

The McAlester City Council met in a Regular session on Tuesday, May 28, 2019, at 6:00 P.M. after proper notice and agenda was posted, May 24, 2019 at 12:50 P.M.

### **Call to Order**

Mayor Browne called the meeting to order.

Pastor Scott Vandenhooghe, First Presbyterian Church 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, Maureen Harrison, Zach Prichard & John Browne

Absent: None

Presiding: John Browne, Mayor

Staff Present: Pete Stasiak, City Manager; Toni Ervin, Asst. City Manager; An-Chen Lai, CFO; Kirk Ridenour, Economic Development Director; Jayme Clifton, Community Development Director; Stephanie Giacomo, Grant Writer/Public Information Officer; Mel Priddy, Community Services Director; David Horinek, Public Works Director; 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.*

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 April 23, 2019, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for May 8, 2019 through May 21, 2019. *(An-Chen Lai, Chief Finance Officer)* In the following amounts: general Fund - \$93,081.23; Parking Authority - \$127.90; Nutrition - \$2,659.23; Employee Retirement - \$11,235.00; Police Grant Fund - \$1,054.16; State Forfeiture Fund - \$1,074.29; Tourism Fund - \$4,652.54; SE Expo Center - \$2,907.47; E-911 - \$4,065.30; Economic Development - \$42,829.13; Fleet Maintenance - \$8,321.09; CIP Fund - \$23,065.64; Technology Fund - \$10,998.00; Stormwater Fund - \$21,529.90 and Infrastructure Fund - \$54,661.27.
- C. Consider and act upon, approval and authorization for the Mayor to sign a Contract for Services with the McAlester Defense Support Association (MDSA) and McAlester Defense Support Services, Inc. (MDSS) for the support of a full-time office and Executive Director position for MDSS. This contract includes shared funding with the MDSA for FY 2019-2020. *(Jessica Gregg, Executive Director, MDSS)*
- D. Consider and act upon, authorizing the Mayor to sign the Annual Engagement Letter with Crawford & Associates, P.C., for the period of July 1, 2019 through June 30, 2020. *(An-chen Lai, Chief Financial Officer)*

- E. Consider and act upon, a “Pledge and Guarantee” document which authorizes the annual renewal of the City of McAlester’s Participation Agreement with the Association for Landfill Financial Assurance (ALFA). (*David Horinek, Public Works Director*)
- F. Consider and act upon, authorizing the Mayor to sign Public Works Project Contract(s) between the Oklahoma Department of Corrections and the City of McAlester. (*Mel Priddy, Community Services Director*)
- G. Consider and act upon, indefinitely postponing the Tort Claim filed by George L. Davison. (*Cora Middleton, City Clerk*)
- H. Concur with the Mayor’s reappointment of Steve Harrison to the Southeastern Public Library System for a term to expire June 30, 2022. (*Cora Middleton, City Clerk*)
- I. Approve and authorize the Mayor to sign a Resolution directing the filing and notification for the publication of Supplement Number 1 to the McAlester City Code of 2012. (*Cora Middleton, City Clerk*) Resolution No. 19-08.
- J. Consider and act upon, authorizing the Mayor to sign an agreement with the Oklahoma Department of Corrections for use of State property to conduct the Annual July 4<sup>th</sup> Fireworks Display. (*Billy Sumner, EXPO Manager*)
- K. Consider and act upon, authorizing the Mayor to sign an agreement with Revize Government Websites for Custom Website Development in the amount of \$18,800.00. (*Peter Stasiak, City Manager*)

Manager Stasiak requested that Item “K” be removed for individual consideration.

A motion to approve the Consent Agenda items “A through J” was made by Councilman Smith. The motion was seconded by Councilman Brown.

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

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

Mayor Browne declared the motion carried.

**Items Removed From Consent Agenda**

- K. Consider and act upon, authorizing the Mayor to sign an agreement with Revize Government Websites for Custom Website Development in the amount of \$18,800.00. (*Peter Stasiak, City Manager*)

Manager Stasiak stated that Item K needed to be pulled. The fact that there were website design experts in the community had been missed. He stated that this would be brought back at a later date.

Mayor Browne confirmed that this item was pulled.

A motion to open a Public Hearing to address an ordinance amending Chapter 106 and Chapter 48 of the City of McAlester Code was made by Vice-Mayor Stevens. The motion was seconded by Councilwoman Harrison. There was no discussion, and the vote was taken as follows:

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

Mayor Browne declared the motion carried and the Public Hearing was opened at 6:04 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 AMENDING CHAPTER 106, UTILITIES, OF THE McALESTER CITY CODE, AMENDING ARTICLE VI, REGULATIONS OF UTILITY LINES; AMENDING CHAPTER 48, FEES, CHARGES AND SERVICE RATES; REPEALING ALL CONFLICTING ORDINANCES, AND PROVIDING FOR SEVERABILITY.**

There were no comments from the citizens or the Council 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: Councilmembers Read, Smith, Brown, Harrison, Prichard, Stevens & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried and the Public Hearing was closed at 6:05 P.M.

**Scheduled Business**

1. 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 and to accept the project as complete. (*Tyler McDonald, LBR INC.*)

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 this construction project had begun in October of 2018 and was finished ahead of schedule in April of 2019.

Tyler McDonald, LBR, Inc. addressed the Council explaining that the project had went well. He commented that the pavement on the runway had been fifty (50) to seventy (70) years old and the new runway should last that long. He added that the documents before them were the final accounting of the project. He commented that the project had been approximately \$4.9 million with OAC paying five percent (5%) or approximately \$4.4 million and the City paying approximately \$260 thousand.

There was no further discussion, and a motion to approve and authorize 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 and to accept the project as complete was made by Councilman Smith. The motion was seconded by Councilman Brown, and the vote was taken as follows:

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

Mayor Browne declared the motion carried.

2. Consider and act upon, to approve the modified Developer Agreement, in form only, for the Shops at McAlester Project located at 14th Street and George Nigh Expressway in the City of McAlester, Oklahoma. (*Kirk Ridenour, Economic Development Director*)

Executive Summary

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

Director Ridenour addressed the Council explaining that the agreement included in the Council packet amends the executed agreement between the McAlester Economic Development Authority and the Developer of the Shops at McAlester Project. He added that since the original signing, the Developer had worked diligently to secure the financing of the project and he has now managed to secure the financing. He then reviewed the changes in the amended agreement with the Council.

There was discussion concerning the developer defaulting on the agreement, the incentives, what would happen if the businesses left, when the developer would break ground, the percentage of businesses that were preleased, and the proposed length of construction time.

Councilman Prichard presented the Council with a paragraph that he would like to see included in the agreement that added some certainties. He then moved to include the paragraph in the agreement.

Vice-Mayor Stevens requested clarification of the language addressing the Council's ability to extend the construction deadline. He then seconded the motion to include the additional paragraph.

There was discussion concerning the need for the proposed construction deadline, the developer not being able to work within the constraints of the proposed language, financing not being available with the proposed language, and the work that the Developer had done to obtain financing.

Councilman Prichard restated his motion as "approval of the modified Developer Agreement, in form only, and include paragraph number 22 addressing the construction timeline."

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

AYE: Councilmembers Prichard & Stevens

NAY: Councilmembers Harrison, Smith, Read, Brown & Mayor Browne

Mayor Browne declared the motion failed.

Mayor Browne moved to approve the modified Developer Agreement with the original changes as presented and not adding paragraph 22. The motion was seconded by Councilman Read.

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

AYE: Councilmembers Read, Smith, Brown, Harrison & Mayor Browne

NAY: Councilmen Prichard & Stevens

Mayor Browne declared the motion carried.

3. Discussion and possible action on authorizing monthly disbursements of the 1/8 cent sales tax collected by the City that are dedicated to the McAlester Regional Health Center Cancer Center and McAlester Public Schools for Early Childhood and Safe Rooms.  
*(Toni Ervin, Assistant City Manager)*

Executive Summary

Motion to approve regularly scheduled disbursements to McAlester Regional Health Center and McAlester Public Schools.

Assistant Manager Ervin addressed the Council explaining that the City had collected sales tax monies that the citizens had approved for the Hospital and Schools but had no process to distribute it. she commented that the City was only a pass through for these collections.

There was a brief discussion concerning if the City was under any responsibility to ensure that the funds were spent correctly, and if the funds could be distributed through claims.

Attorney Ervin commented that he thought the City's responsibility ended when the funds were distributed.

Mayor Browne requested clarification that the City's responsibility was to distribute the funds collected and had no responsibility to how the Hospital and School spent the money.

There was further discussion concerning the language on the ballots, who the money would be distributed to, and having quarterly requests from the School and Hospital.

Joe Ervin addressed the Council commenting that he thought there was an ongoing obligation to ensure the funds were spent appropriately. He stated that the City could ask that at the end of the year the entities report to the City at the end of the year how the money was spent. He added that this could be a condition of the distribution. He also commented that if the City were to get feed back that the money was not being spent according to the language of the ballot that as an ordinance the tax could be rescinded by the Council.

Councilwoman Harrison inquired if she could vote since she worked for the School System. Attorney Ervin stated that she could.

Councilman Read moved to authorize monthly distributions of the Sales Tax collections with annual accounting from the Hospital and the School System. The motion was seconded by Councilman Brown, and the vote was taken as follows:

AYE: Councilmembers Read, Brown, Stevens, Harrison, Prichard & Mayor Browne

NAY: None

ABSTAIN: Councilman Smith (counted as a no vote)

Mayor Browne declared the motion carried.

4. Consider and act upon, an ordinance amending McAlester City Code Chapter 106, Utilities, Article VI, Regulation of Utility Lines; amending Chapter 48, Fees, Charges and Service rates; repealing all conflicting ordinances and providing for severability. (*Jayme Clifton, Community Development Director*)

Executive Summary

Motion to act upon and approve the above ordinance amending McAlester City Code Chapter 106, Utilities, Article VI, Regulation of Utility Lines; amending Chapter 48, Fees, Charges and Service rates; repealing all conflicting ordinances, providing for severability, and authorizing the Mayor to sign the ordinance.

Mayor Browne stated that this item had been pulled. Manager Stasiak commented that it would be brought back at a later date.

5. Consider and act upon, declaring certain vehicles and equipment surplus property in accordance with the Code of Ordinances Sec 2-410 and authorize the City Manager to sell them in accordance with the Code of Ordinances Sec 2-411. (*Toni Ervin, Assistance City Manager*)

Executive Summary

Motion to declare certain vehicles and equipment surplus and authorize the disposal of them.

Assistant Manager Ervin addressed the Council reviewing the list of vehicles and/or equipment that had been deemed no longer in service because of repair costs or unsafe to operate. She explained that the 2009 Freightliner M-2 10 Wheel Dump Truck has had internal engine issues and was currently at Premier Truck Sales in Tulsa. She added that Premier had offered to give the City an allowance for the 2009 Freightliner toward the purchase of a new dump truck. She further explained that this truck could be placed on the internet auction site but the City had never received that high of an amount on the internet site.

There was a brief discussion concerning who was allowed to bid on the surplused vehicles, where they would be auctioned and what the City would do if no bids were received.

A motion was made by Councilman Smith and seconded by Councilwoman Harrison to declare certain vehicles and equipment, as follows: 2009 Freightliner M-2 10 Wheel Dump Truck, 2004 Ford F-250, three 2009 Ford Crown Victorias, 2009 Ford Ranger and 1997 Crown Victoria, surplus and authorize the disposal of them. There was no further discussion, and the vote was taken as follows:

AYE: Councilmembers Smith, Harrison, Brown, Prichard, Stevens, Read & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

6. Consider and act upon, authorizing the purchase of a 2019 Western Star 10-wheel dump truck from Premier Truck Sales in Tulsa. (*David Horinek, Public Works Director*)

Executive Summary

Motion to approve and authorize the purchase of a 2019 Western Star 10-wheel dump truck (with remounted dump bed) on State Contract SW035T and SW106A from Premier Truck Sales for the state bid price of \$128,762.44.

Director Horinek addressed the Council explaining that this truck would be dedicated to the Public Works Department. He added that only the truck chassis was being purchased and that the dump bed from the 2009 Freightliner, that had been surplused, would be remounted onto this chassis with a new PTO, Pump, Hydraulic hoses and fluid.

There was no discussion, and a motion to authorize the purchase of a 2019 Western Star 10-wheel dump truck, with remounted dump bed was made by Councilman Prichard. The motion was seconded by Councilman Brown, and the vote was taken as follows:

AYE: Councilmembers Prichard, Brown, Smith, Stevens, Read, Harrison & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

7. Discussion and update on Monthly Financials. (*An-chen Lai, Chief Financial Officer*)

Executive Summary

Discussion.

CFO Lai addressed the Council reviewing the City's financial status as of April 30, 2019. She explained that in the General Fund the revenues were approximately 1.88% over budget and the expenses were approximately 4% under budget. She then reviewed the Public works revenues and expenses, stating that they were both under budget. CFO Lai reviewed the Sales Tax collections commenting that ten (10) out of eleven (11) months the sales tax had increased and the Use Tax collections had continued to increase as well. She then reviewed the water sales for residential, commercial and wholesale furnishing the Council with a three (3) year comparison. She finished the update with the Treasury report.

There was a brief discussion on why the sales tax collections had been so high during the month of May.

No action was taken 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 the City had received the preliminary numbers through the 15<sup>th</sup> and sales tax was about ninety-eight thousand dollars (\$98,000.00) over budget. He informed the Council that during the storms that occurred a week ago last Saturday the Emergency Management had been activated to coordinate the response in the area. He updated them on the various actions that had been taken by the first responder groups. He commented that strong thunderstorms were expected tomorrow and all resources would be handled through McAlester.

Manager Stasiak stated that the Vyve Communications permit would be presented at the June 11, 2019 agenda. There had been numerous questions about the Master Drainage Plan and all questions and comments would be submitted to Meshek and Associates and should ready in the next thirty (30) to sixty (60) days. the Comprehensive Plan was about 85% complete and should be coming to the Council soon. he informed the Council that he had met with ODOT inspectors on all three (3) of the bridges in McAlester and they were scheduled for repair or replacement beginning 2023.

Manager Stasiak informed the Council that the Parks and Cemetery departments were dealing with swamps and were having issues with mowing. He stated that the rope on the flag pole that supported the American flag at the “Bomb Display” had broke and the ground around that display was too soft to support the equipment needed to replace it. he asked that everyone be patient and the City would get everything back in order.

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

Councilman Brown commented that he had seen City employees out working very hard and he was very grateful.

Councilwoman Harrison thanked Manager Stasiak for his update about the weather and mowing and then asked about trash containers in the Cemeteries. She also inquired about the use of inmate labor in the City.

Manager Stasiak commented that he would look into it but urged citizens to dispose of their trash at home. he then informed the Council that the City maintained two (2) very large cemeteries with only four (4) employees and sixteen (16) parks and all of the right-of-ways with only nine (9) employees. He commented that the City used inmate labor when they were available.

Councilman Prichard inquired about the payment to Guernsey for the comprehensive plan and asked for an update on “Arvest Park”.

Manager Stasiak stated that about eighty-five percent (85%) had been paid and the plan for the park this year was to have a green space.

Councilman Prichard stated that the Governor had signed House Bill 1640 that changed the amount of required space between churches and bars. He commented that this would allow churches to exempt themselves and might open up property. He added that this might be a good time to update the City’s Code that addressed alcohol and make it more conforming to State law.

Councilmen Smith, Stevens and Read did not have any comments for the evening.

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

Mayor Browne commended Code Enforcement/Abatement employee Tabetha Howell on the work that she was doing. He stated that the Council was renewing the City Manager’s contract and that during the Executive Session there had been nothing but support for Manager Stasiak. He commented that he had received a call from the Mayor of Haileyville offering to help in any way needed in the cleanup efforts after the recent storm. He finished stating that he was scheduling a Town Hall meeting for June 18<sup>th</sup> to address the crime in the City.

### **Recess Council Meeting**

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

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

Mayor Browne declared the motion carried and the meeting was recessed at 7:05 P.M.

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 7:07 P.M.

A motion to recess the Regular Session 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 investigations, claims, or actions, was made by Councilman Smith. The motion was seconded by Councilman Brown, and the vote was taken as follows:

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

Mayor Browne declared the motion carried and the meeting was recessed at 7:07 P.M.

**Executive Session**

*Recess into Executive Session in compliance with Section Title 25 Section 307 B.4; 307.B. 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 into Open Session**

The Regular Meeting was reconvened at 8:10 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 investigations, claims. Only that matter was discussed, no action was taken and the Council returned to open session at 8:10 P.M., and this constituted the Minutes of the Executive Session.

**Adjournment**

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

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

Mayor Browne declared the motion carried, and the meeting was adjourned at 8:10 P.M.

ATTEST:

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John Browne, Mayor

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Cora Middleton, City Clerk