

Council Chambers  
Municipal Building  
April 10, 2012

The McAlester City Council met in Regular session on Tuesday, April 10, 2012, at 6:00 P.M. after proper notice and agenda was posted, April 9, 2012, at 2:37 P. M.

**Call to Order**

Mayor Harrison called the meeting to order.

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

**Roll Call**

Council Roll Call was as follows:

Present: Weldon Smith, Travis Read, Robert Karr, Buddy Garvin, Sam Mason & Steve Harrison  
Absent: None  
Presiding: Steve Harrison, Mayor

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

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

Carol Ervin addressed the Council informing them that McAlester Main Street was in the middle of conducting a logo contest for the "Culture Fest" and that the details would be in the newspaper or interested parties could contact McAlester Main Street.

**Consent Agenda**

- A. Approval of the Minutes from the March 13, 2012 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of Claims for March 21 through April 3, 2012 *(Toni Ervin, Chief Financial Officer)*  
In the following amounts: General Fund - \$73,441.36; Nutrition - \$688.22; Landfill Res./Sub-Title D - \$58.87; Tourism Fund - \$3,350.00; SE Expo Center - \$2,800.75; E-911 -- \$2,266.66; Economic Development - \$86,392.72; Gifts & Contributions - \$534.00; Fleet Maintenance - \$18,998.63; Worker's Compensation - \$941.68 and CIP Fund - \$235,111.34.
- C. Consider and act upon a Resolution designating the Mayor, as the appropriate Officer of the City of McAlester, to receive, authorize and execute requests for sick leave, vacation

leave, and education or professional leave submitted by the McAlester City Clerk. (*Joe Ervin, City Attorney*)

- D. Concur with Mayor's Appointment of Stephen Foster to the Audit & Finance Advisory Committee for a term to expire March 31, 2014. (*Steve Harrison, Mayor*)

Vice-Mayor Mason requested that item "C" be removed for individual consideration.

A motion was made by Councilman Smith and seconded by Vice-Mayor Mason to approve Consent Agenda items "A, B and D". There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

### **Items Removed from Consent Agenda**

- C. Consider and act upon a Resolution designating the Mayor, as the appropriate Officer of the City of McAlester, to receive, authorize and execute requests for sick leave, vacation leave, and education or professional leave submitted by the McAlester City Clerk. (*Joe Ervin, City Attorney*)

Vice-Mayor Mason moved to approve RESOLUTION NO. 12-03, designating the Mayor, as the appropriate Officer of the City of McAlester, to receive, authorize and execute requests for sick leave, vacation leave, and education or professional leave submitted by the McAlester City Clerk. The motion was seconded by Councilman Karr.

Before the vote, Vice-Mayor Mason moved that in Section 2 of the Resolution that following "communicated to the City Manager", "and all Council members" be inserted. The motion was seconded by Councilman Garvin. There was no other discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

Councilman Read moved to open a Public Hearing concerning a recently completed Community Development Block Grant 2009 Small Cities Water and Sewer Line Project utilized for the City of McAlester's Wastewater Collection Rehabilitation Project #13614-CDBG-09 and one (1) Ordinance amending fiscal year 2011-2012 Budget. The motion was seconded by Councilman Read.

There was no vote and the Public Hearing was opened at 6:07 P.M.

## **Public Hearing**

- A Public Hearing Notice to discuss the recently completed Community Development Block Grant 2009 Small Cities Water and Sewer Line Project utilized for the City of McAlester's Wastewater Collection Rehabilitation Project #13614-CDBG-09.

David Medley passed a sign in sheet around to the Council explaining that it was one of the requirements for the closing of the CDBG Grant. There were no other comments regarding the closing of the Grant project.

- An Ordinance of the City of McAlester, Oklahoma, amending Ordinance No. 2392 which established the budget for fiscal year 2011-2012; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency.

There were no comments from the Council or the citizens regarding the Ordinance amending the budget for fiscal year 2011-2012 and Vice-Mayor Mason moved to close the Public Hearing. The motion was seconded by Councilman Smith, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried and the Public Hearing was closed at 6:11 P.M.

## **Scheduled Business**

1. **TABLED FROM A PREVIOUS MEETING.** Discussion and possible action on Agreement between the City of McAlester and McAlester Public Schools for Funding of \$15,000 in support of the 2012 Junior Sunbelt Baseball Classic scheduled for June 7-14, 2012. (*Peter J. Stasiak, City Manager*)

Executive Summary

Agreement between the City of McAlester and McAlester Public Schools for Funding of \$15,000 in support of the 2012 Junior Sunbelt Baseball Classic scheduled for June 7-14, 2012.

A motion was made by Councilman Read and seconded by Councilman Karr to open the discussion on an Agreement between the City of McAlester and McAlester Public Schools for Funding of \$15,000 in support of the 2012 Junior Sunbelt Baseball Classic scheduled for June 7-14, 2012.

Before the vote, Manager Stasiak provided the Council with figures for last years Revenue and Expenses of the Sunbelt Classic. He informed the Council that he had received a request for \$15,000.00 support for the 2012 Sunbelt Classic.

After a lengthy discussion, between the Council, Larry Barnett and Manager Stasiak concerning the use of the funds, the effect that the Sunbelt Classic had on McAlester, the condition of Mike Deak Stadium and needing a budget amendment to properly address this request, Manager

Stasiak informed the Council that a budget amendment for this item would be submitted for consideration at the next meeting.

The Council took no vote on this item.

2. Consider and act upon accepting the annual Audited Financial Statements and Independent Auditor's Report for Fiscal Year ending June 30, 2011. *(Toni Ervin, Chief Financial Officer and Mike Gibson, Cole and Reed)*

Executive Summary

Consider and act upon accepting the annual audit for Fiscal Year ending June 30, 2011 for the City of McAlester.

A motion was made by Councilman Garvin and seconded by Vice-Mayor Mason to accept the annual Audited Financial Statements and Independent Auditor's Report for Fiscal Year ending June 30, 2011.

Before the vote, Mike Gibson a partner in Cole and Reed, P.C. briefly reviewed the Audit for Fiscal Year ending June 30, 2011. During his review he stated that his firm had issued an unqualified opinion meaning that the financial statements were presented in accordance with Generally Accepted Accounting Principles and they did not find or need to report any material weaknesses. He did comment on the change of how fund balances were now required to be presented.

After a brief discussion, regarding the timeliness of the audit, the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

3. Consider and act upon a "Use Permitted After Review" for an eye care office located in the Wade Watts Corridor. *(Peter J. Stasiak, City Manager)*

Executive Summary

Motion to approve a "Use Permitted After Review" for an eye care office located in the Wade Watts Corridor and authorizing the Mayor to sign the documents.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve a "Use Permitted After Review" for an eye care office located in the Wade Watts Corridor.

Before the vote, Manager Stasiak informed the Council that the all required notices had been sent out and the Planning and Zoning Commission had unanimously voted to recommend the approval of the use permit. There was no other discussion and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

4. Consider, and act upon, an Ordinance amending Ordinance No. 2392 which established the budget for fiscal year 2011-2012; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. *(Toni Ervin, Chief Financial Officer)*

Consider, and act upon, approval of the attached Transfer of Appropriations for FY 2011-2012. *(Toni Ervin, Chief Financial Officer)*

Executive Summary

Motion to approve the budget amendment ordinance.

Motion to approve the budget transfers as attached numbered.

### **ORDINANCE NO. 2418**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2392 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2011-2012; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

A motion was made by Councilman Karr and seconded by Councilman Smith to approve **ORDINANCE NO. 2418**, amending the Budget for Fiscal Year 2011-2012.

Before the vote, Toni Ervin reviewed the amendments with the Council. There was no other discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

Councilman Read moved to approve the EMERGENCY CLAUSE, seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

A motion was made by Councilman Read and seconded by Councilman Smith to approve the budget transfer. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

5. Consider and act upon awarding bid in the amount of \$35,920.00, for new carpet at the Expo Center in room 103 to Miller Brothers Enterprises, Inc., of McAlester, Oklahoma.  
*(Mel Priddy, Director Community Services)*

Executive Summary

Motion to approve the award of bid to Miller Brothers Enterprises, Inc., for new carpet.

A motion to award a bid in the amount of \$35,920.00, for new carpet at the Expo Center in room 103 to Miller Brothers Enterprises, Inc., of McAlester, Oklahoma was made by Councilman Karr and seconded by Councilman Smith.

Before the vote, Mel Priddy addressed the Council explaining that only two (2) bids had been received and Miller Brothers Enterprises had been the lower of the two.

After a discussion among the Council concerning what area of the Expo would be carpeted, the number of bidders and abiding with Title 61 of the Oklahoma State Statutes the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

6. Discussion and possible action on accepting the 2009 CDBG Small Cities Grant for Water and Sewer Line Improvements Project #13914-CDBG-09 as completed and authorizing the Mayor to sign the attached documents. *(Peter J. Stasiak, City Manager)*

Executive Summary

Approve Motion to closeout the 2009 CDBG Small Cities Grant for Water and Sewer Line Improvements Project #13914-CDBG-09 as completed and authorizing the Mayor to sign the attached documents.

Councilman Karr moved to accept the 2009 CDBG Small Cities Grant for Water and Sewer Line Improvements Project #13914-CDBG-09 as completed and authorizing the Mayor to sign the attached documents. The motion was seconded by Councilman Smith.

Before the vote, Manager Stasiak explained that the 2009 CDBG Small Cities Grant for Water and Sewer Line Improvements Project #13914-CDBG-09 had been completed and all of the necessary documents had been submitted. He stated that the total cost of the project had been \$181,260.00 with fifty percent of the funding coming from the Department of Commerce and the other fifty percent coming from the City of McAlester.

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

AYE: Councilman Karr, Mason, Smith, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried.

7. Discussion and possible action on authorizing the Mayor to sign an Engineering Services Agreement between the City of McAlester, Oklahoma and Meshek & Associates, PLC for the Mallard and Flamingo Drainage Improvement Design. (*John C. Modzelewski, PE, City Engineer and Public Works Director*)

Executive Summary

Motion to approve authorizing the Mayor to sign an Engineering Services Agreement between the City of McAlester and Meshek & Associates, PLC for the Mallard and Flamingo Drainage Improvement Design.

A motion was made by Councilman Read and seconded by Vice-Mayor Mason to authorize the Mayor to sign an Engineering Services Agreement between the City of McAlester, Oklahoma and Meshek & Associates, PLC for the Mallard and Flamingo Drainage Improvement Design.

Before the vote, Councilman Garvin commented that a lot of the items in the contract were not clear and he would like to have this item pulled for further consideration.

Mayor Harrison stated that only the person that submitted an item could pull it. The item could be tabled.

After discussion, among the Council and City Attorney Ervin regarding the language in various areas of the contract, missing attachments and the cost of the project, Councilman Garvin moved to table the item. The motion was seconded by Vice-Mayor Mason.

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

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

NAY: None

Mayor Harrison declared the motion carried.

Manager Stasiak requested that items "8 and 9" be pulled. He stated that there was more study work that needed to be accomplished. He added that a meeting with the contractors, engineers, City Attorney and staff had been scheduled. He requested that these possibly be brought back at a Special Meeting.

8. Consider and act upon, Change Order No. 2 to the contract with Outlaw Construction for Elks Road Improvements and authorize the Mayor to sign the Change Order in the amount of \$28,155.00. This will add fifteen days to the contract time. The Change Order also includes a request for fourteen weather days due to rain. The total of twenty nine days will change the substantial completion date to May 20, 2012. (*John C. Modzelewski, PE, City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No. 2 to the construction contract with Outlaw Construction for construction of the Elks Road Improvements.

Pulled.

9. Consider, and act upon, Change Order No. 3 to the contract with Outlaw Construction for Elks Road Improvements and authorize the Mayor to sign the Change Order in the amount of \$33,775.00. This will add seven days to the contract time and change the substantial completion date to May 27, 2012. (*John C. Modzelewski, PE, City Engineer and Public Works Director*)

Executive Summary

Motion to approve Change Order No.3 to the construction contract with Outlaw Construction for construction of the Elks Road Improvements.

Pulled.

**New Business**

There was no new business.

**City Manager's Report**

Manager Stasiak reported that the pre-construction meeting for the 12" water line would be tomorrow at 10:00 A.M. He reported that there had been a predevelopment meeting last week with the Planning and Zoning Department for a forty-four (44) single family homes subdivision on Ninth and near the frontage road of 69 Bypass.

**Remarks and Inquiries by City Council**

Councilmen Smith and Garvin did not have comments for the evening.

Councilman Read inquired about what was being done to fill the vacancies on the head count summary.

Manager Stasiak commented that the City was working aggressively to fill the positions. He informed the Council that interviews for the 911 positions had been done the past week, the Police Department was in the process of filling two (2) of those positions, and the Streets Department had lost a total of three (3) employees. He added that in the Police Department had been reduced by three (3) total personnel.

Councilman Read asked about the positions in the Fire Department.

Manager Stasiak stated that the City would fill those positions, that no positions would be held open.

Councilman Karr commented about the condition of the traffic lights at the intersections of Main and Electric and Main and Choctaw and asked if they could be repaired. He stated that he would like to see the Ordinance regarding mowing be put in the paper or in the water bill. He commented that the Pride clean up had looked very busy and asked how long it would continue.

Manager Stasiak answered that it would continue for three (3) more weekends opened on Saturdays from 9:00 A.M. to 3:00 P.M. and Sundays from 12:00 until 3:00 P.M.

Vice-Mayor Mason commented on the grass in the streets and stated that when the Ordinance had been passed the City Attorney at the time opinion had been that the Police Department could legally issue citations.

There was a brief discussion among the Council regarding the grass problem and the Ordinance.

City Attorney Ervin stated that a violation of City Code could be enforced by either the Code Department or the Police Department. He also mentioned the team that had been created to address abatement issues could have this matter added to their task. He added that he could review the Ordinance to see if it needed to be reworded.

### **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 Read.

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

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

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:16 P.M.

### **Reconvene Council Meeting**

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

Councilman Karr moved to recess the Regular Meeting for an Executive Session in accordance with Title 25, Sec. 307(B) (4) for Confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks; and in accordance with Title 25, Sec. 307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups: Peter J. Stasiak, City Manager and Cora Middleton, City Clerk. The motion was seconded by Vice-Mayor Mason.

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

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

NAY: None

Mayor Harrison declared the motion carried and the Regular Meeting was recessed at 7:19 P.M.

**Executive Session**

- 1) Proposed executive session pursuant to Title 25, Sec. 307(B) (4) for Confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks
- 2) Proposed executive session pursuant to Title 25, Sec. 307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups: Peter J. Stasiak, City Manager and Cora Middleton, City Clerk.

**Reconvene Council Meeting**

- 1) Consider, and Act Upon the Mitchell Weeks Workers Compensation Claim
- 2) Consider, and Act Upon the City Manager Contract.

The Regular Meeting was reconvened at 9:01 P.M. Mayor Harrison reported that the Council had recessed the Regular Meeting for an Executive Session in accordance with Title 25, Sec. 307(B) (4) for Confidential communications between a public body and its attorney concerning a pending investigations, claims, or actions, more particularly: Mitchell Weeks; and in accordance with Title 25, Sec. 307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups: Peter J. Stasiak, City Manager and Cora Middleton, City Clerk. Only those matters had been discussed, no action was taken, and the Council returned to open session at 9:01 P.M., and this constituted the Minutes of the Executive Session.

Mayor Harrison stated that additional information was needed for the first item so no action by the Council would be taken this evening and there would be no action taken on the second item.

**Adjournment**

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

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

Mayor Harrison declared the motion carried, and the meeting was adjourned at 9:02 P.M.

ATTEST:

\_\_\_\_\_  
Steve Harrison, Mayor

\_\_\_\_\_  
Cora Middleton, City Clerk