

The McAlester City Council met in Regular session on Tuesday, November 27, 2012, at 6:00 P.M. after proper notice and agenda was posted, November 20, 2012, at 2:22 P.M.

Call to Order

Mayor Harrison called the meeting to order.

Linda Lowber, First Baptist Church gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, John Titsworth, Sam Mason & Steve Harrison
Absent: Travis Read, Robert Karr & Buddy Garvin
Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; John Modzelewski, City Engineer/Public Works Director; Toni Ervin, Chief Financial Officer; David Medley, Utilities Director; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

Ginny Webb, Executive Director of McAlester Main Street Organization addressed the Council informing them that she had met with the City Manager, Mayor Harrison and Councilman Garvin to discuss objectives and at the next meeting she would be presenting the revised objectives which would include dates and dollars. She reminded them of the Christmas Parade on Thursday, December 6th at 7:00 P.M. and invited them to attend.

Stephanie Giacomo, Executive Director of Pride in McAlester Organization addressed the Council informing them that Pride In McAlester had recently received the 2012 Non-Profit Recycling Award which was a state wide award. She stated that the Pride In McAlester Flea Market had recently set up to recycle cooking oil and that the Recycling Center was now accepting glass food grade containers. She also urged the citizens to be careful when delivering any glass.

Consent Agenda

- A. Approval of the Minutes from the November 13, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

- B. Approval of Claims for November 7, 2012 – November 20, 2012. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$123,775.64; Parking Authority - \$76.45; Nutrition - \$1,910.17; Tourism Fund - \$208.87; SE Expo Center - \$2,900.00; E-911 - \$14,966.61; Fleet Maintenance - \$7,863.06 and Worker’s Compensation - \$941.68.
- C. Concur with Mayor’s Reappointment of Yvonne Wallis, 689 Barnett Rd to the McAlester Library Advisory Board for a term to expire December 2017. (*Steve Harrison, Mayor*)
- D. Accept and Place on File the MPower First Quarterly Report for July-September, 2012. (*Shari Cooper, Executive Director*)

Councilman Titsworth and Vice-Mayor Mason requested that item “D” be removed for individual consideration.

Councilman Smith moved to approve Consent Agenda items “A, B and C”, seconded by Vice-Mayor Mason. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Titsworth, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Items Removed from Consent Agenda

- D. Accept and Place on File the MPower First Quarterly Report for July-September, 2012. (*Shari Cooper, Executive Director*)

A motion was made by Councilman Smith and seconded by Councilman Titsworth to accept and place on file the MPower First Quarterly Report for July-September, 2012.

Before the vote, Councilman Titsworth expressed his concerns regarding MPower’s Quarterly Report, stating that it appeared to be a newsletter and not a quarterly report. He commented that it did not meet the requirements of the contract and he could not approve it.

There was a lengthy discussion, among the Council regarding MPower’s contract, if there were any specific requirements, a sign that had been mentioned in the report that needed to be replaced, if the sign had been replaced, what the definition of “deliverables” was and how the Council could request more information from MPower.

Councilman Titsworth moved to not accept MPower’s Quarterly Report. Mayor Harrison explained that a motion to accept had already been made and the Council could vote against it if they chose.

Vice-Mayor Mason commented that after the vote the Council could ask specifically for items.

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

AYE: None

NAY: Councilman Titsworth, Mason, Smith & Mayor Harrison

Mayor Harrison declared the motion failed.

A motion was made by Councilman Titsworth and seconded by Councilman Smith to open a Public Hearing to address an Ordinance amending the FY 2012-2013 Budget.

There was no discussion, and the vote was taken.

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the Public Hearing was opened at 6:19 P.M.

Public Hearing

- AN ORDINANCE OF THE CITY OF MCALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2425 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2012-2013; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:20 P.M.

Scheduled Business

1. Consider and Act Upon, and place on file, a presentation of the City of McAlester Actuarial Valuation Report by Bruce Nordstrom, Senior Consulting Actuary, MHBT, Inc.

(Peter J. Stasiak, CM)

Executive Summary

Motion to approve and place on file the City of McAlester Actuarial Valuation Report.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to accept and place on file the City of McAlester's Actuarial Valuation Report.

Before the vote, Bruce Nordstrom updated the Council regarding the funding of the City's Defined Benefit Retirement Plan and Trust. He commented that the City's funding level was above normal.

Manager Stasiak asked what the level of funding was.

Mr. Nordstrom stated that it was around 65% which was higher than other cities with similar plans. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

2. Consideration and possible action to authorize staff to direct financial advisor and bond counsel to correspond with and seek financing proposals from local, regional and national banks regarding the refunding (refinancing) of McAlester Public Works Authority's outstanding Refunding and Improvement Revenue Bonds, Series 1999A. (*Peter J. Stasiak, CM*)

Executive Summary

Motion to approve refinancing of the McAlester Public Works outstanding Refunding and Improvement Revenue Bonds Series 1999A.

A motion was made by Councilman Titsworth and seconded by Councilman Smith to authorize staff to direct financial advisor and bond counsel to correspond with and seek financing proposals from local, regional and national banks regarding the refunding (refinancing) of McAlester Public Works Authority's outstanding Refunding and Improvement Revenue Bonds, Series 1999A.

Before the vote, Manager Stasiak explained that John Wolff, Alan Brooks and Jared Davidson were present to discuss this item.

John Wolff addressed the Council regarding the proposition that had not passed. He furnished the Council with reports and reviewed the steps that would need to be taken to refinance the McAlester Public Works Authority's outstanding Refunding and Improvement Revenue Bonds, Series 1999A. He commented that refinancing this Bond Series could have a potential savings of around \$6 million.

Alan Brooks explained that only the refinancing would be done, no new money component and at the next meeting that they come to they would have either a negotiated transaction based on guidance from the City Manager based on the interest levels that had been received or a decision would be made because of multiple interested parties and they would take quotes and come with a recommendation to award to the low bidder. He informed the Council that when they came back at the next meeting they would need six (6) of the seven (7) members present and voting "yes" to proceed under State law. Both gentlemen stressed that if there were any questions now was the time to ask those questions.

There was a brief discussion among the Council regarding the definition of a "Super Majority", the structure of the refinancing, insuring additional revenue by refunding and if the Council needed to take action to authorize Mr. Wolff and Mr. Brooks to proceed.

City Attorney Ervin commented that the Council could vote if they wanted but it was not necessary. He added that action would be taken when the item was brought back with quotes.

Mayor Harrison commented that if the Council wished to bring Proposition 2 back they would have to wait six (6) months.

There was no vote on this item.

3. Consider, and Act Upon, an Ordinance amending Ordinance No. 2425 which established the budget for fiscal year 2012-2013; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2443

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2425 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2012-2013; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve **ORDINANCE NO. 2443.**

Before the vote, Toni Ervin reviewed the Budget Amendment with the Council explaining that the first exhibit was to reverse a previous amendment that had been included in the budget and the second exhibit was to appropriate money for a Utilities Maintenance Backhoe and the Final Payment and a Change Order for the 12” Water Main at Taylor Industrial Park. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Titsworth, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Mayor Harrison stated that this item carried an Emergency Clause which required five (5) votes and since there were only four (4) Council members present it could not be voted on. He explained that the Budget Amendment would not go into effect until the Emergency Clause was passed or thirty (30) days. He added if a Councilman arrived before the meeting was adjourned the Council could readdress this item and handle the Emergency Clause.

Manager Stasiak asked if it would be appropriate to bring the Emergency Clause back to the Council at the next meeting on December 11, 2012. Mayor Harrison stated that it would be appropriate.

4. Consider and act upon the release of roadway and utility easement. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve and act upon the release of roadway and utility easement and authorizing the Mayor to sign the attached release.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to approve the release of a roadway and utility easement.

Before the vote, Manager Stasiak explained that Bob Basolo had asked for the release of a roadway and utility easement. He added that the utility easement was located outside the City limits of the City of McAlester in the County and he had verified with the agencies specifically the City of McAlester regarding possibly having utility lines in the area in the future. And that did not seem to be impacted according to the letter that had been received from Mr. Medley.

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

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

5. Consider, and act upon, declaring two (2) backhoes in the Utility Maintenance Department as surplus. These backhoes are described as Unit W25 1985 Model John Deere 410 (VIN T0410BB723301) and Unit W10 1991 Model John Deere 710 (VIN T0710CJ774471). (*David Medley, PE, Director of Utilities*)

Executive Summary

Approval to declare the two (2) John Deere backhoes as surplus.

Councilman Smith moved to declare two (2) backhoes in the Utility Maintenance Department as surplus. The motion was seconded by Councilman Titsworth.

Before the vote, David Medley addressed the Council explaining that the two (2) backhoes had exceeded their useful life and the expense to maintain them had become too high. He added that the two (2) backhoes had a scrap value of \$3,325.00 at the local scrap yard and a trade in value of \$10,620.00 from the local John Deere Dealer.

There was a brief discussion among the Council regarding more description with the pictures, what condition the transmissions and hydraulics were in, and furnishing the Council with more detail about the cost to repair the equipment to working condition.

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

AYE: Councilman Smith, Titsworth, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

6. Consider, and act upon, award of bid to YellowHouse Machinery Co. for the purchase of one (1) New and Unused 2012 Model 410 K Backhoe Loader. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to approve a \$110,422.40 bid award to YellowHouse Machinery Co. of McAlester, Oklahoma and utilizing the two (2) surplus backhoes for a trade in value of \$10,620.00. This would bring the purchase price of the backhoe to \$99,802.40.

Mayor Harrison explained that this item would be differed until the EMERGENCY CLAUSE for the Budget Amendment could be addressed.

7. Consider, and act upon, the final Contractor's Pay Estimate No. 9 for the Water Treatment Plant Filter and Clearwell Improvements in the amount of \$15,525.00. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to approve final payment to the Water Treatment Plant Filter and Clearwell Improvements Project to J.S. Haren Company of Athens, Tennessee.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve final payment to the Water Treatment Plant Filter and Clearwell Improvements Project to J.S. Haran Company of Athens Tennessee.

Before the vote, David Medley explained that while the final payment was being calculated for this project it was discussed that there was an error in the final calculation.

There was discussion among the Council regarding the verification of the payment amount, who had reviewed the payments, having the financial officer sign off on items like this, how this error had gotten by the checks and balances that should have been in place, and insuring that in the future this type of error be avoided.

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

AYE: Councilman Titsworth, Mason, Smith & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

8. Consider, and act upon, Change Order No. 1 – Final and Contractor's Pay Estimate No. 3 – Final for the Taylor Industrial Park 12-Inch Main Water Improvements Project. Change Order No. 1 reconciles the final quantities and results for an addition of \$51,075.00 to the contract amount resulting in a final contract amount of \$228,756.00. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to approve final payment for the Taylor Industrial Park 12-Inch Main Water Improvements Project to HTM Underground, LLC of Blanchard, Oklahoma and authorization for the Mayor to sign Change Order No.1 and the Final Application of Payment.

Mayor Harrison stated that this item would be deferred until the EMERGENCY CLAUSE connected to the Budget Amendment could be addressed.

9. Consider and act upon award of bid to Northern Equipment Co., Inc for the construction of Water Treatment Plant Residuals Handling Improvements (Rebid) in an amount of \$871,807.00.10. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to award the bid received on November 13, 2012 by Northern Equipment Co., Inc. of Grove, Oklahoma for the Water Treatment Plant Residuals Handling Improvements (Rebid) in an amount of \$871,807.00 and authorizing the Mayor to enter a construction contract, after review and approval by the City Attorney's Office, in the amount of \$871,807.00.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to award a bid to Northern Equipment Co. for the Water Treatment Plant Residuals Handling Improvements in an amount of \$871,807.00 and authorize the Mayor to sign a construction contract after review and approval by the City Attorney Office.

Before the vote, David Medley informed the Council that the City of McAlester had received five (5) bids on November 13, 2012 with Northern Equipment Co. submitting the low bid. He added that they had agreed to a \$40,680.00 change order reduction once the project had been awarded. He explained that this change would remove one (1) of the three (3) sludge pumps from the project. He added that this pump could be added later if desired and funding allowed.

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

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

10. Consider, and act upon, Change Order No. 1 for the 14th Street / US 69 Sewer Extension with C.S. Day & Associates of Tahlequah, Oklahoma. *(David Medley, PE, Director of Utilities)*

Executive Summary

Motion to approve Change Order No. 1 to the 14th Street / US 69 Sewer Extension to deduct \$20,275.00 from the original Contract Price of \$410,488.00 resulting in a Contract Price of \$390,213.00.

A motion was made by Councilman Smith and seconded Vice-Mayor Mason to approve Change Order No. 1 for the 14th Street / US 69 Sewer Extension, to deduct \$20,275.00 from the original Contract Price of \$410,488.00 resulting in a Contract Price of \$390,213.00, with C.S. Day & Associates.

Before the vote, David Medley explained that this adjustment would result in the contractor for the "Steak and Shake Restaurant" installing a portion of the sewer in their construction project.

There was discussion among the Council, Mr. Medley, Manager Stasiak and Robert Vaughan regarding the developers' contractor completing the project or putting money into escrow to fund

the completion of the project, if the company was still committed to completing the project, getting more information from the developer and what could possibly happen if the developer did not complete the project.

Vice-Mayor Mason moved to table the item until the next meeting and have the City's Consultant get information from the developer's contractor about their intent. The motion was seconded by Councilman Titsworth. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

11. Consider, and act upon, the purchase of one new and unused, asphalt paver for approximately \$350,000, and authorize the City to borrow the necessary funds. (*John C. Modzelewski, PE, City Engineer and Public Works Director*)

Executive Summary

Motion to approve the purchase of one new and unused, asphalt paver at the cost of approximately \$350,000, and authorize the City to borrow the necessary funds.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve the purchase of one new and unused, asphalt paver at the cost of approximately \$350,000, and authorize the City to borrow the necessary funds.

Before the vote, John Modzelewski addressed the Council explaining that the paver that the City currently had was a 1993 model with over 6,000 hours. He added that this machine would operate in conjunction with the City's asphalt zipper during street repair.

There was discussion among the Council, Manager Stasiak and City Attorney Ervin regarding how this machine operated, the need for a budget amendment before the purchase could be addressed, submitting lease purchase information, if the City needed this piece of equipment, comparing alternatives for street construction and addressing the day to day maintenance of the City streets.

Mayor Harrison commented that this would be brought back in a different form when the City was ready to address the matter.

Councilman Smith withdrew his motion and Councilman Titsworth withdrew his second of the motion.

City Attorney Ervin recommended that the City request terms and what estimated payments were available with a lease purchase from local banks.

Manager Stasiak commented that the City had spoken with Arvest Bank and intended to bid interest rates.

There was no vote on this item.

12. Consider, and act upon, a resolution requesting federal funding through the Federal-Aid Surface Transportation Program Urbanized Area Project. The project proposed is the reconstruction of the Washington Avenue bridge deck and roadway from “A” Street to Main Street. (*John C. Modzelewski, PE, City Engineer and Public Works Department*)

Executive Summary

Motion to approve a resolution requesting federal funding for reconstruction of the Washington Avenue bridge deck and roadway from A Street to Main Street.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve RESOLUTION NO. 12-15, requesting federal funding through the Federal-Aid Surface Transportation Program Urbanized Area Project.

Before the vote, John Modzelewski addressed the Council explaining that he had revised the Resolution changing some of the language. He explained that the change would improve the City’s chances of receiving more funds and the approval of the Resolution demonstrated that the City supported the application.

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

AYE: Councilman Smith, Titsworth, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

13. Consider, and act upon, rescheduling the December 25, 2012 Regularly scheduled Council Meeting. (*Cora Middleton, City Clerk*)

Executive Summary

Motion to approve the rescheduling of the December 25, 2012 Regularly scheduled Council Meeting.

Mayor Harrison explained that State Statute allowed the City to change a meeting date if it fell on a Holiday and occasionally it did happen. He commented that the Council needed to discuss when they would want to meet and his thought was to have the meeting on Thursday, December 27, 2012 if there could be a quorum.

There was a brief discussion among the Council and Mayor Harrison moved that the Regular Meeting date be changed to December 27, 2012 at 6:00 P.M. The motion was seconded by Councilman Titsworth and the vote was taken as follows:

AYE: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

New Business

There was no new business.

City Manager's Report

Manager Stasiak reported that the Staff had been working with PSO on their Model Cities program and the creation of an "Energy Master Plan" for the City of McAlester. He distributed a copy of the draft "Energy Master Plan". He explained that this could help the City with its' energy efficiency. He added that with the changes that the City had made PSO estimated that the City of McAlester had a rebate of around \$7,000.00 coming.

Remarks and Inquiries by City Council

Councilmen Smith, Titsworth did not have any comments for the evening.

Vice-Mayor Mason commented that he had requested an update from the City Attorney regarding the status of the Parking Authority and the Allegiance Franchise issue. He stated that Mr. Ervin had furnished that information and he hoped that the City Attorney would have agenda items on the next agenda addressing those issues.

City Attorney Ervin explained that he had been working on both of those items and he thought that at the next meeting he would have an Ordinance regarding the Allegiance matter and a Resolution regarding the Parking Authority matter.

Vice-Mayor Mason inquired about the Hampel Oil project and asked that Ms. Vance update the Council at the next agenda regarding that matter.

Manager Stasiak informed the Council that the pre-construction meeting had been held today and Ms. Vance had been present. He added that he would review the meeting to verify what had been discussed about the Hampel Oil project.

Mayor's Comments and Committee Appointments

Mayor Harrison did not have any comments for the evening.

Recess Council Meeting

Mayor Harrison asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Titsworth 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: Councilman Mason, Smith, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:37 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:40 P.M.

Adjournment

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

AYE: Councilman Smith, Titsworth, Mason & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 7:40 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk