

The McAlester City Council met in Special session on Wednesday, November 20, 2013, at 5:30 P.M. after proper notice and agenda was posted, November 18, 2013, at 10:36 A.M.

Call to Order

Mayor Harrison called the meeting to order.

Roll Call

Council Roll Call was as follows:

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

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

Scheduled Business

1. Discussion of 2013 Concrete Panel Replacement Projects, past potential violations of competitive bidding requirements with possible action and/or recommendations by council to resolve said issues.

Vice-Mayor Mason began the discussion regarding his concerns over the Concrete Panel Replacement Projects. He stated that he had met with the City Attorney and the City Manager about his concern with the project on Electric Street.

Councilman Karr arrived at 5:34 P.M.

Vice-Mayor Mason continued reviewing the information that he had asked to be included in the agenda packet. Among his concerns were the discrepancies that he saw in the contract requirements and the work that had been done, the City's purchasing policy, projects not completed when they had been reported as completed, why the various projects had been separated instead of being handled as one (1) project and the violation of the State Bidding Act with a project in 2010.

Councilman Read asked that Manager Stasiak address some of these items and the interpretation of the contract.

City Attorney Ervin explained that after the meeting with Vice-Mayor Mason, he had been the one to suggest that the project be completed with 8" of concrete.

Councilman Garvin asked about the number of yards of concrete had been poured on the Electric Street project and if all of the concrete the City had been billed for was used in the project.

Manager Stasiak answered that the information furnished in the packet indicated that 640 cubic yards had been used and there was always some concrete dumped after a pour.

Manager Stasiak reviewed the information that was included in the packet and explained that the main reason that these projects were done separately was to get the best use of the limited funds that were available to the City. He commented that the City Attorney had addressed the Vice-Mayor's concerns of bid splitting. He stated that the purchasing policy was superseded by the City Code of Ordinances and staff had stayed within the guidelines of the City Code.

There was discussion among the Council and Manager Stasiak regarding the extension of contracts, the depth of the concrete, matching existing concrete depth with new concrete, who inspected the projects and having better guidelines for future contracts.

Vice-Mayor Mason expressed his concern over the thickness of the concrete poured in the various street contracts, matching panels, proving the depth of the concrete that had been poured and the possibility that the contractor on the Electric Street project owing the City money.

Mayor Harrison commented that per the City of McAlester's ordinances regarding street design the minimum thickness of concrete streets was six (6) inches and that no streets had been constructed at less than that thickness.

Attorney Ervin expressed his respect for the Council and its members. He stated that the Council was a policy making body that derived its power from the City of McAlester's Charter and State statutes. He stated that the Council was not empowered under the Charter to administer to the day to day operations of the City, which included administering road projects and the inspection of road projects. He added that when he was first made aware of the Vice-Mayor's concerns he reviewed the contract documents which clearly authorized the City Engineer as the City's representative on the project. He commented that the Engineer had informed him that all requirements of the contract had been followed. Attorney Ervin commented that he knew that the Vice-Mayor's interpretation of the language in the contract was different from the interpretation of the City Engineers', but as far as this contract the City Engineer is the designee of the City. He also recommended that in future contracts, if the Vice-Mayor was dissatisfied with the City Engineers' performance, the party could be changed in the contracts and the language in the contracts could be revised if necessary. He further commented that there was a direct conflict between the 1999 policy and City Code and that City Code controls when there is conflict. He added that it was the opinion of the City Attorney that the City Staff had not violated any provision of the Charter, State Statute or the City Code and that the only interpretation in this context was the City Engineer's interpretation.

Councilman Garvin commented that he did not have confidence in the City Engineer's Department.

Vice-Mayor Mason stated that the City Attorney's comments were exactly what he expected. He stated that the City had very poor oversight of its contracts and that there was still a problem.

Councilman Titsworth offered a vote of confidence in the City Manager, the City Engineer and the City employees and that he felt at this time that some of the Council were bordering on the Charter 2.05(c) prohibition of interference with City employees and as the Attorney stated it was the Council's duty to set policy.

Attorney Ervin commented that he did not mean to imply that as Councilmen they checked their rights as a citizen at the door. He added that they had the same rights as anyone else to be concerned with the City's matters and to bring those concerns to peoples' attention and as Councilmen they had the right to gather any information they felt necessary to do their job as policy makers.

Mayor Harrison clarified that the City was making tremendous progress because of its employees and that he thought that things were headed in a wonderful direction. He added that there would be disagreements from time to time and that was the nature of a public body.

Councilman Smith agreed with Councilman Titsworth and he hoped that in the future that there would be better specifications in the contracts to help to avoid this kind of situation.

Adjournment

There being no further business to come before the Council, Councilman Titsworth moved to adjourn the meeting. The motion was seconded by Councilman Garvin and the vote was taken as follows:

AYE: Councilman Titsworth, Garvin, Smith, Read, Karr, Mason & Mayor Harrison
NAY: None

Mayor Harrison declared the motion carried and the meeting was adjourned at 6:52 P.M.

ATTEST:

Steve Harrison, Mayor

Cora Middleton, City Clerk