

The McAlester City Council met in Regular session on Tuesday, April 9, 2013, at 6:00 P.M. after proper notice and agenda was posted, April 5, 2013, at 1:17 P.M.

**Call to Order**

Mayor Harrison called the meeting to order.

Mayor Steve Harrison 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, Sam Mason & Steve Harrison  
Absent: None  
Presiding: Steve Harrison, Mayor

Staff Present: Peter J. Stasiak, City Manager; John Modzelewski, City Engineer/Public Works Director; David Medley, Utilities Director; Brett Brewer, Fire Chief; 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 Association addressed the Council updating them about the plants that had been placed in the planters in the down town area and she thanked the City's Parks Department for their assistance.

Stephanie Giacomo Executive Director of Pride in McAlester addressed the Council reporting that the first weekend of the "Spring Clean-Up" had went very well and she encouraged everyone to take advantage of the clean up.

**Consent Agenda**

- A. Approval of the Minutes from the March 26, 2013 Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
  
- B. Approval of Claims for March 20, 2013 to April 2, 2013. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$52,620.58; Nutrition - \$703.71; Landfill Res./Sub-Title D - \$4,937.50; Employees Retirement - \$3,510.00; Tourism Fund - \$3,666.67; SE Expo Center - \$16,866.38; E-911 - \$4,000.04; Economic Development - \$29,816.91; Fleet Maintenance - \$3,609.67 and CIP Fund - \$4,428.84.

- C. Update and Expenditure Report for the McAlester Public Schools. (*Marsha Gore, Ed.D., Superintendent, McAlester Public Schools*)
- D. Concur with Mayor's Appointment of Ricky Judge, MD, 1817 S. 14<sup>th</sup> St., McAlester 74501 to the McAlester Regional Health Center Authority Board of Trustees for a term to expire February 28, 2019. (*Steve Harrison, Mayor*)
- E. Consider, and act upon, award of bid to Brentag Southwest for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: 40% Polymer, aluminum sulfate, chlorine, copper sulfate, polyaluminum feric halide, polyphosphate, and powder activated carbon. (*David Medley, P.E., Director of Utilities*)
- F. Consider, and act upon, award of bid to Southwest Chemical Service for the supply of the chemicals for the McAlester Water Treatment Plant on a unit price basis the following chemicals: 20% sodium permanganate and 30% caustic. (*David Medley, P.E., Director of Utilities*)
- G. Consider, and act upon, changing incentive pay in Section 2.03, License, Lab "B" and "C" of the McAlester Personnel Handbook. (*Peter J. Stasiak, City Manager*)

Mayor Harrison redrew item "D" from the Consent Agenda.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve Consent Agenda items "A, B, C, E, F and G". There was no discussion and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried.

### **Scheduled Business**

1. Consider and Act to sell the South Side Business Park (King Ranch Property) to The Choctaw Nation of Oklahoma for the purchase price of \$1,350,000.00, and to authorize the Mayor to execute any and all necessary instruments to complete the sale on behalf of the City of McAlester, Oklahoma. (*Mayor, Steve Harrison*)

#### Executive Summary

The committee recommends the sale of the South Side Development Center/Business Park to the Choctaw Nation of Oklahoma for the sum of \$1,350,000.00.

A motion was made by Councilman Garvin and seconded by Councilman Karr to approve the sale of the South Side Business Park (King Ranch Property) to The Choctaw Nation of Oklahoma for the purchase price of \$1,350,000.00, and to authorize the Mayor to execute any and all necessary instruments to complete the sale on behalf of the City of McAlester, Oklahoma.

Before the vote, Mayor Harrison read the report from the Council Committee detailing the process by which the negotiation for the sale of the property had been conducted.

There was discussion among the Council and City Attorney Ervin regarding the sale of the property, possibly regretting the sale in the future, the items the offer was subject to, what the action item actually addressed, and the sale would be without conditions.

Mayor Harrison informed the Council that this item would require a positive vote of five (5) to pass. There was no further discussion, and the vote was taken as follows:

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

NAY: None

ABSTAIN: (counted as a no vote) Councilman Smith

Mayor Harrison declared the motion carried.

2. Discussion and possible action, to require additional itemization on billing statements submitted by MPower Economic Development and contractual compliance.  
(*Councilman, John Titsworth*)

Executive Summary

Item requesting additional itemization on billing statements.

A motion was made by Councilman Smith and seconded by Councilman Read to require additional itemization on billing statements submitted by MPower Economic Development and contractual compliance.

Before the vote, Councilman Titsworth read from the following prepared statement. “The contract for services between the City of McAlester and MPower provides for monthly itemized invoicing for services rendered. The itemization is not intended to include every detail for services, but, rather a general report of the services provided. Those services are spelled out in the contract between the two parties.

I have reviewed the nine invoices submitted for payment for this fiscal year and find five line items to be identical on each invoice. Six of those invoices having only those five items listed. Three invoices have three additional line items all of them being very similar.

Invoices submitted without proper identification of services rendered should not be approved for payment. It is the duty of this Council to require the contractual services of the City’s contractors be performed and only pay for those services rendered.

Upon reviewing the funding of MPower MEDS for this physical year and for the four previous years the amount funded for services is \$954,358.”

There was discussion among the Council regarding the invoices, the Committee that had been established to work on the MPower contract, the information requested from MPower not being received in a timely manner, the invoices not being seen by the Council, the information or lack

of information provided in the quarterly reports, what the current contract stated in regard to the invoices and what the deliverables stated that MPower was supposed to do.

Vice-Mayor Mason asked that a representative from MPower be given the chance to address these issues.

Shari Cooper addressed the Council explaining that the requested information had been sent out this morning and she asked that MPower's attorney address any issues regarding the contract.

Theresa Pratt addressed the Council explaining that the Council had previously approved the current contract and that invoices from MPower would be different from other invoices because of confidentiality. She added that she thought MPower's quarterly reports were very informative.

Councilman Smith commented that they were not asking for confidential information. There was discussion regarding the language in the contract. During this discussion Mayor Harrison reminded that all comments were to be directed to the Chair.

There was further discussion regarding the information that was furnished in the quarterly reports versus the information that was furnished on the monthly invoices, how none of the contracts have been perfect, how if MPower were to leave the City would still be faced with the same economic development challenges, that MPower welcomed competition, why the Sub-Committee had not received the requested information, how the MPower office was open to the public and any of the Council were welcome to visit, having all of the Council informed of the activities and not just a few and how the Council could be bordering on violating state statute by giving money away.

Mayor Harrison commented that these issues could all be addressed in the new contract.

There was no action taken on this item.

3. Discussion, and possible action, on approval of certain costs related to the Fire Department. Funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services. (*Brett Brewer, Fire Chief*)

Executive Summary

Motion to approve the cost of communication equipment (20 hand held radios w/mic) in the amount of \$15,345.80 with funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to approve the purchase of communication equipment, twenty (20) hand held radios with microphones, in the amount of \$15,345.80 with the funds to be used from the City of McAlester's Fire Department's portion of the county quarter cent excise tax for fire services.

Before the vote, Chief Brewer addressed the Council explaining that with the purchase, if approved, would be made using the City of McAlester's Fire Department's portion of the county's fire services excise tax.

There was a brief discussion regarding which company's quote would be used and what the exact amount of the purchase was.

Mayor Harrison clarified that the correct amount of the purchase would be \$14,191.80. There was no further discussion, and the vote was taken as follows:

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

Mayor Harrison declared the motion carried.

4. Consider and act upon Change Order No. 1 for the 2010 CDBG Water Improvements with C.S. Day & Associates of Tahlequah, Oklahoma. (*David Medley, P.E., Director of Utilities*)

Executive Summary

Motion to approve Change Order No. 1 to the 2010 CDBG Water Improvements to deduct \$1,000 from the original contract price of \$141,340.00 resulting in a contract price of \$140,340.00. This is the final change order for this project which reconciles the final constructed items to those originally bid. No additional time is requested in this change order.

A motion was made by Vice-Mayor Mason and seconded by Councilman Karr to approve Change Order No. 1 to the 2010 CDBG Water Improvements to deduct \$1,000 from the original contract price of \$141,340.00 resulting in a contract price of \$140,340.00.

Before the vote, David Medley addressed the Council explaining that this Change Order would decrease the contract amount by \$1,000.00 and would not add any additional time to the contract. He reminded the Council that this contract had been funded by the Department of Commerce through the Community Development Block Grant and had constructed approximately 1,906 feet of six 6" diameter water main and replaced old, dilapidated and undersized water lines.

There was a brief discussion among the Council concerning any inspections done by the City and how quickly the reimbursement came from the Department of Commerce.

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

AYE: Councilman Mason, Karr, Garvin, Smith, Titsworth, Read & 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 sales tax for March was down approximately 16% from last year but only about 9% from what the City had budgeted. He stated that water sales for the south side of the City were within \$1,000.00 of last year but the sales on the north side of the City were drastically lower. He explained that staff was currently reviewing all of the records to see if the cause could be determined. Manager Stasiak reported that the "Royal Oaks" subdivision has met all requirements and would be going to the Planning and Zoning Commission next month, the 5K run had been rescheduled, the "Buffalo Tank" had been drained, cleaned and inspected and the "B and Seminole Tank" was being prepared for cleaning. He stated that the backwash tank at the Water Plant was now where it could be cleaned, and with the amount of rain that the area had received, Lake McAlester was now full. He informed the Council that the bid opening for the Mallard and Flamingo Drainage project had been conducted this morning and would be brought to the next Council meeting and the latest DEQ inspection at the Landfill had no findings. He explained that when the 2013 CDBG Project was brought to the Council next month the City would be bringing examples of what the money could be used for so the Council could have more input. He stated that First National Bank would be donating again for the Fireworks display and the Parking Project design at the Airport had been completed and it would be going out for bid in the next few weeks. He reported that all of the storm sirens in the City were operational and he distributed copies of the environmental report of lots C1 and C3 at the Industrial Park to Vice-Mayor Mason and Councilman Garvin and if any of the other Council members would like a copy to let him know. Manager Stasiak then asked Mayor Harrison if he would appoint a committee to help work on the City of McAlester's Pension.

## **Remarks and Inquiries by City Council**

None of the Councilmen had remarks for the evening.

## **Mayor's Comments and Committee Appointments**

Mayor Harrison asked that Councilman Smith and Titsworth join him and Manager Stasiak to work on the Pension plan.

## **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, Mason, Read & Mayor Harrison

NAY: None

Mayor Harrison declared the motion carried and the meeting was recessed at 7:23 P.M.

### Reconvene Council Meeting

The Regular Meeting was reconvened at 7:24 P.M.

A motion was made by Councilman Smith and seconded by Councilman Titsworth to recess the Regular Council Meeting for an Executive Session in accordance with Title 25, Sec. 307.B.1, to discuss the employment, hiring appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee: City Manager, Peter J. Stasiak and in accordance with Title 25, Sec. 307.B.2, to discuss negotiations concerning employees and representatives if employee groups: IAFF and FOP.

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

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

NAY: None

Mayor Harrison declared the motion carried and the Regular Meeting was recessed at 7:25 P.M.

### Executive Session

*Recess into Executive Session in compliance with Section Title 25 Section 307 (B) (1) & B. (2) et.seq. Oklahoma Statutes, to wit:*

- 1) Proposed executive session pursuant to Title 25, Sec. 307 (B) (2), to discuss negotiations concerning employees and representatives of employee groups: IAFF & FOP
- 2) Proposed executive session pursuant to Title 25, Sec. 307 (B) (1), discussing the employment, hiring appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee: City Manager, Peter J. Stasiak.

### Reconvene into Open Session

The Regular Meeting was reconvened at 8:43 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.1, to discuss the employment, hiring appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee: City Manager, Peter J. Stasiak and in accordance with Title 25, Sec. 307.B.2, to discuss negotiations concerning employees and representatives if employee groups: IAFF and FOP. Only those matters were discussed, no action was taken, and the Council returned to open session at 8:43 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 Garvin. There was no discussion, and the vote was taken as follows:

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

NAY: None

Mayor Harrison declared the motion carried, and the meeting was adjourned at 8:45 P.M.

ATTEST:

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Steve Harrison, Mayor

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Cora Middleton, City Clerk