E. Priddle, Mayor*)
- F. Approval of Claims for November 25, 2009 through December 8, 2009.** (*Gayla Duke, Chief Financial Officer*) In the following amounts: General Fund - \$106,831.76; Nutrition - \$739.21; Landfill Res./Sub-Title D - \$7,170.50; SE Expo Ctr/Tourism Fund - \$4,843.29; E-911 - \$21.04; Economic Development - \$299.38 and Gifts and Contributions - \$469.70.

Councilman Mason asked that item "F" be removed for individual consideration.

Councilman Browne moved for approval of the Consent Agenda items "A through E". The motion was seconded by Councilman Condit. There was no 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.

ITEMS REMOVED FROM CONSENT AGENDA

- F. Approval of Claims for November 25, 2009 through December 8, 2009.** (*Gayla Duke, Chief Financial Officer*) In the following amounts: General Fund - \$106,831.76; Nutrition - \$739.21; Landfill Res./Sub-Title D - \$7,170.50; SE Expo Ctr/Tourism Fund - \$4,843.29; E-911 - \$21.04; Economic Development - \$299.38 and Gifts and Contributions - \$469.70.

Councilman Fiedler moved to for approval of claims for November 25, 2009 through December 8, 2009. The motion was seconded by Councilman Condit.

Before the vote, Councilman Mason questioned the payment to OML and the petty cash reimbursement.

Mr. Stasiak explained that the payment to OML was for the Mayor, the CFO, the Acting City Manager and the City Clerk to attend the Annual District Dinner. He further explained that the petty cash reimbursements were for the Mayor and Ward One Councilman expenses to travel to Tennessee to meet with Sabre.

There was a short discussion among the Council and the City Attorney concerning these expenses and if they could be approved after the fact. Mr. Ervin stated that he would like to research the matter but, the Charter stated that all expenses must be approved in advance.

Councilman Mason stressed that if the Council did not abide by the Charter how could they expect other employees to abide by the Charter.

Mayor Priddle assured the Council that this had been simply an oversight and not done intentionally, and those items would be removed from the claims.

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.

SCHEDULED BUSINESS

1. Consider, and act upon a Budget Authorizations to prepare amendments to allow for all construction of the Water Treatment Plant Filter and Clearwell Improvements as required in the Oklahoma Department of Environmental Quality Consent Order No. 02-101.

Executive Summary

This item involves a budget authorization to prepare amendments to allow for all construction of the Water Treatment Plant Filter and Clearwell Improvements.

Councilman Wilkinson moved to approve Budget Authorizations to prepare amendments to allow for all construction of the Water Treatment Plant Filter and Clearwell Improvements as required in the Oklahoma Department of Environmental Quality Consent Order No. 02-101. The motion was seconded by Councilman Fiedler.

Before the vote, Mr. Medley explained that these amendments would fund the Filter improvements, Surge Tank and Clearwell Rehabilitation sited in the DEQ Consent Order that had been in place since 2002. He listed amounts from various areas of the budget that could be used to fund the consent order requirements as follows:

EPA Appropriation	291,000.00
2002 MPWA Bond Proceeds	140,908.00
Over-funding in Emergency Fund	541,792.00
Capital Outlay Budgeted in MPWA	99,100.00
CIP Fund – Fund Balance	<u>90,700.00</u>
Estimated total cost	1,163,500.00

There was discussion among the Council concerning how long this project would take, the use of the possible over funding of the Emergency Reserve Fund, using some of the MPWA Fund balance if necessary and what work had been completed.

Mayor Priddle moved to amend the motion to change the over funding in the Emergency Reserve Fund to the utilization of MPWA funds. The motion was seconded by Councilman Mason. 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.

2. **Consider, and act upon a Work Order for Melburger Brawley Corporation for engineering services required for the construction of the Water Treatment Plant Filter and Clearwell Improvements as required in the Oklahoma Department of Environmental Quality Consent Order No. 02-101.** *(David Medley, Utilities Director)*

Executive Summary

This item involves a Work Order for Melburger Brawley Corporation for construction of the Water Treatment Plant Filter and Clearwell Improvements.

Councilman Condit moved to approve a Work Order for Melburger Brawley Corporation for engineering services required for the construction of the Water Treatment Plant Filter and Clearwell Improvements as required in the Oklahoma Department of Environmental Quality Consent Order No. 02-101. 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.

3. **Consider, and act upon, a Right of Way Public Utility and Encroachment Agreement with the Oklahoma Department of Transportation to relocate utilities for the construction of the Comanche Avenue Interchange.** *(David Medley, Utilities Director)*

Executive Summary

This item involves a motion to approve a Right of Way Public Utility and Encroachment Agreement with ODOC.

Councilman Fiedler moved to a Right of Way Public Utility and Encroachment Agreement with the Oklahoma Department of Transportation to relocate utilities for the construction of the Comanche Avenue Interchange. The motion was seconded by Councilman Condit.

Before the vote, David Medley commented that this work was anticipated to be constructed in 2013 and the highway construction to in 2015. He added that the City Attorney's had reviewed the agreement and approved it for legality. He stated that no funds were currently budgeted for the work but they should be set aside in the future so the work could be conducted in 2013 and that the City's Consultant Engineers, Melburger Brawley had estimated the cost of this project at \$684,000.00

There was a short discussion among the Council concerning this being an unfunded mandate, what this agreement actually did, how long this relocation would take, if any upgrades had been planned with this relocation and results if the City did not relocate the utilities.

Councilman Garvin commented that when this started to happen it would involve the City's sales tax and he planned on talking with the businesses along the highway about the effect this could have.

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, authorizing the Mayor to sign a Memorandum of Understanding for Emergency Management with Pittsburg County, Oklahoma.
(Harold Stewart, Fire Chief)

Executive Summary

This item involves the approval of a Memorandum of Understanding for Emergency Management with Pittsburg County

Councilman Browne moved to approve authorizing the Mayor to sign a Memorandum of Understanding for Emergency Management with Pittsburg County, Oklahoma. The motion was seconded by Councilman Condit.

Before the vote, Chief Stewart stated that this was the annual agreement with the Pittsburg County Emergency Management and the only change to this agreement had been the date. He added that the City Attorney had reviewed the agreement and approved it to legality.

Councilman Fiedler asked that this be tabled and the Acting City Manager meet with Trent Myers to discuss what would be done with the City's contribution. He added that he had previously requested this information and had not received it. Vice-Mayor Garvin seconded the motion.

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

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

NAY: Councilman Mason

Mayor Priddle declared the motion carried.

NEW BUSINESS

Mr. Stasiak reported that the City Attorney and he had attended a mediation meeting in Tulsa on a lawsuit and had received an offer he would like to present to the Council in Executive Session. He added that they had not known of this until 4:30 P.M. yesterday afternoon. Mayor Priddle asked the City Attorney if there was any procedurally that would be a problem. Mr. Ervin stated that there was no problem and it would be appropriate to discuss it in Executive Session under Title 25, Section 307.B.4. He added that the Council could discuss this during the Executive Session but they would need to act upon it when they come out of the Executive Session into open meeting as a separate item. He suggested that the Council move the new business item to coincide with the item already scheduled for the Executive Session. Mayor Priddle moved to

move the discussion of the litigation settlement to the Executive Session. The motion was seconded by Councilman Condit. 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.

CITY MANAGER'S REPORT

Mr. Stasiak commented that he did not have any report for this evening.

REMARKS AND INQUIRIES BY CITY COUNCIL

Councilman Wilkinson and Mason stated that they had no remarks.

Vice-Mayor Garvin commented that the tree trimming was still going on in 5th Ward and the City employees had done a good job with the Christmas lights around the City.

Councilman Fiedler remarked that the Christmas lights looked wonderful this year and he had heard the Parade was a big success.

Councilman Condit commented that he had enjoyed the Christmas Parade.

Councilman Browne thanked the employees for their grace in handling the furloughs. He added that there were two (2) new businesses downtown, Puddle Jumpers and the Leopard Cupcake. He urged everyone to shop locally.

Mayor Priddle commented that the Christmas Parade was a great success and he also urged everyone to shop locally.

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 Councilman Condit 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, and the Regular Meeting was recessed at 6:54 P.M.

RECONVENE COUNCIL MEETING

The Regular Meeting was reconvened at 6:55 P.M.

Councilman Fiedler moved to recess the Regular Meeting for an Executive Session to discuss negotiations concerning employees and representatives of employee groups: IAFF, in accordance with Title 25, Section 307.B.2 and to discuss the settlement of litigation claim of Carolyn Heard

in accordance with Title 25, Section 307.B.4. The motion was 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 and the Regular meeting was recessed at 6:56 P.M.

EXECUTIVE SESSION

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

- **Section 307 (B) (2) – Discussing negotiations concerning employees and representatives of employee groups: IAFF**
- Section 307 (B) (4) – Discuss settlement of litigation claim of Carolyn Hearod, case No. C-2007-498.

RECONVENE INTO OPEN SESSION

Take any action as a result from Executive Session.

The Regular Meeting was reconvened at 8:00 P.M. Mayor Priddle reported that the Council had recessed the Regular Meeting for an Executive Session to discuss negotiations concerning employees and representatives of employee groups: IAFF, in accordance with Title 25, Section 307.B.2 and to discuss the settlement of litigation claim of Carolyn Hearod in accordance with Title 25, Section 307.B.4. Only those matters had been discussed, no action was taken and the Council had returned to open session at 8:00 P.M., and this constituted the minutes of the Executive Session.

Mayor Priddle moved to accept the settlement offer for the mediation agreement dated December 7, 2009, for the Carolyn Hearod lawsuit. The motion was seconded by Councilman Browne. 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.

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

Mayor Priddle declared the motion carried, and the meeting was adjourned at 8:01 P.M.

Kevin E. Priddle, Mayor

ATTEST:

Cora Middleton, City Clerk