

The McAlester City Council met in a Regular session on Tuesday, September 26, 2017, at 6:00 P.M. after proper notice and agenda was posted, September 21, 2017 at 3:07 P.M.

Call to Order

Mayor Browne called the meeting to order.

William J. Ervin gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, Cully Stevens, Travis Read, Robert Karr, Jason Barnett & John Browne
Absent: Buddy Garvin
Presiding: John Browne, Mayor

Staff Present: Peter J. Stasiak, City Manager; David Horinek, Public Works Director; Jayme Clifton, Community Development Director; Kirk Ridenour, Economic Development Director; Toni Ervin, CFO; Dalton Carlton, Utility Maintenance Superintendent; Billy Sumner, Tourism & SE Expo Center Manager; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizens Comments on Non-Agenda Items

Residents may address Council regarding an item that is not listed on the Agenda. Residents must provide their name and address. Council requests that comments be limited to five (5) minutes.

No comments.

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 22, 2017, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for September 7, 2017 through September 19, 2017. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$185,222.24; Parking Authority - \$195.46; Nutrition - \$3,269.42; Landfill Res./Sub-Title D - \$225.00; State Forfeiture Fund - \$6,075.36; Tourism Fund - \$21,804.86; SE Expo Center - \$16,903.50; E-911 - \$8,123.49; Economic Development - \$1,127.25; Grants & Contributions - \$16,710.80; Fleet Maintenance - \$7,944.96; CIP Fund - \$228,211.00; Technology Fund - \$387.87 and Stormwater Fund - \$2,415.00.
- C. Concur with the Mayor's reappointments of Brandon John, 705 S. 10th St, McAlester, and Randy Walters, 24 Georgetown Circle, McAlester, to the McAlester Airport Advisory Board for terms to end October, 2019. *(John Browne, Mayor)*
- D. Concur with the Mayor's appointment of Ben Kennedy, 1402 E. Osage, McAlester, to the McAlester Airport Advisory Board for a term to end October, 2019. *(John Browne, Mayor)*
- E. Consider and act upon, authorizing the Mayor to initial the correction of the final pay request in the amount of \$214,895 from Utility Technology Services, Inc. for Phase 1 of the AMI Project. *(Dale Seaton, Holloway, Updike & Bellen, Inc.)*

A motion was made by Councilman Smith and seconded by Vice-Mayor Karr to approve the Consent Agenda.

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

AYE: Councilman Smith, Karr, Stevens, Read, Barnett & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

A motion to open a Public Hearing to consider an ordinance amending Chapter 106, Section 28 and Chapter 48 was made by Councilman Read. The motion was seconded by Councilman Smith and the vote was taken as follows:

AYE: Councilman Read, Smith, Stevens, Karr, Barnett & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the Public Hearing was opened at 6:03 P.M.

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.

AN ORDINANCE OF THE CITY OF MCALESTER, OKLAHOMA, AMENDING CHAPTER 106, ARTICLE II, SECTION 106-28. METER INSTALLATION FEE AND CHAPTER 48 FEES, CHARGES AND SERVICE RATES, REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE OF NOVEMBER 1, 2017.

There were no comments from the Council or audience and a motion to close the Public Hearing was made by Councilman Read. The motion was seconded by Councilman Smith, and the vote was taken as follows:

AYE: Councilman Read, Smith, Karr, Barnett, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the Public Hearing was closed at 6:03 P.M.

Scheduled Business

1. Presentation and discussion of the results of a recent survey conducted on the Southeast Expo Center. *(Billy Sumner, Tourism and Expo Manager)*

Executive Summary

Discussion.

Mr. Sumner addressed the Council explaining that he and Eddie Grey had developed a survey related to the SE Expo Center and placed it on Facebook. He then reviewed the results from the survey for the Council. He explained that more and better communication and advertisement is needed to inform citizens of all of the activities that are currently going on at the Expo. He then reviewed the changes that had been made to the Expo and those that were planned to be made in the future.

There was discussion concerning the biggest draws currently at the Expo, how the changes to the concession area had improved, how the current rental rates compared to other communities, working with other area businesses, the need for air conditioning in the large area and the latest estimate to install air conditioning in that area of the Expo.

There was no vote on this item.

2. Consider and act upon, an Ordinance amending Chapter 106, Article II, Section 106-28. Meter Installation Fee and Chapter 48 Fees, Charges, and Service Rates; repealing all

conflicting ordinances; providing for a severability clause; and establishing an effective date. *(Robert Karr, Councilman Ward 4)*

Executive Summary

Motion to approve the amendment of the ordinance.

Vice-Mayor Karr stated that he had been absent the meeting that this matter was originally considered. He commented that he wanted to hear the reasons this had been voted down. He added that this was a forty (40) year old ordinance that had not been changed. He also commented that the rates were low.

There was discussion concerning the rates that other cities charged, how this had not kept up with inflation, the City absorbing costs, not charging for something that was required to have, how long it takes to make the cost of a meter installation back in water sales, not addressing the additional costs that could be incurred with problems, who this change would affect, offering a discount to developers that might build several houses at a time, seeing all of the possible costs that the City could incur and tabling this until the next meeting.

Councilman Stevens moved to table this item until the next Council meeting. The motion was seconded by Vice-Mayor Karr, and the vote was taken as follows:

AYE: Councilman Stevens, Karr, Barnett, Smith, Read & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

3. Consider and act upon, authorizing the Mayor to sign the Contractor's Final Pay Estimate No. 3 for the contract with Gipson Construction for construction of the 36" Storm Water Drainage Pipe located at 1510 S. Main St., and accept the project as completed. *(David Horinek, Public Works Director)*

Executive Summary

Motion to approve final payment of \$2,415.00 for the 36" Storm Water Drainage Pipe to Gipson Construction and accept the project as completed.

Director Horinek addressed the Council explaining that the Storm Water Drainage Pipe at 1510 S. Main Street, were broken and not draining properly. He added that the project was completed and this would be the final payment.

There was no other discussion, and Councilman Read moved to authorize the Mayor to sign the Contractor's Final Pay Estimate in the amount of \$2,415.00 for the 36' Storm Water Drainage Pipe Project with Gipson Construction and accept the project as completed. The motion was seconded by Councilman Smith, and the vote was taken as follows:

AYE: Councilman Read, Smith, Barnett, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

4. Discussion and update on Financials. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Discussion.

CFO Ervin addressed the Council updating them on the City's financial status as of August 31, 2017. She briefly reviewed the General Funds revenue and expenses, the MPWA's revenue and expenses, the Use tax receipts and the water sales to the various customers.

CFO Ervin reminded everyone of the "Town Hall" meeting with the State Auditor that had been scheduled for October 4, 2017 at 6:00 P.M. at the McAlester Campus of Eastern Oklahoma State College.

There was no vote on this item.

5. Consider and act upon, disqualification of the bid from CD Utilities and Excavation, LLC and award the contract to KATCON, INC. in the amount of \$25,407.00 and authorize the

Mayor to sign the Notice of Award and Contract Agreement for the 2015 CDBG Phase III Water Improvements Project. (*Robert Vaughan, Infrastructure Solutions Group*)

Executive Summary

The recommendation is to disqualify the lowest bidder due to incomplete bid documents and enter into an agreement with KATCON, Inc. in the amount of \$25,407.00, for the 2015 CDBG Phase III Water Improvements Project.

Robert Vaughan, P.E. Branch Manager Infrastructure Solutions Group, LLC, addressed the Council explaining that this project had been bid at 2:00 p.m. on September 12, 2017 and two (2) contractors had elected to submit bids. After closer review of the low bid, from CD Utilities and Excavating, it was found to be incomplete, contained inaccuracies and non-executed bid documents. He added that it was their recommendation to disqualify the lowest bidder due to incomplete bid documents and enter into an agreement with KATCON, Inc. in the amount of \$25,407.00, for the 2015 CDBG Phase III Water Improvements Project.

There was a brief discussion concerning any legal problems this might cause and if Mr. Vaughan had received many of this kind of bid.

A motion to disqualify the bid from CD Utilities and Excavation, LLC, award the contract to KATCON, Inc. in the amount of \$25,407.00 and authorize the Mayor to sign the Notice of Award and Contract for the 2015 CDBG Phase III Water Improvements Project. The motion was seconded by Vice-Mayor Karr, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Barnett, Stevens, Read & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

6. **TABLED FROM SEPTEMBER 12TH MEETING** - Consider and Act to authorize the Mayor to sign a contract with Ervin & Ervin, Attorneys at Law, L.L.P. in an amount not to exceed thirty thousand dollars (\$30,000.00) for legal services related to the formation of two (2) Tax Increment Financing Districts within the City of McAlester. (*Peter Stasiak, City Manager*)

Executive Summary

This item was tabled at the previous Council Meeting in order to request bids from additional Law Firms to perform this service. Requests were issued on September 18th to twenty (20) individuals with a September 21st closing date. To date, the City has received 2 denials only. The recommendation is to authorize the legal services contract with Ervin & Ervin in the amount not to exceed \$30,000.

Director Ridenour addressed the Council explaining that this item had been tabled at the previous Council Meeting in order to request bids from additional Law Firms to perform the service. He stated requests issued on September 18th to twenty (20) individuals with a September 21st closing date. Director Ridenour added that they had received two (2) denials last week then one (1) clarification from a local attorney indicating that he would be interested but it would be for more than \$30,000.00.

There was a lengthy discussion concerning calls received inquiring why the City would pay for legal fees and not the individuals that would benefit from the TIF, the TIF committees making the decision or recommendations to the Council on what each TIF would collect, the TIFs being an investment into the areas that they covered, voting to spend money on something that may not happen, the development not happening without the TIF to provide the incentive program for the 14th Street development, why this was just being discussed now, the TIF being the mechanism for the incentive, the type of incentive that was done to get Lowes into the City, this development bringing more sales tax and/or property tax into the area if it happens, what the cost of the legal service would be if the committee decides not to form a TIF, how the legal fees would be calculated, the Council having the ability to check the progress of each committee, the meetings all being open to the public, what fund this money would come out of and making sure that certain things that had to be done were done.

There was no further discussion, and a motion to authorize the Mayor to sign a contract with Ervin & Ervin, Attorneys at Law, L.L.P. in an amount not to exceed \$30,000.00 for legal services related to the formation of two (2) Tax Increment Financing Districts within the City of McAlester was made by Mayor Browne. The motion was seconded by Councilman Smith, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Barnett & Mayor Browne
NAY: Councilman Read
ABSTAIN: Councilman Stevens (counted as a no vote)

Mayor Browne declared the motion carried.

7. Consider and act upon, to confirm the Mayor's appointment of representatives to serve on the Downtown McAlester Area Reinvestment Review Committee and the South McAlester Area Reinvestment Review Committee. (*Kirk Ridenour, Director Economic Development*)

Executive Summary

Confirm the Mayor's appointment of representatives to serve on the TIF Review Committees.

Mayor Browne stated that he had the City Manager send letters to all taxing entities, the McAlester Public Library and the County Health Department to get their recommendations for the committees. He commented that he was taking their recommendations and passing them on to the Council. He then asked Attorney Ervin if the committees could be done as a group or if the individuals needed to be approved separately.

Attorney Ervin commented that the resolution that had been passed called the two (2) committees the McAlester Downtown Area Reinvestment Review Committee and the McAlester Southside Area Reinvestment Review Committee. He added that the names for the Downtown Area Reinvestment Review Committee could be read and considered and then the names for the Southside Area Reinvestment Review Committee could be read and considered.

Mayor Browne then read the nominations for the McAlester Downtown Area Reinvestment Review Committee as follows:

McAlester City Council:	Weldon Smith
McAlester Planning Commission:	Carl Gullick
Pittsburg County:	Michelle Fields
Health Department:	D'Elbie Walker
McAlester Public Library:	Michael Hull
McAlester Public School District:	Randy Hughes
Kiamichi Technology Centers:	Shelley Free

Councilman Read inquired about citizen members on the committees.

Attorney Ervin explained that the committees would provide a list of citizen names and the Council would approve the citizen members from that list.

A motion to approve the nominations for the McAlester Downtown Area Reinvestment Review Committee was made by Vice-Mayor Karr and seconded by Councilman Read. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Karr, Read, Barnett & Mayor Browne
NAY: None
ABSTAIN: Councilman Smith & Stevens (counted as a no vote)

Mayor Browne declared the motion carried.

Mayor Browne then read the nominations for the McAlester Southside Area Reinvestment Review Committee as follows:

McAlester City Council:	Weldon Smith
McAlester Planning Commission:	Mark Emmons
Pittsburg County:	Hope Trammell
Health Department:	Ross Selman
McAlester Public Library:	Michael Hull
Frink-Chambers School District:	Brian Lott
Kiamichi Technology Centers:	Shelley Free

A motion to approve the nominations for the McAlester Southside Area Reinvestment Review Committee was made by Councilman Read and seconded by Vice-Mayor Karr. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Read, Karr, Stevens, Barnett & Mayor Browne

NAY: None

ABSTAIN: Councilman Smith (counted as a no vote)

Mayor Browne declared the motion carried.

New Business

Any matter not known or which could not have been reasonably foreseen prior to the time of posting the Agenda in accordance with Sec. 311.9, Title 25, Oklahoma State Statutes.

There was no new business.

City Manager's Report

- Report on activities for the past two weeks.

Manager Stasiak reported that the leak in the Clearwell at the Water Treatment Plant had become a bigger problem than anticipated. It had went from an \$8,000.00 fix to a \$50,000.00 problem. He stated that a group had attended the Highway 69 update meeting and in approximately three (3) weeks phase 1 of the project would be complete. He informed the Council that ODOT had two (2) other projects between the Casino and the Turnpike. One was an asphalt overlay and the other was the bridge, by OHP, replacement which would begin in early January 2018. Manager Stasiak updated the Council on the Ward Redistricting, commenting that the committee had re-engaged and hoped that matter would be completed by the end of the year.

Remarks and Inquiries by City Council

Councilman Read inquired about the accident at Carl Albert Parkway and "A" Street.

Manager Stasiak commented that he would look into it.

Councilmen Smith, Stevens, Karr and Barnett did not have any comments or inquiries for the evening.

Mayor's Comments and Committee Appointments

Mayor Browne reminded all about the Town Hall meeting with the State Auditor and he thanked Attorney Ervin for contacting the State Auditor and helping to arrange the meeting.

Recess Council Meeting

Mayor Browne asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Smith moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Read.

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

AYE: Councilman Smith, Read, Karr, Barnett, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the meeting was recessed at 7:21 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:23 P.M.

Councilman Read moved to recess the Regular Meeting for an Executive Session in accordance with Title 25, Sec. 307.B.4, for Confidential communications between a public body and its attorney concerning pending investigations, claims, or actions, more particularly: Tim Murray

Workers Compensation Lien/Claim. The motion was seconded by Councilman Smith, and the vote was taken as follows:

AYE: Councilman Read, Smith, Stevens, Karr, Barnett & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the Regular Meeting was recessed at 7:23 P.M.

Executive Session

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

- Executive Session pursuant to Title 25, Sec. 307(B)(4) for Confidential communications between a public body and its attorney concerning pending investigations, claims, or actions, more particularly: Tim Murray Workers Compensation Lien/Claim.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:35 P.M. Mayor Browne reported that the Council had recessed the Regular Meeting for an Executive Session for confidential communications between a public body and its attorney concerning pending investigations, claims, or actions, more particularly: Tim Murray Workers Compensation Lien/Claim, in accordance with Title 25, Sec. 307.B.4. Only that matter was discussed, no action was taken, and the Council returned to open session at 7:35 P.M., and this constituted the Minutes of the Executive Session.

- Consider and act to settle, compromise, reduce, or to retain and enforce the City's lien for Workers Compensation benefits paid to, or on behalf of, former city employee Tim Murray, for subrogation recovery from third parties.

Councilman Smith moved to reject the proposal and stand on rights under Statute. The motion was seconded by Vice-Mayor Karr, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Read, Barnett, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

Adjournment

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

AYE: Councilman Smith, Karr, Barnett Stevens, Read & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 7:36 P.M.

ATTEST:

John Browne, Mayor

Cora Middleton, City Clerk