

Council Chambers  
Municipal Building  
December 27, 2011

The McAlester City Council met in Regular session on Tuesday, December 27, 2011, at 6:00 P.M. after proper notice and agenda was posted, December 22, 2011, at 4:35 P. M.

**Call to Order**

Mayor Priddle called the meeting to order.

Robert Tate, First Indian Baptist Church lead the Pledge of Allegiance and gave the invocation.

**Roll Call**

Council Roll Call was as follows:

Present: Steve Harrison, John Browne, Robert Karr, Buddy Garvin, Sam Mason & Kevin Priddle  
Absent: Weldon Smith  
Presiding: Kevin E. Priddle, Mayor

Staff Present: Peter J. Stasiak, City Manager; Toni Ervin, Interim Chief Financial Officer; David Medley, Utilities Director; William J. Ervin, City Attorney and Cora Middleton, City Clerk

**Citizen's Comments on Non-agenda Items**

B.L. Cozad addressed the Council to voice his concern over United Nations Agenda 21.

Carol Ervin informed the Council that Streetscape architect, Scott Day would make his formal public presentation on January 24, 2012.

Stephanie Shafer informed the Council and citizens that the office of Pride In McAlester had moved to the Bank of Oklahoma Building at 1 East Choctaw, Suite 525. She encouraged all the citizens to recycle their corrugated cardboard and she stated that the group was seeking new members and asked that any one interested to contact the Pride In McAlester office.

**Consent Agenda**

- A. Approval of the Minutes from the December 13, 2011 Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)
- B. Approval of Claims for December 7 through December 20, 2011 (*Toni Ervin, Interim Chief Financial Officer*) In the following amounts: General Fund - \$106,040.99; Parking Authority - \$122.83; Nutrition - \$1,515.31; Tourism Fund - \$12,524.87; SE Expo Center

- \$9,521.50; E-911 - \$6,433.38; Economic Development - \$89,885.00; CDBG Grants Fund - \$70,537.50; Fleet Maintenance - \$8,353.05; Worker's Compensation - \$941.68; CIP Fund - \$131,697.27 and Federal Forfeiture Fund - \$199.00.

Vice-Mayor Browne moved to approve the Consent Agenda, seconded by Councilman Harrison.

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

AYE: Councilman Harrison, Browne, Karr, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

A motion was made by Councilman Garvin and seconded by Councilman Karr to open a Public Hearing to address an Ordinance to rezone property in the City of McAlester.

No vote was taken.

### **Public Hearing**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATIONS OF THE ZONING DISTRICT FOR: N ½ NW ¼ (ALSO DESCRIBED AS LOTS 3 AND 4) IN SECTION 2, TOWNSHIP 5 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM A-1 (AGRICULTURAL DISTRICT) TO C-5 (HIGHWAY COMMERCIAL DISTRICT)**

There were no comments from either the public or the Council and Councilman Harrison moved to close the Public Hearing. The motion was seconded by Vice-Mayor Browne, and the vote was taken as follows:

AYE: Councilman Browne, Karr, Garvin, Mason, Harrison & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried and the Public Hearing was closed at 6:10 P.M.

### **Scheduled Business**

1. Consider, and act upon, approval of the attached City of McAlester, Oklahoma, Governmental Fund Balance Policy amendment. (*Toni Ervin, Interim CFO*)

Executive Summary

Motion to approve adopting the amendment to our existing Governmental Fund Balance Policy.

Vice-Mayor Browne moved for of the City of McAlester, Oklahoma Governmental Fund Balance Policy amendment. The motion was seconded by Councilman Harrison.

Before the vote, Ms. Ervin explained that this amendment was to make the present policy more specific on spending restrictions. There was no discussion, and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Mason, Harrison, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

2. Consider, and act upon, a resolution setting the election dates for Wards 1, 3, 5 and Mayor. (*Cora Middleton, City Clerk*)

Executive Summary

Motion to approve resolution setting the election dates for Wards 1, 3, 5 and Mayor.

A motion was made by Councilman Karr and seconded by Councilman Garvin to approve RESOLUTION NO. 11-22, setting the election dates for Wards 1, 3, 5 and Mayor.

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

AYE: Councilman Garvin, Mason, Harrison, Browne, Karr & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

3. Consider, and act upon, authorizing the Mayor to sign a contract between Allied Waste Services of Alderson and the McAlester Public Works Authority for the City of McAlester's solid waste collection, removal and disposal. (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve and act upon to accept the Allied Waste Services (AWS) of Alderson contract and authorize the Mayor to sign the document.

Councilman Karr moved to authorize the Mayor to sign a contract between Allied Waste Services of Alderson and the McAlester Public Works Authority for the City of McAlester's solid waste collection, removal and disposal. The motion was seconded by Councilman Harrison.

Before the vote, Manager Stasiak highlighted the changes that had been made to the previous contract. He commented that he believed that all of the questions or concerns of the Council had been addressed.

After a brief discussion among the Council including the City Manager and the City Attorney regarding the ordinance agreeing with the contract, clarifying the definition of yard waste and clarifying the calculation for allowed rate increases, the vote was taken as follows:

AYE: Councilman Mason, Harrison, Browne, Karr, Garvin & Mayor Priddle

NAY: None

Mayor Priddle declared the motion.

4. TABLED FROM PREVIOUS MEETING - TABLED FROM PREVIOUS MEETING - Consider, and act upon, award of bid to Riverside Autoplex, for the purchase of one (1) New and Unused 2012 Ford F-350 1 Ton Utility Truck. (*David Medley, PE, Director of Utilities*)

Executive Summary

Motion to approve a \$28,071 bid award to Riverside Autoplex of Poteau, Oklahoma for the purchase of one (1) New and Unused 2012 F-350 1 Ton Utility Truck.

A motion was made by Councilman Harrison and seconded by Vice-Mayor Browne to award a bid to Riverside Autoplex, for the purchase of one (1) New and Unused 2012 Ford F-350 1 Ton Utility Truck.

Before the vote, David Medley addressed the Council explaining that this vehicle, if approved, would replace the utility truck currently used by the Water Plant Mechanic that was over ten (10) years old. He stated that he had gotten quotes from other dealers for comparison.

After a brief discussion among the Council regarding contacting local dealers for bids, if this amount included the utility tool bed and the equipment status of the Utility Maintenance Departments vehicle inventory, the vote was taken as follows:

AYE: Councilman Harrison, Browne, Karr, Garvin, Mason & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

5. Consider and act upon a change in zoning from A-1 (Agricultural District) to C-5 (Highway Commercial District) (*Peter J. Stasiak, City Manager*)

Executive Summary

Motion to approve and act upon changing the existing zoning A-1 (Agricultural District) to C-5 (Highway Commercial District) and authorizing the Mayor to sign the attached Ordinance.

### **ORDINANCE NO. 2410**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATIONS OF THE ZONING DISTRICT FOR: N ½ NW ¼ (ALSO DESCRIBED AS LOTS 3 AND 4) IN SECTION 2, TOWNSHIP 5 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN, PITTSBURG COUNTY, STATE OF OKLAHOMA FROM A-1 (AGRICULTURAL DISTRICT) TO C-5 (HIGHWAY COMMERCIAL DISTRICT)**

Vice-Mayor Browne moved to approve **ORDINANCE NO. 2410**, seconded by Councilman Harrison.

Before the vote, Manager Stasiak explained that this rezone had been requested by H.L. Jr. and Nina Johnson and Terry L. and Brenda Johnson and the Planning and Zoning Commission had unanimously voted to recommend the rezone to the Council.

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

AYE: Councilman Karr, Garvin, Mason, Harrison, Browne & Mayor Priddle

NAY: None

Mayor Priddle declared the motion carried.

6. Discussion and possible action on open records request regarding MPower financial documents. (*Mayor Kevin Priddle*)

Executive Summary

Discussion and possible action on a citizen open records request for financial documents regarding the MPower Organization.

Vice-Mayor Browne moved to open the floor for discussion on an open records request regarding MPower financial documents. The motion was seconded by Councilman Karr.

Before the vote, Mayor Priddle stated that he had placed this item on the agenda but he did not want the City to become the keeper of MPower's records. He added that the City had received a request concerning MPower's records and the City Manager had responded that the City did not have the records requested. He added that the Council had received a letter from MPower's current president in response to the request. He commented that he would recommend that MPower make the records available at their office.

Vice-Mayor Browne stated that he would like the City Attorney to give the Council an opinion as to whether MPower was covered by the "Open Records Act".

Mr. Ervin commented that he would be happy to render formal guidance to the Council but he would ask that the Council request that opinion. He stated that MPower was funded by public funds, which was one of the criteria of the "Open Records Act" and if the Council requested an opinion, he could have it to them by the first meeting in January.

Mayor Priddle moved to request an official opinion from the City Attorney as to whether MPower falls within the "Open Records Act". The motion was seconded by Vice-Mayor Browne.

Before the vote, Councilman Harrison made the following statement. "In accordance with Section 2-43(d) of the Code of Ordinances, I request that a verbatim transcript of my remarks be entered in the minutes.

This agenda item relates to an open records request made upon the City of McAlester in September. The relevant Oklahoma statutes under which the request was made are known as the "Oklahoma Open Records Act." The City of McAlester, as a public body, is subject to the provisions of the Open Records Act. It is my understanding that the City did a record search

based on this request and determined that the City had none of the records being requested. The requestor was so informed in Mr. Stasiak's letter of October 19.

Per my reading of the Act, the City has fully complied with all relevant provisions of the Act. I should specifically note that the Act does not impose a burden upon a public body to create a record that does not exist. Likewise, it places no requirement upon a public body to obtain a record it does not possess. As a strong believer in the Open Records Act and the Open Meeting Act, it is very important to me that the City always comply with both Acts and I will continue to do everything in my power to make sure that is the case. There can be no doubt that the City has complied with the law regarding this request.

Now an item is brought before Council to discuss possible further action on this request - a request that has already been legally satisfied. Apparently the intent is that the City Council involve themselves somehow in determining whether MPower should provide some or all of these requested records. Of course, MPower is a separate non-profit corporation.

The City and MPower have a contractual relationship that describes the duties and obligations of the two parties. Per the contract, the City is provided reasonable access to MPower's books and records. To my knowledge, that reasonable access has never been denied. However, allowing copies to be made and removed of potentially sensitive records would clearly go beyond the scope and intent of the contract. I find MPower's response letter to the Mayor to be perfectly reasonable and understandable. Especially when one considers that the apparent purpose of providing such records would be only to act as a conduit to a third party. Surely this is an extremely slippery slope that no city should consider.

Now in the interest of transparency and full disclosure, I will state that it is my unshakeable belief that no matter whose name was on the request letter the City received in September, this is just the latest effort in a scheme that is produced, directed, orchestrated and choreographed by Randy Stephen Green. For anyone needing their memory refreshed, Mr. Green was fired as McAlester's city manager after it was discovered that he had been systematically embezzling almost half a million dollars from the City over a period of five years. He eventually was convicted on five felony counts and served four years in a federal detention facility.

The City of McAlester also has a current civil action against Mr. Green. My understanding is that the information being requested is identical to a previous request made by Mr. Green to MPower. I also understand that Mr. Green's previous request was not fulfilled. Therefore, it is certainly not surprising that he is trying to gain the same information by another avenue.

Some may ask why a disgraced former city manager would take such an interest in MPower's travel and phone records. My observation is that he appears to have made it his lot in life to do whatever he can to prevent McAlester from recovering from his misdeeds and progressing as a community. A key element of that seems to be a relentless attack on our economic development efforts. Perhaps he thinks that by obtaining phone and travel records, he can discover the potential businesses we are seeking to attract to McAlester in order to see what disruptions he can cause. Whatever his reasoning, his handiwork should be transparent to all.

As for MPower and its transparency, I commend Executive Director Shari Cooper and the MPower board for being more transparent than at any time in its history. For those who have any doubt, I encourage you to visit their internationally honored website where you will discover a wealth of information about their activities and progress on behalf of economic development. Ms. Cooper and MPower are pursuing the betterment of McAlester in a very professional, competent, and high-energy way. I will continue to help in any way I can and encourage everyone on the Council to do likewise.

Some say that. Mr. Green is, in effect, harassing his victim by his actions. I'm not an attorney and can't speak to that. I expect the City to continue to follow the law in fulfilling Mr. Green's requests as well as all others. However, concerning any suggestion that this City or this Council go beyond what is legally required in dealing with demands from Mr. Green and his few supporters, I will state categorically that I personally oppose any such effort. I will not lift a finger on behalf of an individual who has done such harm to this community and continues to try to inflict further damage.”

After a lengthy discussion among the Council and the City Attorney concerning the requirements of the City's contract with MPower, the requirements of the “Open Records Act., the City doing whatever it was required by law to do, MPower's funding from the City, if MPower had actually received this request and what action the Council would take if a opinion was requested from the City Attorney, the vote was taken as follows:

AYE: Councilman Browne, Karr & Mayor Priddle

NAY: Councilman Harrison, Garvin & Mason

Mayor Priddle declared the motion failed for lack of a majority vote.

There was no vote on the original motion.

### **New Business**

Manager Stasiak requested a Special Meeting for Thursday, December 29, 2011 concerning the proposed Special Election regarding the IAFF election ballot.

After a brief discussion by the Council, Mayor Priddle called a Special Meeting for Friday, December 30, 2011 at 4:30 P.M.

### **City Manager's Report**

Manager Stasiak informed the Council that Mr. Bernhardt had asked that the construction on Elks Road wait until after the New Year. He added that the contractor would move into phase 3 which was inside the Southside Business Development Center. He reported that the City was at significant completion of the 2009 CDBG Grant and there will be an OML Budget Workshop on January 27, 2012 and if any of the Council was interested in attending to let him know so the requests could be submitted for Council approval.

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

All of the Council wished the citizens a Happy and Safe New Year.

Councilman Harrison welcomed Councilman Garvin back and inquired about the disposal of the live Christmas trees.

Manager Stasiak stated that the information would be gotten out to the public.

Vice-Mayor Browne thanked the City for the cleanup in Third Ward.

Councilman Karr commented on how positive the improvements over the past year had been.

Councilman Garvin thanked everyone for their prayers and he was looking forward to the New Year. He also asked that any of the Fifth Ward residents that had contacted him with requests during the last few weeks to please call him again.

Councilman Mason commented that every year since he had been elected to the Council had gotten better.

Mayor Priddle stated that there was a lot to be thankful for. He commented that when the correct equipment was furnished to the employees they were able to do things the right way. He then thanked Manager Stasiak for his hard work.

## **Recess Council Meeting**

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

AYE: Councilman Karr, Garvin, Mason, Harrison, Browne & Mayor Priddle

NAY: None

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

## **Reconvene Council Meeting**

The Regular Meeting was reconvened at 7:06 P.M.

## **Adjournment**

There being no further business to come before the Council, Councilman Harrison moved for the meeting to be adjourned, seconded by Vice-Mayor Browne.

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



AYE: Councilman Browne, Karr, Garvin, Mason, Harrison & Mayor Priddle  
NAY: None

Mayor Priddle declared the motion carried, and the meeting was adjourned at 7:07 P.M.

---

Kevin E. Priddle, Mayor

ATTEST:

---

Cora Middleton, City Clerk