

The McAlester City Council met in Regular session on Tuesday, September 23, 2014, at 6:00 P.M. after proper notice and agenda was posted, September 19, 2014 at 4:06 P.M.

Call to Order

Vice-Mayor Read called the meeting to order.

City Attorney, William J. Ervin, Jr., 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 & Jason Barnett
Absent: Steve Harrison
Presiding: Travis Read, Vice-Mayor

Staff Present: Peter J. Stasiak, City Manager; John Modzelewski, City Engineer/Public Works Director; Leroy Alsup, Community & Economic Development Director; Toni Ervin, Chief Financial Officer; Mel Priddy, Community Services Director; William J. Ervin, Jr., City Attorney and Cora Middleton, City Clerk

Citizen's Comments on Non-agenda Items

There were no comments.

Consent Agenda

- A. Approval of the Minutes from the August 26, 2014, Regular Meeting of the McAlester City Council. (*Cora Middleton, City Clerk*)
- B. Approval of Claims for September 3, 2014 through September 16, 2014. (*Toni Ervin, Chief Financial Officer*) In the following amounts: General Fund - \$159, 259.82; Parking Authority - \$143.17; Nutrition - \$2,885.67; Landfill Res./Sub-Title D - \$1,534.40; Tourism Fund - \$2,822.25; SE Expo Center - \$2,261.51; E-911 - \$8,938.68; Economic Development - \$5,008.23; Fleet Management - \$23,215.32; Dedicated Sales Tax-MPWA - \$2,000.00; CIP Fund - \$7,421.25 and Technology Fund - \$69,581.46.
- C. Consider and act upon, the approval of Addendum to AMS Collection Services Agreement. This will allow AMS to file overdue and outstanding fine balances with the

Oklahoma Tax Commission. (*Karen Boatright, Municipal Court Administrator & Cora Middleton, City Clerk*)

- D Discussion and possible action, on approval of certain costs related to the Fire Department. Funds to be used from the City of McAlester Fire Department's portion of the county quarter cent excise tax for fire services. (*Brett Brewer, Fire Chief*)
- E. Consider and act upon, to concur with Oklahoma Municipal Assurance Group recommendation to deny Claim No. 139181-KW. (*Cora Middleton, City Clerk*)
- F. Consider and act upon, authorization of payment to Austin Paving, LLC, Pay Estimate No. 6, in the amount of \$52,638.42, for construction services related to CIP#1 and funded through the McAlester Public Works Authority Construction Fund Series 2013 Project Account.

Vice-Mayor Read commented that Item "D" would be pulled and Item "F" would need to be amended.

Manager Stasiak informed the Council that the amount of the payment to Austin Paving, LLC would need to be changed to \$55,859.20 and that a revised Schedule "D" had been distributed to the Council.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve the Consent Agenda. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Titsworth, Garvin, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

A motion was made by Councilman Karr and seconded by Councilman Smith to open a Public Hearing to address four (4) ordinances. There was no discussion, and the vote was taken as follows:

AYE: Councilman Karr, Smith, Titsworth, Garvin, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried and the Public Hearing was opened at 6:03 P.M.

Public Hearing

- AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MCALESTER, OKLAHOMA, CHAPTER 10, ANIMALS, SECTION 10-3 KEEPING SWINE PROHIBITED BY PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS; REPEALING ANY AND ALL OTHER ORDINANCES AND PARTS

OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

- AN ORDINANCE AMENDING ORDINANCE NO. 2501 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2014-2015; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.
- AN ORDINANCE AMENDING SECTION “62-197, R-1B SINGLE FAMILY RESIDENTIAL DISTRICT” OF THE MCALESTER CITY CODE REGARDING ZONING USES PERMITTED AFTER REVIEW; REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.
- AN ORDINANCE AMENDING SECTION “2-41.AGENDA.” OF THE MCALESTER CITY CODE REGARDING THE SUBMISSION OF MATTERS TO BE CONSIDERED BY THE CITY COUNCIL; REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

There were no comments from the citizens or the Council.

A motion was made by Councilman Smith and seconded by Councilman Karr to close the Public Hearing.

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

AYE: Councilman Smith, Karr, Garvin, Barnett, Titsworth & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried and the Public Hearing was closed at 6:04 P.M.

Scheduled Business

1. Consider and act upon, a resolution authorizing the creation and funding of the Full Time Position of Accountant and place on the Non Uniform Pay plan on pay grade 125. (*Toni Ervin, CFO*)

Executive Summary

Staff recommends motion to approve resolution for the Full Time Position of Accountant.

CFO Ervin addressed the Council explaining that the creation of this position would help to strengthen the City’s internal controls. The position would assist in maintaining, organizing, compiling, and reporting of accurate financial data as needed. The position would also assist in maintaining regular monitoring of accounting of day to day operations and assist the CFO with reports for the City Manager, Council, Audit and Finance Committee, Department Heads and other boards and requested. She added that this position had been opened and budgeted in 2010-2011; it had been frozen in 2012-2013. She informed the Council that both the Auditors and the Audit and Finance Committee had recommended that this position be reopened and filled.

There was discussion among the Council including CFO Ervin and Manager Stasiak regarding the responsibilities of the position, what employees were currently performing the tasks, the annual pay for the position, justifying this position over giving the current employees a 2% COLA, allowing her to be more active in strategic planning, developing funding sources, working more closely with Manager Stasiak and if the position was needed.

A motion was made by Councilman Garvin and seconded by Councilman Smith to approve RESOLUTION NO. 14-24, authorizing the creation and funding of a Full-Time Accountant position and place it on the Non-Uniform Pay plan at grade 125.

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

AYE: Councilman Garvin, Smith, Karr, Barnett, Titsworth & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

2. Consider and act upon, a resolution amending the pay plan to reflect the changes to Nutrition Positions Assistant Cook and Head Cook and pay grades. *(Toni Ervin, CFO)*

Executive Summary

Staff recommends motion to approve resolution amending the City's Non-Uniform Pay Plan to reflect the changes to Nutrition positions titles and pay grades. Assistant Cook to the added pay grade of 110. The Head Cook to the pay grade 112.

A motion was made by Councilman Smith and seconded by Councilman Barnett to approve RESOLUTION NO. 14-25, amending the City's pay plan to reflect the changes to Nutrition Positions Assistant Cook and Head Cook and pay grades.

Before the vote, CFO Ervin informed the Council that the pay of local area businesses with cooks had been researched and it was found that the City's cooks pay was low. She added that pay grade 104 would be deleted because it did not meet minimum wage requirements and that Staff recommended the reclassification of Assistant Cook to pay grade 110 which starts at 9.015 per hour and the reclassification of Head Cook to pay grade 112 which starts at 10.591 per hour.

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

AYE: Councilman Smith, Barnett, Garvin, Titsworth, Karr & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

3. Consideration and action to approve and to authorize the execution of Amendment No. 1 to the Professional Services Agreement with Land Plan Consultants, Inc. to cover the costs to revise the Preliminary Design of the realigned Oklahoma Tourism and Recreation Department (OTRD) Belmont Trail Grant Project. *(Leroy Alsup, Community & Economic Development Director)*

Executive Summary

Motion to approve and to authorize the execution of Amendment No. 1 to the Professional Services Agreement with Land Plan Consultants to cover the costs to revise the Preliminary Design of the realigned Oklahoma Tourism and Recreation Department (OTRD) Belmont Trail Grant Project.

A motion was made by Councilman Smith and seconded by Councilman Garvin to authorize the execution of Amendment No. 1 to the Professional Services Agreement with Land Plan Consultants, Inc. to cover the costs to revise the Preliminary Design of the realigned Oklahoma Tourism and Recreation Department (OTRD) Belmont Trail Grant Project.

Before the vote, Director Alsup addressed the Council explaining that the consultant had recommended moving the trail because of the cost of moving the flow line of the creek that borders the current proposed site of the trail.

There was discussion among the Council, and Director Alsup concerning the easements along the lots where the trail would now be located, the value of the land, the cost of the amendment and the original bridge that would remain within the Belmont Trail Project.

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

AYE: Councilman Smith, Garvin, Barnett, Titsworth, Karr & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

4. Consideration and action on an ordinance amending the Code of Ordinances, City of McAlester, Oklahoma, Chapter 10, Animals, Section 10-3 Keeping swine prohibited by providing substitute and additional provisions; repealing any and all other ordinances and parts of ordinances in conflict therewith; providing for a severability clause; and declaring an emergency. (*Leroy Alsup, Community & Economic Development Director*)

Executive Summary

Motion to approve and to authorize the execution of an ordinance amending the Code of Ordinances, City of McAlester, Oklahoma, Chapter 10, Animals, Section 10-3 Keeping swine prohibited by providing substitute and additional provisions; repealing any and all other ordinances and parts of ordinances in conflict therewith; providing for a severability clause; and declaring an emergency.

ORDINANCE NO. 2516

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF MCALESTER, OKLAHOMA, CHAPTER 10, ANIMALS, SECTION 10-3 KEEPING SWINE PROHIBITED BY PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS; REPEALING ANY AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

Councilman Garvin moved to approve **ORDINANCE NO. 2516**, amending Section 10-3 Keeping of Swine in the City of McAlester's Code of Ordinance. The motion was seconded by Councilman Smith.

Before the vote, Director Alsup addressed the Council informing them that this would be at the McAlester High School Campus and for educational purposes only. He added that if the High Schools FFA class failed to properly maintain the swine's pen it would lead to the termination of the classes' permit.

After a lengthy discussion among the Council, Director Alsup, Student Darren Foster and Instructor Olivia Foster concerning the responsibilities of the FFA Class, this being an opportunity for students that lived in the City, the sale of the hog at the end of the school, the Council's ability to change the Ordinance if needed, Vice-Mayor Read commented that he supported the first two (2) exceptions but not the sale at the Stockyards and Councilman Smith commented that he didn't trust the permit process.

Councilman Titsworth moved to amend the language of the exceptions to say "for educational programs at McAlester Public High School with properly constructed facilities that have obtained a permit for up to a maximum of two swine pursuant to the guidelines set forth in Sec. 10-2 of this article that shall terminate when the educational program is completed."

Vice-Mayor Read asked if Councilmen Garvin and Smith were okay with the change in the language. Both Councilmen were in agreement. He then added that he would strike the third exception "when offered for sale at stockyards or adjacent auction barns".

Vice-Mayor Read restated the motion as "Approve Ordinance No. 2516, amending Section 10-3. Keeping swine prohibited; and the exceptions to say; Exhibition of a temporary duration at stock shows, fairs and circuses; for educational programs at McAlester Public High School with properly constructed facilities that have obtained a permit for up to a maximum of two swine pursuant to the guidelines set forth in Sec. 10-2 of this article that shall terminate when the educational program is completed; and striking the third exception". There was no further discussion, and the vote was taken as follows:

AYE: Councilman Garvin, Smith, Titsworth, Karr, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

Councilman Karr moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Garvin. There was no discussion, and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Barnett, Smith, Titsworth & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

5. Consider and act upon, an Ordinance amending Ordinance No. 2501 which established the budget for fiscal year 2014-2015; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. (*Toni Ervin, CFO*)

Executive Summary

Motion to approve the budget amendment ordinance.

ORDINANCE NO. 2517

AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2501 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2014-15; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

Councilman Smith moved to approve **ORDINANCE NO. 2517**, amending Fiscal Year 2014-15 Budget to appropriate funds for the revised Belmont Trail. The motion was seconded by Councilman Garvin.

Before the vote, CFO Ervin addressed the Council with a brief review of the financial status of the City as of August 31, 2014. In her review, CFO Ervin stated that the General Fund was over Budget and exceeding last years receipt every year and that the Public Works Authority was under budget on water and sewer sales. She added that all of the accounts would continue to be closely monitored. After a brief review of the exhibit to the amendment, the vote was taken as follows:

AYE: Councilman Smith, Garvin, Titsworth, Karr, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

Councilman Garvin moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Karr. There was no discussion, and the vote was taken as follows:

AYE: Councilman Karr, Garvin, Titsworth, Barnett, Smith & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

6. Consider and act upon, authorization to seek a lease purchase agreement to acquire 12 work trucks and 1 small SUV through our fleet bidding process. (*Toni Ervin, CFO*)

Executive Summary

Motion to authorize fleet bidding process to acquire lease purchase of 12 work trucks and 1 small SUV on a 60 month payment agreement.

A motion was made by Councilman Smith and seconded by Councilman Karr to authorize fleet bidding process to acquire lease purchase of 12 work trucks and 1 small SUV on a 60 month payment agreement.

Before the vote, CFO Ervin addressed the Council informing them that the City had identified in the Five (5) Year Capital plan multiple work trucks and with the use of Late fees and Penalties there was a constant funding source. She commented that the funds from the sale of the surplus vehicles and equipment would be directed into the Capital Fund. She added that as new vehicles and equipment are purchased there would be more surplus items to bring before the Council and these vehicles would be replacing 1990 year model vehicles.

There was discussion among the Council regarding the life expectancy of the vehicles, having the correct equipment for the employees, the payments, interest rates, the number of employees that need trucks, and where the money for this purchase was coming from.

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

AYE: Councilman Smith, Karr, Garvin, Barnett, Titsworth & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

7. Consider and act upon, an ordinance amending Section “62-197, R-1B Single Family Residential District” of the McAlester City Code regarding zoning uses permitted after review; repealing all conflicting ordinances and declaring an emergency. (*Robert Karr, Councilman Ward Four and William J. Ervin, City Attorney*)

Executive Summary

This ordinance would add Barbershop and/or Beauty Shop to the uses permitted after review in zoning R-1B, and provide certain definitions and restrictions.

A motion was made by Councilman Smith and seconded by Councilman Garvin to approve an Ordinance amending Section “62-197, R-1B Single Family Residential District” of the McAlester City Code regarding zoning uses permitted after review and adding Barbershop and/or Beauty Shop to the uses permitted after review.

Before the vote, Councilman Karr commented that he believed that this was a change that the Council was legally allowed to do. He added that this matter had been before the Council and Planning Commission several times and had been denied. He stated that it was possible that there were already Barber and Beauty Shops in residential areas and they were not causing any problems.

There was discussion among the Council including City Attorney Ervin and Director Alsup concerning the change to the zoning district, omitting the normal procedure by not going before the Planning Commission, the existing businesses having been grandfathered and having this item referred to the Planning Commission for their review and recommendation. Director Alsup explained the process that was normally followed with requests to change a zoning district.

Vice-Mayor stated that the motion would be to direct the proposed Ordinance be submitted to the Planning Commission for Public Notice and that a recommendation on the proposed Ordinance be brought back to the Council. Both Councilmen Smith and Garvin approved of the change in the motion. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Garvin, Karr, Barnett, Titsworth & Vice-Mayor Read
NAY: None

Vice-Mayor Read declared the motion carried.

8. Consider and act upon, an ordinance amending Section “2-41.AGENDA.” of the McAlester City code regarding the submission of matters to be considered by the City Council; repealing all conflicting ordinances and declaring an emergency. (*William J. Ervin, City Attorney*)

Executive Summary

Staff recommendation is to amend the time from Tuesday, 10:00a.m. to Thursday, 12:00p.m. immediately preceding the regular Council Meeting.

ORDINANCE NO. 2518

AN ORDINANCE AMENDING SECTION “2-41. AGENDA.” OF THE MCALESTER CITY CODE REGARDING THE SUBMISSION OF MATTERS TO BE CONSIDERED BY THE CITY COUNCIL; REPEALING ALL CONFLICTING ORDINANCES AND DECLARING AN EMERGENCY.

A motion was made by Councilman Smith and seconded by Councilman Karr to approve **ORDINANCE NO. 2518.**

Before the vote, Attorney Ervin addressed the Council explaining the current process of submitting items for the agenda and that this change would allow critical items that arose after that deadline to be included on the agenda.

After a brief discussion concerning when the agenda packets would be delivered to the Council and that the City Manager planned to keep the current deadline but allow critical last minute items to be placed on the agenda, the vote was taken as follows:

AYE: Councilman Smith, Karr, Garvin, Barnett, Titsworth & Vice-Mayor Read
NAY: None

Vice-Mayor Read declared the motion carried.

Councilman Karr moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Garvin.

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

AYE: Councilman Karr, Garvin, Barnett, Smith, Titsworth & Vice-Mayor Read
NAY: None

Vice-Mayor Read declared the motion carried.

New Business

There was no new business.

City Manager's Report

- Report on activities for the past two weeks.

Manager Stasiak reported that he would be at the Oklahoma Municipal League Convention in Oklahoma City the next two (2) days.

Remarks and Inquiries by City Council

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

Councilmen Smith asked about the City Guide and Tourism Brochure and if the Council could get copies of those items.

Councilman Karr wished the Mayor a speedy recovery. He mentioned that the Tobusky Court House and Choctaw Cultural event would be going on during the Old Town Festival.

Councilman Garvin announced that the Old Town Festival was scheduled for October 4th at 10:00 A.M. He then inquired about the Katcon Lawsuit.

Attorney Ervin informed the Council that the City's offer had been conveyed to Katcon's lawyers. They had requested it in writing and he has not received a response to date.

Mayor's Comments and Committee Appointments

Vice-Mayor Read had no comments for the evening.

Recess Council Meeting

Vice-Mayor Read asked for a motion to recess the Regular Meeting to convene the Authorities. Councilman Garvin moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Karr.

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

AYE: Councilman Garvin, Karr, Barnett, Smith, Titsworth, & Vice-Mayor Read

Vice-Mayor Read declared the motion carried and the meeting was recessed at 7:33 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:36 P.M.

A motion was made by Councilman Smith and seconded by Councilman Karr 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: City of McAlester vs. Randy Green, Pittsburg County Case Number CJ-2006-844; and the workers compensation claim of Mike Crandall.

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

AYE: Councilman Smith, Karr, Titsworth, Garvin, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried and the Regular Meeting was recessed at 7:40 P.M.

Executive Session

Recess into Executive Session in compliance with Section Title 25 Section 307 B.4 et.seq. Oklahoma Statutes, to wit:

- 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: City of McAlester vs. Randy Green, Pittsburg County Case Number CJ-2006-844; and the workers compensation claim of Mike Crandall.

Reconvene into Open Session

Take any action as a result from Executive Session.

The Regular Meeting was reconvened at 8:13 P.M. Vice-Mayor Read 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: City of McAlester vs. Randy Green, Pittsburg County Case Number CJ-2006-844; and the workers compensation claim of Mike Crandall. Only that matter was discussed, no vote was taken, and the Council returned to open session at 8:13 P.M., and this constituted the Minutes of the Executive Session.

- Consider and act to authorize settlement of the workers compensation claim of Mike Crandall.

Councilman Titsworth moved to authorize the City Manager to settle the worker's compensation claim of Mike Crandell. The motion was seconded by Councilman Smith. There was no discussion, and the vote was taken as follows:

AYE: Councilman Titsworth, Smith, Karr, Garvin, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried.

Adjournment

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

AYE: Councilman Karr, Smith, Titsworth, Garvin, Barnett & Vice-Mayor Read

NAY: None

Vice-Mayor Read declared the motion carried, and the meeting was adjourned at 8:17 P.M.

ATTEST:

Travis Read, Vice-Mayor

Cora Middleton, City Clerk