

Council Chambers  
Municipal Building  
March 23, 2010

The McAlester City Council met in Regular session on Tuesday, March 23, 2010, at 6:00 P.M. after proper notice and agenda was posted, March 17, 2010, at 10:00 A.M.

**CALL TO ORDER**

Mayor Priddle called the meeting to order.

J.T. Carnell, Church of the Nazarene, led the Pledge of Allegiance and gave the invocation.

**ROLL CALL**

Council Roll Call was as follows:

Present: Chris Fiedler, Steve Harrison, Robert Karr, Buddy Garvin, Louis Smitherman & Mayor Priddle

Absent: John Browne

Presiding: Kevin E. Priddle, Mayor

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

Mayor Priddle presented certificates to Lisa Sutterfield and Sheila Lovett, employees of the month.

**CITIZENS' COMMENTS ON NON-AGENDA ITEMS**

None

**CONSENT AGENDA**

A. Approval of the Minutes from the March 4, 2010, Special Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)

B. Approval of the Minutes from the March 9, 2010, Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)

C: Approval of Claims for March 10, 2010 through March 23, 2010. (*Gayla Duke, Chief Financial Officer*) In the following amounts: General Fund - \$110,727.19; Parking Authority - \$186.69; Nutrition - \$677.50; Landfill Res./Sub-Title D - \$12,000.00; Police Grant Fund - \$9,322.08; SE Expo Ctr/Tourism Fund - \$14,485.39; E-911 - \$14,640.15; Economic Development - \$119,400.17 and Gifts & Contributions - \$12,921.73.

- D. A Resolution appointing John C. Modzelewski, PE to serve on the Board of Directors of the Association for Landfill Financial Assurance (ALFA). (*David Medley, Utilities Director*) Resolution No. 10-05.

Mayor Priddle requested that item “B” be removed.

Councilman Harrison moved to approve Consent Agenda item’s “A, C and D.” The motion was seconded by Councilman Fiedler. There was no discussion and the vote was taken as follows:

AYE: Councilman Fiedler, Harrison, Karr, Garvin, Smitherman & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

#### ITEMS REMOVED FROM CONSENT AGENDA

- B. Approval of the Minutes from the March 9, 2010, Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)

Councilman Smitherman moved to approve Consent Agenda item “B.” The motion was seconded by Councilman Harrison.

Before the vote, Mayor Priddle explained that these minutes had not been distributed with the agenda and it was important that they were reviewed before being considered. Mr. Stasiak stated they would be included in the April 13<sup>th</sup> meeting. There was no further discussion, and no vote was taken.

Councilman Fiedler moved to open the Public Hearing to allow for comments on the proposed Ordinance on the agenda. The motion was seconded by Councilman Garvin. There was no discussion and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Smitherman, Fiedler, Harrison & Mayor Priddle

NAY: None

Mayor Priddle declared the motion was and the Public Hearing was opened at 6:13 P.M.

#### PUBLIC HEARING

- Consider, and act upon, an Ordinance of the City of McAlester, Oklahoma to annul, vacate, and close all that part of “D” street located within lots 181 and 182, in Townsite Addition #1, in the City of McAlester, Pittsburg County, State of Oklahoma, more particularly described as follows: beginning at the southwest corner of said lot 182; thence east along south line of said lot 182 a distance of 30 feet; thence north and parallel to the west line of said lots 182 and 181 a distance of 311.8 feet; thence west in a straight line a distance of 30 feet to a point on the west lot line of said lot 181; thence south along the west line of said lots 181 and 182 a distance of 311.8 feet to the point of beginning. Granting ownership to said property to the abutting property owners.

Ms. Rebecca Disher, site manager for the Hickory Ridge development thanked the Council for addressing this item and informed them that she was available to answer any questions. There was no other discussion and the vote was taken as follows;

AYE: Councilman Karr, Garvin, Smitherman, Fiedler, Harrison & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried and the Public Hearing was closed at 6:14 P.M.

### **SCHEDULED BUSINESS**

1. Consider and act upon a recommendation from the McAlester Cemetery Board to expend up to \$22,000.00 for purchase of a ¾ ton pickup for the Cemetery using Cemetery Perpetual Care funds. (*Mel Priddy, Director Community Services*)

#### **Executive Summary**

Motion to approve the Cemetery Board recommendation for expenditure of up to \$22,000.00 for a ¾ ton pickup for the Cemetery using Cemetery Perpetual Care funds.

Councilman Smitherman moved to approve the recommendation from the McAlester Cemetery Board to expend up to \$22,000.00 for purchase of a ¾ ton pickup for the Cemetery using Cemetery Perpetual Care funds. The motion was seconded by Councilman Harrison.

Before the vote, Mel Priddy addressed the Council explaining that the Cemetery Board had met on March 10, 2010 and had voted unanimously to recommend that the City purchase a new 2010 ¾ ton pickup for the Cemetery using the Cemetery Perpetual Care interest funds. He added that currently there was \$27,092.09 available.

Councilman Garvin asked how the bids would be handled.

Mr. Priddy stated that quotes would be solicited from the local dealers as well as the state contracts. There was no other discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Smitherman, Fiedler, Harrison, Karr & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

2. Consider, and act upon, taking action to abolish the Cemetery Care Perpetual Trust and in place allow Cemetery Care Board to provide recommendations regarding the investments for the Cemetery Care Fund. (*Gayla Duke, Chief Financial Officer*)

#### **Executive Summary**

Motion to abolish the Cemetery Care Perpetual Trust.

Councilman Fiedler moved to approve the action to abolish the Cemetery Care Perpetual Trust and in place allow Cemetery Care Board to provide recommendations regarding the investments for the Cemetery Care Fund. The motion was seconded by Councilman Karr.

Before the vote, Ms. Duke addressed the Council explaining that the audit finding regarding the Cemetery Trust Investments had been discussed at the February 4, 2010, Special Meeting of the City Council. She commented that the Council had asked for the Cemetery Board to review this matter and submit a recommendation. Ms. Duke added that the letter from the Cemetery Board had been included in the agenda and they had unanimously voted to abolish the Trust and change the name to the Cemetery Care Fund.

There was a brief discussion among the Council, the City Attorney and Ms. Duke regarding the City Attorney's concerns about abolishing the Trust, the need to research the information, verify all aspects of the Trust and if the Council was not able to abolish the Trust they could change the Trustee. Mr. Ervin recommended that he and Ms. Duke review the information regarding the Trust and they then make an educated recommendation to the Council.

Mayor Priddle moved to table the item for thirty (30) days pending the review by the City Attorney and the Chief Financial Officer. The motion was seconded by Councilman Smitherman.

Before the vote, Councilman Harrison explained the difference between the types of Cemetery Care Funds for the citizens. Mr. Ervin added that if there had been specific bequests in the past, those funds could be separated from the other funds. There was no other discussion and no action was taken on this item.

AYE: Councilman Smitherman, Fiedler, Harrison, Karr, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

3. Presentation of financial information for Month ending February 28, 2010. (*Gayla Duke, Chief Financial Officer*)

Executive Summary

Financials for Month ending February 28, 2010.

Councilman Fiedler moved to open the floor for the presentation of the financial information for the Month ending February 28, 2010. The motion was seconded by Councilman Karr.

Before the vote, Ms. Duke gave a short presentation for the Council reviewing the February, 2010 financials. She explained the format and how she had calculated the information in the financial statements for both the General Fund and the McAlester Public Works Authority. She added that sales tax was down state wide.

Councilman Harrison stated that he liked the format, he commented on the expenditures and how the next fiscal years budget was going to be very difficult. Mayor Priddle commented that the financial statement format was very good and that many of the changes that had been made would be helpful preparing for the next budget year. Councilman Garvin asked if the City was prompt on collection of sales tax.

Ms. Duke commented that she now had access to reports through the Tax Commission that would furnish information on businesses that were not remitting sales tax properly.

There was no vote on this item.

4. **(TABLED)** Consider and act upon an Agreement for the Fireworks Display with Extreme Pyro for 2010 scheduled July 4<sup>th</sup> Celebration in the amount of \$13,905.00 (*Mel Priddy, Director Community Services*)

Executive Summary

Approve and sign agreement for the 2010 Firework Display with Extreme Pyro in the amount of \$13,905.00.

Councilman Harrison moved to approve an Agreement for the Fireworks Display with Extreme Pyro for 2010 scheduled July 4<sup>th</sup> Celebration in the amount of \$13,905.00. The motion was seconded by Councilman Smitherman.

Before the vote, Mr. Priddy explained that this had been tabled until the NUC could consider and make a recommendation. He stated that the NUC had recommended going forward with the event. He added that another company had been found that had bid \$13,905.00 to produce the show. He commented that he had just received their agreement and the City Attorney had not reviewed it at this time. Mr. Priddy recommended the Council approve the agreement subject to the review by the City Attorney.

Mr. Stasiak commented that the City had been contacted by the First National Development Corp indicating that they would be interested in participating in this years fireworks display. He stated that he had received an email from Roi Nelson through the First National Development Corp stating they would put \$10,000.00 toward the display. He added that what the City was asking for tonight was \$3,905.00 for the fire works display.

Mayor Priddle thanked the members of the First National Development Corp. He then restated the motion as approval of an agreement for the fireworks display with Extreme Pyro for the 2010 July 4<sup>th</sup> Celebration in the amount of \$13,905.00 pending the review by the City Attorney. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Smitherman, Fiedler, Harrison & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

5. Consider, and act upon, Approving Request from Pride in McAlester to close a street on April 24, 2010 for the Pride in McAlester's Award Festival, authorize free Saturday Landfill use for the citizens of McAlester and the use of the Choctaw Parking lot for their Household Hazardous Waste Clean UP. (*Cora Middleton, City Clerk/Mark Wilkett, Pride-in-McAlester*)

Executive Summary

Motion to approve Request from Pride in McAlester to close a street on April 24, 2010, for the Pride in McAlester's Award Festival, authorize free Saturday Landfill use for the citizens of McAlester, and the use of the Choctaw Parking lot for their Household Hazardous Waste Clean UP.

Councilman Harrison moved to approve the request from Pride in McAlester to close a street on April 24, 2010 for the Pride in McAlester's Award Festival, authorize free Saturday Landfill use for the citizens of McAlester and the use of the Choctaw Parking lot for their Household Hazardous Waste Clean UP. The motion was seconded by Councilman Fiedler.

Before the vote, there was a short discussion among the Council regarding regulations on the landfill to require driver's license to prove the individual was a citizen of the City.

Mark Wilkett addressed the Council reviewed the various events that had been scheduled for the month of April. He commented that at their events they did verify citizens with their driver's license.

Councilman Garvin asked that Pride In McAlester include North Town in some of their events. There was no discussion, and the vote was taken as follows:

AYE: Councilman Fiedler, Harrison, Karr, Garvin, Smitherman & Mayor Priddle  
NAY: None

Mayor Priddle declared the motion carried.

6. **(TABLED)** Consider, and act upon, closing a portion of the Right of Way on "D" Street. This portion of "D" Street is thirty (30) feet of a One Hundred Sixty (160) foot Right of Way. *(Peter J. Stasiak, Acting City Manager)*

Executive Summary

Motion to approve and act upon the closing a thirty (30) foot wide section of "D" Street and authorizing the Mayor to sign the attached Ordinance.

**ORDINANCE NO. 2352**

**AN ORDINANCE OF THE CITY OF MCALESTER, OKLAHOMA TO ANNULL, VACATE, AND CLOSE ALL THAT PART OF "D" STREET LOCATED WITHIN LOTS 181 AND 182, IN TOWNSITE ADDITION #1, IN THE CITY OF MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 182; THENCE EAST ALONG SOUTH LINE OF SAID LOT 182 A DISTANCE OF 30 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOTS 182 AND 181 A DISTANCE OF 311.8 FEET; THENCE WEST IN A STRAIGHT LINE A DISTANCE OF 30 FEET TO A POINT ON THE WEST LOT LINE OF SAID LOT 181; THENCE SOUTH ALONG THE WEST LINE OF SAID LOTS 181 AND 182 A DISTANCE OF 311.8 FEET TO THE POINT OF BEGINNING. GRANTING OWNERSHIP TO SAID PROPERTY TO THE ABUTTING PROPERTY OWNERS.**

Councilman Smitherman moved to approve **ORDINANCE NO. 2352**, seconded by Councilman Fiedler.

Before the vote, Mr. Stasiak explained that this had been tabled due to questions about the closure of thirty feet of right-of-way. He stated that this would not affect “D” Street and he had learned that this housing was not affordable housing, but market rate housing.

Mayor Priddle commented on the amount of work by Councilman Karr and Mr. Stasiak to get the information out to the citizens. Councilman Karr expressed his appreciation for Mr. Stasiak’s work and for the information from the representative, from the developer. There was no other discussion, and the vote was taken as follows:

AYE: Councilman Harrison, Karr, Garvin, Smitherman, Fiedler & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

7. Report on City of McAlester’s Solid Waste Collection, Removal and Disposal. (*John C. Modzelewski, PE*)

Executive Summary

Present analysis of RFP for Solid Waste Collection, Removal and Disposal. Options will be presented.

Councilman Karr moved to open the floor for the report on the City of McAlester’s Solid Waste Collection, Removal and Disposal. The motion was seconded by Councilman Smitherman.

Before the vote, Mayor Priddle noted that this agenda item was presented as a report item therefore there would be not action. He added that if there were any questions or concerns to get them to Mr. Modzelewski as quickly as possible.

Mr. Modzelewski distributed additional information to the Council. He then commented that this was a follow up to the meeting on March 4<sup>th</sup>. He explained that the information presented at the previous meeting did not include the cost of some of the CIP projects. He added that it did change the City’s cost for doing the solid waste collection. Mr. Modzelewski then reviewed the information with the Council. At the conclusion of the review Mr. Modzelewski recommended that the City continue to operate the collection, removal and disposal services.

There was a lengthy discussion among the Council regarding when this would be brought back before the Council for action, the options that had been presented to the Council, obtaining the expenditure breakdown, how these departments had not been reinvested in, if the amount of profit was normal, how these departments subsidized other necessary departments within the City and the importance of allowing all citizens time to voice their concerns. At the conclusion of the discussion, Mayor Priddle restated that this was not an action item so no vote would be taken.

8. Consider, and act upon a Work Order for Mehlburger Brawley Corporation for engineering services required for the design of construction of the U.S. 69 Utility Relocate, ODOT State Job No. 14999 (04) as required by the Oklahoma Department of Transportation. (*Peter J. Stasiak, Acting City Manager*)

Executive Summary

Motion to approve and authorize the Mayor to sign the work order for Mehlburger Brawley to complete work required for U.S. 69 Utility Relocate, ODOT State Job No.14999 (04) for an estimated fee of \$50,000 upon review and approval of by the City Attorney's Office.

Councilman Fiedler moved to approve a Work Order for Mehlburger Brawley Corporation for engineering services required for the design of construction of the U.S. 69 Utility Relocate, ODOT State Job No. 14999 (04) as required by the Oklahoma Department of Transportation. The motion was seconded by Councilman Harrison.

Before the vote, Mr. Stasiak explained that he had been working with ODOT and Calvin Carney to gather as much information as possible. He then distributed copies of the information to the Council containing statistics on accidents along that section of the US 69 Bypass for the previous four (4) to five (5) years. He reviewed the information with the Council highlighting the increase in accidents with each year. He reminded the Council that on December 8, 2009, the Council approved the Right of Way Public Utilities Encroachment Agreement with ODOT. He added that the agreement stated that the City agreed to the location of said highway, acknowledged receipt of and adopted the plans of said project as the official construction interchange at Comanche Avenue in McAlester.

There was a lengthy discussion among the Council and Mr. Stasiak concerning tabling the item to have more time to consider the new information, allowing all of the Council members to have a vote on the matter, when the Council would receive answers from the State, and when the State would like to see the City's portion of the project completed.

Councilman Garvin moved to table this item until the April 13, 2010 meeting. The motion was seconded by Councilman Smitherman.

Before the vote, there was further discussion among the Council concerning how changes made by the State would affect the engineering services, when the Council would know the State had finalized the plans, and that this item was only for the engineering services and not the construction. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Smitherman, Fiedler, Harrison, Karr & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

**NEW BUSINESS**

None

**CITY MANAGER'S REPORT**

Acting City Manager Stasiak reported that Washington Avenue had been reopened last night after the completion of the repairs. He commented that at the April 13<sup>th</sup> meeting there were plans for an Executive Session for legal update and status of the Union negotiations for FOP and IAFF.

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

Councilman Fiedler commented that on April 1<sup>st</sup> there would be a Town Hall meeting with Pride in McAlester at the Wanda Bass Conference Center at EOSC McAlester Campus. He then requested that the April 13<sup>th</sup> meeting be moved to April 12<sup>th</sup> so any of the Council members could attend Chief Pyle's Birthday Celebration.

Councilman Harrison stated that Saturday, March 13, 2010, he and the Mayor had attended the Sunshine Conference in Oklahoma City, which was connected to Sunshine Week that promotes openness in government.

Councilman Karr asked about the activity on Choctaw Avenue where the railroad had cleared off the land.

Mr. Stasiak commented that he was not sure but had heard the possibility of another spur or loading area. He added that whatever the railroad decided to do they would have to present their intentions to the Council before proceeding.

Councilman Karr then stated that there was a Pride In McAlester meeting next Monday, March 29<sup>th</sup> at the Rudy Hernandez residence.

Councilman Garvin stated he had attended the Old Town meeting on Thursday night. He added that there were a lot of good ideas at their meetings. He informed the Council that on April 2, 2010 at 10:00 A.M., the True Value Store in Old Town was having their Grand Opening. He stated that he hoped to begin having Ward meetings in Hutchison Park when the weather improved.

Councilman Smitherman did not have any remarks.

Mayor Priddle remarked on the Clean Up McAlester Month that Pride In McAlester was working on. He encouraged everyone to participate. He added that United Way along with Komar and several other groups were working on Make a Difference Day and urged that everyone to help with this effort.

### **RECESS COUNCIL MEETING**

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

AYE: Councilman Smitherman, Fiedler, Harrison, Karr, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the Regular Meeting was recessed at 7:49 P.M.

### **RECONVENE COUNCIL MEETING**

The Regular Meeting was reconvened at 7:50 P.M.

**ADJOURNMENT**

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

AYE: Councilman Fiedler, Harrison, Karr, Garvin, Smitherman & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried, and the meeting was adjourned at 7:51 P.M.

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Kevin E. Priddle, Mayor

ATTEST:

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Cora Middleton, City Clerk