

The McAlester City Council met in a Regular session on Tuesday, October 23, 2018, at 6:00 P.M. after proper notice and agenda was posted, October 22, 2018 at 12:15 P.M.

### **Call to Order**

Mayor Browne called the meeting to order.

Councilman Buddy Garvin gave the invocation and led the Pledge of Allegiance.

### **Roll Call**

Council Roll Call was as follows:

Present: Weldon Smith, Cully Stevens, Travis Read, James Brown, Buddy Garvin, Zach Prichard & John Browne

Absent: None

Presiding: John Browne, Mayor

Staff Present: Pete Stasiak, City Manager; Toni Ervin, Asst. City Manager; Kirk Ridenour, Economic Development Director; Doug Basinger, Risk Mgmt./Safety Officer; Billy Sumner, Tourism/Expo 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.*

Joe Ervin, 600 E. South Ave. addressed the Council regarding the reinstatement of "Student Government Day". He stated that he had discussed this with Brian Walters, Government teacher at McAlester High School. He explained the concept of "Student Government Day" and how it encouraged the students to get involved with local government and what was going on in their community. He stated that he had spoken with Manager Stasiak and had his tentative approval but wanted to speak to the Council about this matter also.

### **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 October 9, 2018, Regular Meeting of the McAlester City Council. (Cora Middleton, City Clerk)

- B. Approval of Claims for October 3, 2018 through October 16, 2018. *(Toni Ervin, Assistant City Manager)* In the following amounts: General Fund - \$138,089.32; Parking Authority - \$182.51; Nutrition - \$2,128.20; Landfill Res./Sub-Title D - \$4,726.00; Tourism Fund - \$4,413.82; SE Expo Center - \$20,660.00; E-911 - \$45,677.76; Economic Development - \$29,897.05; Fleet Maintenance - \$7,312.38; Worker's Compensation - \$1,750.00; CIP Fund - \$23,598.00; Stormwater Fund - \$5,088.88 and Infrastructure Fund - \$62,634.47.
- C. Consider and act upon, approval of an Assignment and Assumption Agreement, consenting to the change of assignment regarding Consolidated Benefits Resources. *(Peter Stasiak, City Manager)*

Councilman Smith moved to approve the Consent Agenda. The motion was seconded by Councilman Brown. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Brown, Stevens, Read, Garvin, Prichard & Mayor Browne  
 NAY: None

Mayor Browne declared the motion carried.

Councilman Garvin moved to open a Public Hearing to address two (2) proposed ordinances. The motion was seconded by Councilman Smith, and the vote was taken as follows:

AYE: Councilman Garvin, Smith, Stevens, Read, Brown, Prichard, & Mayor Browne  
 NAY: None

Mayor Browne declared the motion carried, and the Public Hearing was opened at 6:06 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 COUNCIL OF THE CITY OF MCALESTER, OKLAHOMA, DEDICATING A PLATTED ROADWAY LOCATED IN TOWNSITE ADDITION NO. 5 (TSA NO. 5) PITTSBURG COUNTY, OKLAHOMA. BEING FORTY FEET (40') IN WIDTH AND FIVE HUNDRED FEET (500') IN LENGTH, LOCATED BETWEEN TSA 5 LOT NOS. SIXTY EIGHT (68) AND EIGHTY EIGHT (88) AS A PUBLIC STREET OF THE CITY OF MCALESTER, OKLAHOMA, MORE COMMONLY KNOWN AND NAMED EAST KIOWA AVENUE, AND DECLARING AN EMERGENCY.**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2626 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2018-2019; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

There were no comments 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, Brown, Garvin, Prichard, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the Public Hearing was closed at 6:06 P.M.

### **Scheduled Business**

1. Consider and act upon, to approve the Developer Agreement in form only, for “Shops At McAlester,” located at the southwest corner of 14th street and the George Nigh Expressway, in the City of McAlester, Oklahoma. (Kirk Ridenour, Economic Development)

Executive Summary

The attached Developer Agreement is ready for consideration and approval by the council as to form only.

Joe Ervin addressed the Council explaining that the Council had the proposed final Developer Agreement. He stated that the agreement had been approved by the developer. He commented that there were a few minor changes such as the name of the contracting party was changed to reflect “The Shops at McAlester, LLC”, which was an entity they created for the project. He added that some of the language had been cleaned up to show what the parties were agreeing to. Mr. Ervin stated that there was some concern about confidentiality regarding financial information pertaining to sub-contractors and the stores that were going into the center. He explained that the number of restaurants had changed from four (4) to three (3) and a clause regarding the opening of duplicate stores or restaurants had been added. He stated that other than the changes made it was the same agreement that the Council had previously approved as to form, but the Developer had signed this one.

Director Ridenour addressed the Council informing them that they all should have a letter in their packets from Gene Murphy, co-owner of the Tandy Town Shopping Center concerning the possibility of tenants relocating to the new shopping center.

Mayor Browne commented that the agreement already contained a clause addressing that matter.

There was no further discussion, and a motion to approve the agreement as to form was made by Councilman Smith. The motion was seconded by Councilman Read, and the vote was taken as follows:

AYE: Councilman Smith, Read, Brown, Garvin & Mayor Browne

NAY: Councilman Prichard & Stevens

Mayor Browne declared the motion carried.

Councilman Read moved to recess the meeting to convene the McAlester Economic Development Authority. The motion was seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Smith, Garvin, Prichard, Stevens, Brown & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried and the Regular Meeting was recessed at 6:14 P.M.

The Regular Meeting was reconvened at 6:16 P.M.

2. Presentation of Financial Reporting Under GASB Statements (Actuarial Report) for the City of McAlester Defined Benefit Retirement Plan and Trust as of July 1, 2018. (Bruce R. Nordstrom, FSA, EA, MAAA, Senior Consulting Actuary, McQueary Henry Bowles Troy, L.L.P.)

Executive Summary

Motion to accept and place on file the Actuarial Report for period ending July 1, 2018.

Bruce Nordstrom FSA, EA, MAAA, Senior Consulting Actuary, McQueary Henry Bowles Troy, L.L.P., addressed the Council presenting the July 1, 2018 Funding Report for the City of McAlester's Defined Benefit Retirement Plan and Trust and the June 30, 2018 Financial Reporting Under GASB Statements 67 and 68.

He explained that the reason he was presenting two (2) reports was due to the change that had been made in how Retirement benefits were reported on the City's financial reports. He then reviewed the recommended Annual Contribution and how the Assets and Liabilities of the Plan were reacting to the changes that had been made to the Plan.

Mr. Nordstrom explained how the Actuarial Valuation was calculated, and the significant risks that the Plan faced.

There was a brief discussion concerning how the Plans investments were tied to the Stock Market, how well the Plan was doing and how the Plan was balanced, how the funding was calculated, and the different options the City could take to help reduce the liability of the Plan.

Mr. Nordstrom stated that the way the Plan had worked out since the freeze, the City could not have hoped for a better performance.

There was no vote on this item.

3. Discussion on the residential sewer drainage located at 411 and 415 East Miami Ave. (*Peter Stasiak, City Manager*)

Executive Summary

Discussion.

Manager Stasiak addressed the Council explaining that he had been contacted by Cody Nelson regarding sewer problems at 411 and 415 E. Miami. He commented that the City had done an extensive investigation into the matter and have made recommendations to the owners. He stated that there was no City right-of-way for the problem area, it was a public sewer line and he did not recommend that the City trying to solve the problem since it was private property.

Utility Maintenance Supervisor Dalton Carlton addressed the Council explaining that he had worked with George Marcangeli and they had determined that the houses had been built in 1905 and 1930 and that no improvements had been made to the sewer in that area. He informed the Council of an option that could correct the problem with the two (2) houses but the community sewer line would eventually cause problems for the houses that remained connected to it.

There was discussion regarding where the break was located in the line, and how the City could gain access to address the break.

Councilman Read commented that he believed that the City had an obligation to provide sewer service to the homes located in that area.

There was further discussion concerning the City repairing the break in the line, installing a new sewer line that the houses at 411 and 415 E. Miami would have access to, and eventually the other properties being given access to, if there was any legal liability to the City, the home owners working together to fix the problem, the cost of a new sewer line and what the process was that the City would have to follow to install a new sewer line.

Cody Nelson, 411 E. Miami addressed the Council stating that he had been attempting to repair the sewer line, but the old line continued to crumble as he was replacing it.

There was discussion concerning Manager Stasiak working with Mr. Nelson on an agreement, how long it would take to bring a plan back to the Council, getting the cost estimates and then bringing it back to the Council for consideration.

There was no vote on this item.

4. **TABLED FROM OCTOBER 9<sup>TH</sup>, 2018 COUNCIL MEETING:** Consider and act upon, to concur with Oklahoma Municipal Assurance Group (OMAG) recommendation to deny Claim No. 205245-ME. (*Cora Middleton, City Clerk*)

Executive Summary

Motion to concur with Oklahoma Municipal Assurance Group (OMAG) recommendation to deny Claim No. 205245-ME.

Doug Basinger Safety/Risk Management Officer addressed the Council explaining that on July 31, 2018 there was a water line break at 807 E. Indiana. He stated that the line had been repaired the next day, but the home owner was claiming that his drive had been damaged. He informed the Council that OMAG, the City's liability insurance provider, the City's Utility Maintenance Department and the City's Street Department could not find any damage or liability on the City's part.

There was discussion concerning the repairs that had been done, what repairs were still needed to be done, the claimed water damage in the houses garage and there not being any evidence that the garage or house had flooded.

A motion to concur with Oklahoma Municipal Assurance Group's recommendation to deny Claim No. 205245-ME was made by Councilman Read. The motion was seconded by Councilman Smith.

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

AYE: Councilman Read, Smith, Garvin, Prichard, Stevens & Mayor Browne

NAY: Councilman Brown

Mayor Browne declared the motion carried.

5. Consider and act upon, approval of an ordinance of the City of McAlester; authorizing the opening of a previously platted roadway known as an East Kiowa Ave extension, effective immediately, repealing all conflicting ordinances. (*Peter Stasiak, City Manager*)

Executive Summary

Motion to approve the ordinance authorizing the opening of a previously platted roadway known as an East Kiowa Ave extension, effective immediately.

Director Horinek addressed the Council explaining that in August of 1976 the City passed Ordinance No. 1497 annexing lots 68, 88 and 89 Townsite Addition #5 to the city limits of McAlester. He stated that a platted 40 foot wide roadway between lot 68 and 88 was included in the annexation. Director Horinek continued commenting that in September of 1976 Robert and Margaret Schiller and Wal-Mart Properties, Inc. filed a joint easement to the City of McAlester for re-opening on and across prior streets, Kiowa and Comanche Avenue for use across lots 68 and 88, Townsite Addition #5. He added that in May of 2017 Harve Taylor and Wal-Mart began concrete repairs and joint sealing of the 40 foot platted roadway between lots 68 and 88 and asked the City of McAlester to accept a 500 foot long by 40 foot wide strip as E. Kiowa Avenue east of U.S. 69 Highway right-of-way upon completion of repairs and joint sealing. He stated that on June 15, 2018 he and Special Projects Engineer, George Marcangeli inspected the repairs and joint sealing work and indicated that it was acceptable to the City of McAlester.

Councilman Read asked why this road needed to be a City street, it was access to the shopping center and the City was being asked to take over maintenance of a private road.

Director Horinek commented that the Oklahoma Department of Transportation (ODOT) preferred not to put stop signs on private roads connected to state road. He added that the repairs that had been done were very good.

There was discussion concerning ODOT's plans of building a limited access highway, putting in Texas turn arounds at Wade Watts and south of Jimmy's Egg restaurant, making this a public street to remove ODOT's problem, the City having eighteen (18) months to come up with solutions to keep Wade Watts a two (2) way street, the roadway being a Townsite Addition roadway that is public and if ODOT was planning to prevent from one side of the highway to the other side.

**ORDINANCE NO. 2639**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCALESTER, OKLAHOMA, DEDICATING A PLATTED ROADWAY LOCATED IN TOWNSITE ADDITION NO. 5 (TSA NO. 5) PITTSBURG COUNTY, OKLAHOMA. BEING FORTY FEET (40') IN WIDTH AND FIVE HUNDRED FEET (500') IN LENGTH, LOCATED BETWEEN TSA 5 LOT NOS. SIXTY EIGHT (68) AND EIGHTY EIGHT (88) AS A PUBLIC STREET OF THE CITY OF MCALESTER, OKLAHOMA, MORE COMMONLY KNOWN AND NAMED EAST KIOWA AVENUE, AND DECLARING AN EMERGENCY.**

A motion to adopt **ORDINANCE NO. 2639** was made by Councilman Brown and seconded by Mayor Browne. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Brown, Smith, Stevens, Read, Garvin & Mayor Browne

NAY: Councilman Prichard

Mayor Browne declared the motion carried.

Councilman Brown moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Garvin, and the vote was taken as follows:

AYE: Councilman Brown, Garvin, Smith, Stevens, Read & Mayor Browne

NAY: Councilman Prichard

Mayor Browne declared the motion carried.

6. Consider and act upon, an Ordinance amending Ordinance No. 2626 which established the budget for fiscal year 2018-2019; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, Assistant City Manager)*

Executive Summary

Motion to approve the budget amendment ordinance.

Assistant Manager Ervin addressed the Council reviewing the exhibits to the Budget Amendment. She explained that this amendment dealt with the Airport grant from the Federal Aviation Administration and accounted for all of the transfers and appropriations.

**ORDINANCE NO. 2640**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2626 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2018-2019; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

There was no discussion and a motion to approve **ORDINANCE NO. 2640** was made by Councilman Smith. The motion was seconded by Councilman Garvin, and the vote was taken as follows:

AYE: Councilman Smith, Garvin, Stevens, Read, Brown, Prichard & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

A motion to approve the EMERGENCY CLAUSE was made by Councilman Garvin and seconded by Councilman Brown. There was no discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Brown, Stevens, Read, Prichard, Smith & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

7. Discussion on Monthly Financial update. *(Toni Ervin, Assistant City Manager)*  
Executive Summary  
Discussion on City of McAlester's Financial update.

Assistant Manager Ervin addressed the Council explaining that the City was a quarter percent (1/4%) through the fiscal year. She then reviewed the City's financial status as of September 30, 2018. She stated that the General Fund was on budget, the MPWA was a little over budget on revenue and expenses were below budget. She reviewed the Sales and Use Tax graphs, the MPWA revenues and added that both Funds were doing well.

Assistant Manager Ervin reviewed the City's current Bonds, explained how their payments were handled and how each affected the City's Budget and then reviewed the Treasury Report.

There was a brief discussion concerning the 2003A School Bond, how that account could be closed, and if the Budget was done in monthly increments.

There was no vote on this item.

### **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 crews were working on "A" Street. He explained that the water line was replaced and new valves were installed. He stated that panels were also being replaced while the crews were working in that area. He added that while the City was working on "A" Street A-OK Railroad replaced all of the asphalt in between the tracks.



Manager Stasiak reported that the sewer line behind the Post Office had been a challenge, there was a lot of rock in that area. He stated that the Utility Maintenance Department felt they would be finished with the line this week and then the Street Department would be in to finish with asphalt.

### **Remarks and Inquiries by City Council**

Councilmen Smith and Prichard did not have any comments for the evening.

Councilman Stevens asked if Pride In McAlester helped with the Recycling Center and if they furnished the employees. He then asked for more information on the Center.

Manager Stasiak informed the Councilman that the City with help from Pride In McAlester managed the Recycling Center and Ki Bois provided the employees.

Councilman Read congratulated Toni Ervin on her selection as Assistant City Manager. He then expressed appreciation for A-OK Railroad.

Councilman Brown congratulated Ms. Ervin on her selection as Assistant City Manager and commented that he hoped the next CFO was as transparent as she had been.

Councilman Garvin congratulated Ms. Ervin on her selection as Assistant City Manager. He then expressed appreciation for the work that PSO was doing in the hurricane affected areas of the country.

### **Mayor's Comments and Committee Appointments**

Mayor Browne congratulated Ms. Ervin on her selection as Assistant City Manager and Councilman Garvin on his retirement. He then thanked all of the City employees for their work.

### **Recess Council Meeting**

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, Brown, Garvin, Prichard, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the meeting was recessed at 7:44 P.M.

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 7:45 P.M.

Councilman Smith moved to recess the Regular Meeting for an Executive Session in accordance with Title 25, Section 307.B.4, for Confidential communications between a public body and its attorney concerning pending investigation, claims, or actions. The motion was seconded by Councilman Read. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Brown, Garvin, Prichard, Stevens & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried, and the meeting was recessed at 7:45 P.M.

**Executive Session**

*Recess into Executive Session in compliance with Section Title 25 Section 307 B.4 et.seq. Oklahoma Statutes, to wit:*

- Proposed 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.

**Reconvene Council Meeting**

The Regular Meeting was reconvened at 8:33 P.M. Mayor Browne reported that the Council had recessed the Regular Meeting for an Executive Session in accordance with Title 25, Section 307.B.4, for Confidential communications between a public body and its attorney concerning pending investigation, claims, or actions. Only that matter was discussed, no action was taken and the Council returned to open session at 8:33 P.M., and this constituted the Minutes of the Executive Session.

**Adjournment**

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

AYE: Councilman Read, Smith, Brown, Garvin, Prichard, Stevens & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 8:33 P.M.

ATTEST:

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John Browne, Mayor

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Cora Middleton, City Clerk