

The McAlester City Council met in a Regular session on Tuesday, March 12, 2019, at 6:00 P.M. after proper notice and agenda was posted, March 8, 2019 at 10:09 A.M.

Call to Order

Mayor Browne called the meeting to order.

Adarra Wilson and Luke Clifton, Pittsburg County 4-H Leadership Team/County Ambassadors 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, Zach Prichard & John Browne

Absent: None

Presiding: John Browne, Mayor

Staff Present: Pete Stasiak, City Manager; Toni Ervin, Asst. City Manager; Stephanie Giacomo, Grant Writer/Public Information Officer; Kirk Ridenour, Economic Development Director; Dalton Carlton, Utility Maintenance Superintendent; An-Chen Lai, CFO; Eddie Gray, Tourism Assistant; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Recognition and Awards

Mayor Browne recognized Delona Jones as February Employee of the Month. Ms. Jones was presented with a Certificate of Appreciation, a plaque, a Personal Planner and a gift card.

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.

There were no citizen 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 February 12, 2019, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for January 21, 2019 through March 5, 2019. *(Toni Ervin, Assistant City Manager)* In the following amounts: General fund - \$144,119.69; Nutrition - \$2,853.59; Landfill Res./Sub-Title D - \$618.35; Tourism Fund - \$7,841.66; SE Expo Center - \$14,340.44E-911 - \$72,404.87; Economic Development - \$4,520.06; Fleet Maintenance - \$11,641.29; CIP Fund - \$36,646.33; Technology Fee - \$29,896.17; Stormwater Fund - \$3,338.72 and Infrastructure Fund - \$30,485.05.
- C. Consider and act upon, receipt of the Permit No. SL000061190109 from the Oklahoma Department of Environmental Quality (ODEQ) for the construction of 1,461 liner feet of eight (8) inch PVC sanitary sewer line, and all appurtenances to serve the 2018 CDBG Sewer Project. *(Dalton Carlton, Utility Maintenance Superintendent)*

A motion to approve the Consent Agenda was made by Councilman Read. The motion was seconded by Councilman Smith.

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

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

Mayor Browne declared the motion carried.

A motion was made by Councilman Smith and seconded by Councilman Read to open a Public Hearing to address an ordinance amending Chapter 22 and Chapter 48 of the City of McAlester Code of Ordinances.

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

AYE: Councilman Smith, Read, Stevens, 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 OF MCALESTER, OKLAHOMA, AMENDING CHAPTER 22, BUSINESSES, OF THE MCALESTER CITY CODE; CREATING ARTICLE VIII, MEDICAL MARIJUANA; ESTABLISHING REGULATIONS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS, ESTABLISHING LICENSE AND PERMIT REQUIREMENTS; PROVIDING FOR LOCATION; PROVIDING FOR CONDITIONS OF OPERATIONS; ESTABLISHING PERMITTED MARIJUANA FACILITIES TO INCLUDE: MEDICAL MARIJUANA DISPENSARIES,

COMMERCIAL MARIJUANA GROWING FACILITIES, AND COMMERCIAL MARIJUANA PROCESSING FACILITIES; AMENDING CHAPTER 48, FEES, CHARGES AND SERVICE RATES, ESTABLISHING NECESSITY FOR FEES AND AMOUNTS ESTABLISHING NECESSITY FOR PERMITS, AMOUNTS AND PROCESS FOR PERMITTED MARIJUANA FACILITIES; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND DECLARING AN EMERGENCY.

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

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

NAY: None

Mayor Browne declared the motion carried and the Public Hearing was closed at 6:07 P.M.

Scheduled Business

1. Consider and act upon, a request for funding from Pittsburg County Child Advocacy Center in the amount of \$5,000. (*Joe Brawley, President, Pittsburg County Child Advocacy Center*)

Executive Summary

Staff recommendation is to approve a request in the amount of \$5,000 from Pittsburg County Child Advocacy Center in support of their services against child abuse.

Mayor Browne stated that he had been contacted by Mr. Brawley and asked to withdraw this item.

2. Discussion and presentation of the Quarterly Report from the Oklahoma Small Business Development Center. (*Dana Hugle, Business Development Specialist, OSBDC*)

Executive Summary

Presentation.

Manager Stasiak introduced Dana Hugle, Business Advisor Eastern Oklahoma State College SBDC.

Ms. Hugle addressed the Council informing them that she represented Latimer, Le Flore, Haskell and Pittsburg Counties. She then introduced Henry Lehr and stated that he was housed in Pittsburg County. She explained that they covered the area but the Oklahoma Small Business Development Center covered the entire State of Oklahoma. She reviewed the presentation providing the Council with a comparison of 2017 and 2018. She explained she was wanting to establish a baseline so if there was other information the Council wanted it could be included in the future. She reviewed the activities that she and Mr. Lehr regularly attended and how they were working with local banks to help them understand what OSBDC did.

There was discussion concerning the City of McAlester's funding, what other communities were contributing, how this service was affecting McAlester, how their performance was measured, and what size businesses the Center worked with.

Ms. Hugle explained her and Mr. Lehr's funding and stated that she could provide a more detailed breakdown. She stated that she could furnish their performance measures and that a company with five hundred (500) employees or less were considered a small business.

There was no action taken on this item.

3. Consider and act upon, authorizing the purchase of one new and unused SFV-120 Filter System for Jeff Lee pool. (*Mel Priddy, Community Services Director*)

Executive Summary

Motion to approve the purchase of one new and unused SFV-120 Filter System for Jeff Lee pool.

Director Priddy addressed the Council explaining that the existing filter tank at Jeff Lee pool was nineteen (19) years old and had been pathed the last couple of years. He stated that bids for a new filter system had been received and opened on February 19, 2019 with Recreonics being the low bid at \$34,523.86.

Councilman Brown inquired about the filters at the other pools.

There was no further discussion, and a motion to approve the purchase of one new and unused SFV-120 Filter System for Jeff Lee pool was made by Councilman Smith. The motion was seconded by Councilman Brown, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried.

4. Consider and act upon, authorizing the Mayor to sign the attached "Outlay Report and Request for Reimbursement for Construction Programs" for Project AIP 3-40-0057-016-2018 and OAC Grant Partial Payment Request for Grant MLC-19-FS for Rehabilitation of Runway 2/20 and Connecting Taxiways. (*David Horinek, Public Works Director, Tyler McDonald, LBR*)

Executive Summary

Motion to approve and authorize the withdrawal of FAA and OAC grant funds to be used toward the payment of LBR and Interstate Highway Construction (IHC) for Construction and Construction Management services.

Director Horinek addressed the Council explaining that the construction project at the Airport was approximately at eighty-eight percent (88%) complete. He reviewed the construction so far on the Airport and commented that this was for two (2) payment requests with the FAA Grant providing ninety percent (95%) of the payment and the Oklahoma Aeronautical Commission and the City paying five percent (5%) each. He stated that these two (2) pay requests totaled \$3,178,466.05 with the City's portion totaling \$158,653.31. He added that the final payment would be made when the FAA gives final buy off on the project.

Tyler McDonald, Engineer with LBR addressed the Council stating that the project was at eighty-eight percent (88%) complete financially and the work was closer than that. he stated that all tests were passing, the work was very good quality and done efficiently. He commented that the few overages were about five percent (5%) and FAA would pay ninety percent (90%) of the overages. He added that they were done with anything underground, that the runway needed to be painted and sealed and sod needed to be laid.

Councilman Brown inquired about total cost and Mr. McDonald explained that there would be at least one (1) more pay request and the City's portion would end up being around \$250 thousand.

Manager Stasiak asked how much longer and Mr. McDonald stated four (4) to six (6) weeks.

A motion to approve authorize the Mayor to sign the "Outlay Report and Request for Reimbursement for Construction Programs" for Project AIP 3-40-0057-016-2018 and OAC Grant Partial Payment Request for Grant MLC-19-FS for Rehabilitation of Runway 2/20 and Connecting Taxiways was made by Councilman Smith. The motion was seconded by Councilman Read. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried.

5. Discussion and possible action, on approval of certain costs related to the Fire Department. Funds to be used from the City of McAlester's Fire Department portion of the county quarter cent excise tax for fire services. (*Brett Brewer, Fire Chief*)

Executive Summary

Motion to approve the purchase of 4 ball intake valves to be placed on the fire engines. Approximate cost of \$7,360.00. Purchases to be made with funds from the City of McAlester's Fire Department portion of the county quarter cent excise tax for fire services.

Chief Brewer addressed the Council explaining that the Fire Department needed to upgrade the large intakes on their fire engines. He added that they had received two (2) quotes with Chief Fire & Safety Co., Inc. being the least at &7,360.00 and these would be purchased using the City of McAlester Fire Department's portion of the county quarter cent excise tax for fire services.

Mayor Browne asked what the valves did and Chief stated that they connect the hose from the fire hydrant to the fire engine and would allow more water to be supplied.

A motion was made by Councilman Smith and seconded by Vice-Mayor Stevens to approve the purchase of four (4) ball intake valves to be placed on the fire engines from Chief Fire & Safety Co., Inc. in the amount of \$7,360.00, using the City of McAlester Fire Department's portion of the county excise tax for fire services. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried.

6. Consideration and action, to authorize the execution of the lease agreements with New Cingular Wireless PCS, LLC for the development of a cellular tower north of Mullins Park in Lots 5 and 6, Block 94, North McAlester, City of McAlester, and including an access utility easement. (*Jayme Clifton, Community Development Director*)

Executive Summary

Motion to approve and to authorize the execution of the lease agreements with New Cingular Wireless PCS, LLC for the development of a cellular tower north of Mullins Park in Lots 5 and 6, Block 94, North McAlester, City of McAlester, and including an access utility easement.

Director Clifton addressed the Council explaining that a copy of the lease documents had been included in their agenda packets and all had been reviewed by the City Attorney. She stated that the tower would be a 195-foot monopole. She then described the easement.

There was discussion concerning the stated lease amounts being comparable, if other cities had been surveyed, if the City would receive anything other than the rent from this tower, the type of fencing that would be placed around the tower, why the company would be allowed to sublease or assign the lease, if the surrounding property owners had been contacted, why this site had been selected and if there had been any complaints.

Director Clifton commented that several towers had been built in town with no notice sent out.

Ty Knott with Branch Communications addressed the Council stating that the language was industry standard and could be looked at by the AT&T Attorney look at. He explained that the industry had dedicated specific area for first responders and the City having space on the tower was something that could be looked into. He added that they would not go into a community or area where towers were not allowed and determining a location for a tower depended on engineering calculations.

Councilman Read moved to table this item until the next meeting. the motion was seconded by Vice-Mayor Stevens. There was no further discussion, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried.

7. Consider and act upon, accepting the bid amount of \$69,324.00 from Sunrise Construction, LLC, and authorizing the Mayor to sign the Notice of Award for the Indiana Avenue Drainage Improvements. (*Robert Vaughan, Infrastructure Solutions Group*)

Executive Summary

The recommendation is to accept the bid from Sunrise Construction, LLC for a total of \$69,324.00 and authorize the Mayor to sign the Notice of Award for the Indiana Avenue Drainage Improvements.

Dale Burke, P.E. President Infrastructures Solutions Group, LLC addressed the Council explaining that Mr. Vaughan had gotten sick. He continued stating that this project had been bid and on March 5, 2019, three (3) bids had been received and opened with the apparent low bidder being Sunrise Construction, LLC. He added that it was their recommendation to award the bid to the low bidder.

There was no further discussion, and a motion to accept the bid, in the amount of \$69,324.00, from Sunrise Construction, LLC and authorize the Mayor to sign the Notice of Award for the Indiana Avenue Drainage Improvements was made by Councilman Smith. The motion was seconded by Councilman Brown, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried.

8. Consider and act upon, an ordinance of the City of McAlester, Oklahoma, amending Chapter 22, Businesses, of the McAlester City Code; creating Article VIII, Medical Marijuana; establishing regulations for commercial marijuana establishments, establishing license and permit requirements; providing for location; providing for conditions of operations; establishing permitted marijuana facilities to include: medical marijuana dispensaries, commercial marijuana growing facilities, and commercial marijuana processing facilities; amending Chapter 48, Fees, Charges and Service Rates, establishing necessity for fees and amounts establishing necessity for permits, amounts and process for permitted marijuana facilities; providing for repealer; codification; severability and declaring an emergency. (*Councilman Travis Read, Ward Three*)

Executive Summary

Motion to act upon and approve the above ordinance of the City of McAlester, Oklahoma, amending Chapter 22, Businesses, of the McAlester City Code; creating Article VIII, Medical Marijuana; establishing regulations for commercial marijuana establishments, establishing license and permit requirements; providing for location; providing for conditions of operations; establishing permitted marijuana facilities to include: medical marijuana dispensaries, commercial marijuana growing facilities, and commercial marijuana processing facilities; amending Chapter 48, Fees, Charges and Service Rates, establishing necessity for fees and amounts establishing necessity for permits, amounts and process for permitted marijuana facilities; providing for repealer; codification; severability and declaring an emergency, and authorizing the Mayor to sign the ordinance.

Councilman Read addressed the Council stating that the ordinance he had put together dealt strictly with commercial aspect, it followed the current guidelines published by the Oklahoma Medical Marijuana Authority and identified the types of zoning that each type of business would require. He expressed his gratitude to the staff for their help coming up with the appropriate zoning. He reviewed the zoning; what permits could be held in those areas and how the fees were structured. He added that at the time this ordinance was written the State was still working on legislation and he had heard yesterday that bill had been passed and sent to the Governor.

Attorney Ervin commented that he had reviewed Councilman Read's ordinance but the problem was the state of the law. He stated that it was still unsettled and what the legislature had passed contained twenty-two (22) sections that were not in current law. He expressed his appreciation that everyone had not discriminated against this industry.

There was discussion concerning the bill that the legislature had passed, language that had been taken out of the ordinance, what cities were getting sued over, businesses having to be in commercial zoning, changing the ordinance if necessary at a later date, giving the City's staff guidance as these businesses continue to come into the area, the number of calls that the City is getting weekly, the fee covering the cost of inspection, that marijuana is still considered illegal by the federal government and having to rely on the State's present laws.

ORDINANCE NO. 2647

AN ORDINANCE OF THE CITY OF MCALESTER, OKLAHOMA, AMENDING CHAPTER 22, BUSINESSES, OF THE MCALESTER CITY CODE; CREATING ARTICLE VIII, MEDICAL MARIJUANA; ESTABLISHING REGULATIONS FOR COMMERCIAL MARIJUANA ESTABLISHMENTS, ESTABLISHING LICENSE AND PERMIT REQUIREMENTS; PROVIDING FOR LOCATION; PROVIDING FOR CONDITIONS OF OPERATIONS; ESTABLISHING PERMITTED MARIJUANA FACILITIES TO INCLUDE: MEDICAL MARIJUANA DISPENSARIES, COMMERCIAL MARIJUANA GROWING FACILITIES, AND COMMERCIAL MARIJUANA PROCESSING FACILITIES; AMENDING CHAPTER 48, FEES, CHARGES AND SERVICE RATES, ESTABLISHING NECESSITY FOR FEES AND AMOUNTS ESTABLISHING NECESSITY FOR PERMITS, AMOUNTS AND PROCESS FOR PERMITTED MARIJUANA FACILITIES; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY.

A motion was made by Councilman Smith and seconded by Councilman Brown to approve **ORDINANCE NO. 2647**, amending Chapter 22 of the city of McAlester Code of Ordinances. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Brown, Stevens & Read

NAY: Councilman Prichard & Mayor Browne

Mayor Browne declared the motion carried.

9. Submission and Presentation of the 5-Year Capital Improvements Plan for FY 2019/20-2023/24. (*Peter Stasiak, City Manager*)

Executive Summary
Presentation.

Manager Stasiak addressed the Council presenting them with the 5-Year Capital Improvements Plan for FY 2019/20-2023/24. He thanked staff for their hard work in putting this plan together. He then stated that he was going to do something different in his presentation this year. He stated that the pickups and dump trucks were just equipment used complete projects so he was going to look at projects that were planned for the next twelve (12) months. He explained that the handout they were given was the priority needs of the departments and not necessarily the priority needs of the City. He began with the Storm Water Projects that had been approved and those that were projected for the next year. He reviewed Street Projects which included overlays and base reconstruction. He reviewed Utility Projects including sewer line replacements, a grit

removal unit at the West Sewer Plant and the Coal Creek Pump Station. He covered the Community Services Projects which included four (4) of the City's parks and new playground equipment. He highlighted the miscellaneous projects that included the Choctaw Streetscape, Arvest Park, sidewalks on Strong Blvd. from Electric to Polk, bike lanes in various locations in the City, a Thunder Basketball Court in Chadick Park and a walk-through archery range adjacent to the Softball Complex.

There was discussion concerning the tennis courts, maintaining the curbs on the streets that were to be overlaid, the planned cost of the East Miami sewer system, the storm water projects, the lift station on Express Lane, what would affect the lift station, the cost of all of the projected repairs, a more expansive five (5) year plan, and addressing how those costs would be met.

Manager Stasiak once again commended staff for the work that had been put into the plan.

There was no action taken on this item.

Mayor Browne informed the Council that **ORDINANCE NO. 2647**, had an EMERGENCY CLAUSE that was not considered when the ordinance was adopted and the Council needed to vote on it.

Councilman Read moved to approve the EMERGENCY CLAUSE for **ORDINANCE NO. 2647**. The motion was seconded by Councilman Smith, and the vote was taken as follows:

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

NAY: None

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 informed the Council that CID had began moving into the Federal Building, next Monday the Police Department and its' administration would move and Court would move next. He stated that Dispatch and 911 would be moved by the end of March. He added that the Department of Environmental Quality had an Audit program called an "Area Wide Optimization Program" and the City's Water Treatment Plant was in the top fifteen (15) out of five hundred (500) plants in the State of Oklahoma. He commented that there was opportunity for awards with this program.

Remarks and Inquiries by City Council

Councilman Smith congratulated Manager Stasiak and his team on the Water Plant and for putting together the Capital budget.

Vice-Mayor Stevens inquired about the dock at the lake and he asked if the 14th Street land had been closed on.

Manager Stasiak stated that Atlantic Meeco would be working on the dock and the land had not been closed on.

Mayor Browne commented that the closing would be on the twenty-ninth (29th).

Councilman Prichard asked if there was a name for the Carl Albert Building.

Manager Stasiak answered “not at this time”.

Councilmen Read and Brown did not have any comments for the evening.

Mayor’s Comments and Committee Appointments

Mayor Browne commented that there was a little doom and gloom with the Capital Improvements Plan but he reminded everyone that the City was doing more this year than last year and continued to make progress.

Recess Council Meeting

Councilman Smith moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Brown. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Browne declared the motion carried and the meeting was recessed at 8:14 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 8:15 P.M.

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

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

NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 8:15 P.M.

ATTEST:

John Browne, Mayor

Cora Middleton, City Clerk