

The McAlester City Council met in Regular session on Tuesday, February 12, 2013, at 6:00 P.M. after proper notice and agenda was posted, February 8, 2013, at 4:26 P.M.

Call to Order

Mayor Harrison called the meeting to order.

Pastor Charles Neff, United Methodist Church, gave the invocation and led the Pledge of Allegiance.

Roll Call

Council Roll Call was as follows:

Present: Weldon Smith, John Titsworth, Travis Read, Robert Karr, Buddy Garvin & Steve Harrison

Absent: Sam Mason

Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; Toni Ervin, Chief Financial Officer; David Medley, Utilities Director; Brett Brewer, Fire Chief; Mel Priddy, Community Services Director; William J. Ervin, City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

Stephanie Giacomo, Executive Director of Pride In McAlester addressed the Council reminding them of Pride In McAlester's Banquet was Thursday, February 21, 2013 at the Whistle Stop Bistro in Old Town. She informed them that the City of McAlester would be receiving an award. She commented that Pride's next Volunteer Day was scheduled for this Saturday, February 16, 2013 in Old Town.

Ginny Webb, Executive Director of McAlester Main Street Association addressed and distributed a couple of handouts that were regarding the last two (2) objectives that had been completed in January. She informed them that the communications objective was to aid in transparency and build awareness. She then commented that they had the results of the survey, which had been compiled for the Council in one of the handouts.

Consent Agenda

- A. Approval of the Minutes from the January 8, 2013 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

- B. Approval of the Minutes from the January 22, 2013 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of the Minutes from the January 29, 2013 Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- D. Approval of Claims for January 16, 2013 – February 5, 2013. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$94,963.32; Nutrition - \$1,146.93; Landfill Res./Sub-Title D - \$9,287.89; Educational Fund - \$370,000.00; Tourism Fund - \$3,666.67; SE Expo Center - \$14,482.03; E-911 - \$3,445.49; Economic Development - \$256,651.51; CDGB Grants - \$164.04; Fleet Maintenance - \$23,270.66; Worker's Compensation - \$941.68 and CIP Fund - \$3,378.84.
- E. Ratify a One (1) year Lease Number 134 between City of McAlester and First National Bank for a 2006 Caterpillar D7R11WDA S/N#AEC00983 and a 2000 Al-Jon Trash Compactor S/N#13652 with all accessions and accessories. *(Cora Middleton, City Clerk)*
- F. Authorize the Mayor to sign XTO Energy, Inc. Division Order for Property No. 131528, OSP 01-25H Pittsburg County, Oklahoma. The DO is confirmation that the well has reached producing status, provides a legal description of the property and confirms the City's decimal interest in revenues. *(Cora Middleton, City Clerk)*
- G. Accept donation of a 2000 Dodge 3500 Truck from the Oklahoma Department of Agriculture, Food and Forestry, Department of Defense, for use by the City of McAlester Fire Department for off road fire suppression. *(Cora Middleton, City Clerk)*
- H. Accept and Place on file MPower Second Quarter Report for October through December, 2012, FY 2012-2013. *(Peter Stasiak, City Manager)*
- I. Consider, and approve a Resolution Consenting to and Approving the Assignment of the Cable Permit and System to BCI Allegiance, LLC. *(Peter Stasiak, City Manager)*
- J. Authorize Mayor to sign Letter of Intent to Participate in the FY-2013 Small Cities CDBG Grant Program. *(Millie Vance, Contract Grant Administrator/Peter Stasiak, City Manager)*

Councilman Titsworth requested that item "I" be removed for individual consideration.

Councilman Garvin moved to approve the Consent Agenda items "A through H and J", seconded by Councilman Karr. There was no discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Karr, Smith, Titsworth, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Items Removed from Consent Agenda

- I. Consider, and approve a Resolution Consenting to and Approving the Assignment of the Cable Permit and System to BCI Allegiance, LLC. *(Peter Stasiak, City Manager)*

A motion was made by Councilman Read and seconded by Councilman Smith to approve RESOLUTION NO. 13-01, approving the assignment of the Cable Permit and System to BCI Allegiance, LLC.

Before the vote, Councilman Titsworth commented that he had received several calls for citizens concerning the cable service and he inquired if the contract contained any performance guarantees.

There was a brief discussion among the Council, Manager Stasiak and City Attorney Ervin regarding the citizen's options to air their concerns, and that this item was only dealing with the transfer of ownership. There was no further discussion and the vote was taken as follows:

AYE: Councilman Read, Smith, Titsworth, Karr, Garvin & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

Scheduled Business

1. Presentation of the Mayor's Annual State of the City Address. *(Steve Harrison, Mayor)*

Mayor Harrison delivered his annual State of the City address. During his speech he highlighted on how the City had improved its' financial status since 2005, he mentioned a possible Special Election to address the question of how the City of McAlester would be allowed to use the excess funds from the excess penny sales tax,. In closing he thanked many of the groups that worked within the City of McAlester and the volunteers that turned out to help with many of the activities around the City of McAlester.

2. POSTPONED - Consider and Act Upon, authorizing the Mayor to sign the lease agreement between the City of McAlester and the United States of America-Federal Aviation Administration Lease No. DTFACN-13-L-00151, term beginning February 1, 2013 and ending on September 30, 2022. *(Mel Priddy, Community Services Director)*

Executive Summary

Motion to approve authorizing the Mayor to sign said lease.

A motion was made by Councilman Smith and seconded by Councilman Read to authorize the Mayor to sign the lease agreement between the City of McAlester and the United States of America-Federal Aviation Administration Lease No. DTFACN-13-L-00151, term beginning February 1, 2013 and ending on September 30, 2022.

Before the vote, Mel Priddy introduced Jason Fitzgerald, Kenny Wilson and Shawn Stevens all employees of the FAA.

Mr. Stevens and Mr. Fitzgerald addressed the Council regarding the equipment that had remained in the Flight Service Station. They emphasized that this equipment was essential for the operation of the McAlester Regional Airport and many surrounding airports.

There was discussion among the Council including Mr. Stevens and Mr. Fitzgerald concerning the lease that had been submitted to the Council, the term of the lease, what the equipment actually did, what repercussions having the equipment in the building could have if the City ever wanted to sell the building, what it would take to move the equipment to another location on the Airport grounds, the length of the lease, possibly changing the lease to a shorter term and possibly postponing this item until more information on moving the equipment was obtained.

City Attorney Ervin recommended that this item be indefinitely postponed and allow both parties to evaluate and gather the information needed regarding the cost of moving the equipment to another building, which building that might be and the length of the lease.

Mayor Harrison moved to indefinitely postpone this item until more information could be gathered. The motion was seconded by Councilman Smith. There was no further discussion, and the vote was taken as follow:

AYE: Councilman Smith, Read, Karr, Garvin, Titsworth & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon an Amendment to Airport Consultant LBR's contract with City of McAlester. (*Mel Priddy, Community Services Director*)

Executive Summary

Motion to approve Amendment to LBR's contract with the City of McAlester, to provide services on preliminary plans for grant from the Oklahoma Strategic Military Planning Commission.

A motion was made by Councilman Karr and seconded by Councilman Smith to approve an Amendment to LBR's contract with the City of McAlester, to provide services on preliminary plans for grant from the Oklahoma Strategic Military Planning Commission.

Before the vote, Mel Priddy explained that this was to allow C130 airplanes to park at the Municipal Airport without damaging the airport apron. He added that the Army Ammunition Plant had requested that this was done at the City of McAlester's Airport.

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

AYE: Councilman Karr, Smith, Garvin, Titsworth, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

4. Update, discussion and possible action to resolve status of contract FAA AIP 3-40-0057-011-012-2011 and OAC Project #MLCC-12-75 at McAlester Regional Airport awarded June 26, 2012 by City of McAlester Airport Authority to Total Investment Company, Guthrie, Oklahoma. Seven months, as of January 26, 2013 have elapsed since said award. Bids on this project were received on September 2, 2011. *(Peter Stasiak, City Manager)*

Executive Summary

Update, discussion and possible action on status of contract FAA AIP 3-40-0057-011-012-2011 and OAC Project #MLCC-12-75 at McAlester Regional Airport.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to consider the status of contract FAA AIP 3-40-0057-011-012-2011 and OAC Project #MLCC-12-75 at McAlester Regional Airport awarded June 26, 2012 by City of McAlester Airport Authority to Total Investment Company, Guthrie, Oklahoma.

Before the vote, Mayor Harrison commented that Vice-Mayor Mason was ill this evening and he had contacted the Mayor and asked if the Council would consider tabling this item until the next meeting as he had a number of discussion items that he had wanted to bring up.

Mayor Harrison moved to table the item seconded by Councilman Smith. There was no discussion and the vote was taken as follows:

AYE: Councilman Smith, Garvin, Titsworth, Read, Karr & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

5. Consider, and act upon, authorizing the Mayor to sign a Profession Services Agreement with Aquaterra Environmental Solutions, Inc. (Aquaterra) to prepare a Gas Remediation Plan required to address gas migration issues related to GP-4 at the City of McAlester landfill. *(John C. Modzelewski, PE, City Engineer and Public Works Director)*

Executive Summary

Motion to approve a Profession Services Agreement with Aquaterra Solutions, Inc. and authorize the Mayor to sign said agreement.

A motion was made by Councilman Titsworth and seconded by Councilman Titsworth to approve and authorize the Mayor to sign a Profession Services Agreement with Aquaterra Environmental Solutions, Inc. (Aquaterra) to prepare a Gas Remediation Plan required to address gas migration issues related to GP-4 at the City of McAlester landfill.

Before the vote, John Modzelewski addressed the Council explaining that on December 21, 2012, the City of McAlester landfill's groundwater and gas monitoring wells were sampled and tested in accordance with requirements of the Oklahoma Department of Environmental Quality (ODEQ). According to the methane levels that were detected the City of McAlester is required to submit to ODEQ for approval a remediation plan, describing the nature and extent of the problem and the proposed remedy.

City Attorney Ervin commented that he had reviewed the contract and had a few items that he would recommend that the Council change. He then reviewed those recommended changes that were as follows; 1) Page 1 of 4 in section 5, remove the word indemnifies, in the second paragraph; 2) Page 2 of 4 in section 7, remove all of the sentences except for the last sentence and then 3) Page 4 of 4 in section 21, change the governing law from the state of Kansas to the state of Oklahoma.

There was discussion among the Council including Manager Stasiak and Mr. Modzelewski concerning Aquaterra Environmental Solutions being the only company that could perform this service, this item being brought before the Council to keep them aware of the matter and the anticipation of the City moving forward with the plan, and the time crunch of this project.

Mayor Harrison commented that this approval would be subject to the changes recommended by the City Attorney.

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

AYE: Councilman Smith, Titsworth, Read, Karr, Garvin & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

6. Consider and Act Upon, authorizing the Mayor to sign two Certificates of Completion per Close-Out Agreements that authorized the City of McAlester to provide Certificates of Completion for properties within the Urban Renewal Neighborhood Development Project area known as R-31, Eastview Area "A". *(Joe Ervin, City Attorney)*

Executive Summary

Motion to authorize Mayor to sign two Certificates of Completion.

A motion was made by Councilman Karr and seconded by Councilman Smith to authorize the Mayor to sign two Certificates of Completion per Close-Out Agreements that authorized the City of McAlester to provide Certificates of Completion for properties within the Urban Renewal Neighborhood Development Project area known as R-31, Eastview Area "A".

Before the vote, City Attorney Ervin explained that when the Urban Renewal Authority was dissolved it entered into a Close-Out agreement which authorized the City of McAlester to provide a Certificate of Completions for properties within the Urban Renewal Neighborhood Development Project area. He added that this had been done once in 1995 and once again in 2007. He added that the applicant meets the requirements and the City was authorized to issue the Certificates of Completion.

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

AYE: Councilman Karr, Smith, Titsworth, Read, Garvin & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

7. Discussion, and possible action, on considering one (1) complete S.C.B.A. unit, from the McAlester Fire Department, as surplus. *(Brett Brewer, Fire Chief)*

Executive Summary

Motion to consider one (1) used S.C.B.A. unit from the McAlester Fire Department as surplus.

A motion was made by Councilman Read and seconded by Councilman Titsworth to consider one (1) complete S.C.B.A. unit, from the McAlester Fire Department, as surplus.

Before the vote, Chief Brewer explained that the Fire Department was in the process of purchasing new S.C.B.A units and to take advantage of a promotion that was being offered by Chief Fire & Safety, they had previously requested that ten (10) older units be declared surplus. He added that the units had been declared surplus and with this request it would bring that total to eleven (11).

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

AYE: Councilman Read, Titsworth, Karr, Garvin, Smith & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

8. Discussion, and possible action, on approval of a bid award for Chief Fire & Safety to purchase our surplus SCBA's (Self Contained Breathing Apparatus). *(Brett Brewer, Fire Chief)*

Executive Summary

Motion to approve and accept a bid award from Chief Fire & Safety to purchase eleven (11) of the McAlester Fire Department's surplus SCBA's, at \$500.00 each.

Councilman Karr moved to approve a bid award for Chief Fire & Safety to purchase the eleven (11) surplus S.C.B.A units from the City of McAlester Fire Department at \$500.00 each. The motion was seconded by Councilman Smith.

Before the vote, Chief Brewer explained that the City has an offer from Chief Fire & Safety to purchase the eleven (11) surplus S.C.B.A. units and with the acceptance of this offer the City would trade in the old S.C.B.A. units and save approximately \$5,500.00.

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

AYE: Councilman Karr, Smith, Titsworth, Read, Garvin & 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 for the first five (5) months of fiscal year 2012-2013 the City's revenues had been running about 1.5 to 3% under budget. Since then things had taken a turn for the worst, with revenues down about 11%. He commented that there was a trend in what was happening and he intended to keep the Council informed of the status of the City. He then informed them that he had implemented an immediate hiring freeze and would be moving employees around the City to address work load needs. He added that any critical need items would be addressed on a case by case matter.

Remarks and Inquiries by City Council

Councilman Smith commented on the sign that had been installed at Poppa's Country Market at the corner of 14th and Carl Albert Parkway.

Councilmen Titsworth and Garvin did not have any comments for the evening.

Councilman Read commented that the Daily Oklahoman had an article on the front page that said the Attorney General ruled that cities could not ban smoking in parks. He asked that the City Attorney review the Attorney General's ruling and bring a revised ordinance to comply with the AG's opinion.

City Attorney Ervin commented that he would bring a proposed revised ordinance that complied with the new Attorney General's opinion.

Councilman Karr urged the citizens to use the City's website to report problems that they might see around the community.

Mayor's Comments and Committee Appointments

Mayor Harrison had no comments for the evening.

Recess Council Meeting

Mayor Harrison asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Smith moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Titsworth.

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

AYE: Councilman Smith, Titsworth, Karr, Garvin, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:18 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:19 P.M.

Councilman Smith moved for the Regular Meeting to be recessed for an Executive Session to discuss the Purchase or Appraisal of Real Property, more particularly: South Side Business Development Center, in accordance with Title 25, Section 307.B.3. The motion was seconded by Councilman Titsworth.

Before the vote, Councilman Read asked if the appraisal had already occurred and how much had it cost.

Manager Stasiak answered that it had been done and cost around \$2,500.00 to \$3,000.00 and everyone on the Council had been provided a copy of the appraisal when it had been completed.

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

AYE: Councilman Smith, Titsworth, Read, Karr, Garvin & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:20 P.M.

Executive Session

Recess into Executive Session in compliance with Section Title 25 Section 307 (B) (3) et.seq. Oklahoma Statutes, to wit:

- 1) Proposed executive session pursuant to Title 25, Sec. 307 (B) (3) for Discussion of the Purchase or Appraisal of Real Property, more particularly: South Side Business Development Center.

Reconvene into Open Session

The Regular Meeting was reconvened at 8:02 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session to discuss the Purchase or Appraisal of Real Property, more particularly: South Side Business Development Center, in accordance with Title 25, Section 307.B.3. Only that matter was discussed, no action was taken and the Council returned to open session at 8:02 P.M., and this constituted the Minutes of the Executive Session.

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, Read, Karr, Garvin & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:03 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk