

Council Chambers  
Municipal Building  
March 14, 2017

The McAlester City Council met in a Regular session on Tuesday, March 14, 2017, at 6:00 P.M. after proper notice and agenda was posted, March 9, 2017 at 5:54 P.M.

### **Call to Order**

Mayor Browne called the meeting to order.

Pastor Glenn Myer gave the invocation and led the Pledge of Allegiance.

### **Roll Call**

Council Roll Call was as follows:

Present: Weldon Smith, Cully Stevens, Robert Karr & John Browne  
Absent: Travis Read, Buddy Garvin & Jason Barnett  
Presiding: John Browne, Mayor

Staff Present: Peter J. Stasiak, City Manager; Jayme Clifton, Administrative Assistant/Planning Tech; Toni Ervin, CFO; William J. Ervin, City Attorney and Cora Middleton, City Clerk

### **Recognition and Awards**

Mayor Browne read a proclamation declaring the month of March 2017, as “Red Cross Month“in the City of McAlester, Oklahoma.

### **Citizens Comments on Non-Agenda Items**

*Residents may address Council regarding an item that is not listed on the Agenda. Residents must provide their name and address. Council requests that comments be limited to five (5) minutes.*

Marshall Dalley, 12142 W. 31 Highway addressed the Council regarding his concerns about the ordinance that regulated the amount of time an animal could be chained outside of a residence.

### **Consent Agenda**

*All matters listed under the Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

- A. Approval of the Minutes from the January 31, 2017, Special Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*

- B. Approval of the Minutes from the February 14, 2017, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of Claims for February 22, 2017 through March 7, 2017. *(Toni Ervin, Chief Financial Officer)* In the following amounts: General Fund - \$88,890.88; Nutrition - \$798.69; Police Grant Fund - \$7,090.00; Tourism Fund - \$5,281.96; SE Expo Center - \$2,406.85; E-911 - \$973.70; Economic Development - \$13,735.47; Fleet Maintenance - \$16,344.27; CIP Fund - \$19,883.60; Technology Fund - \$394.50 and Stormwater Fund - \$4,867.56.
- D. Consider and act upon, authorizing the Mayor to sign a Maintenance Contract with Miller Office Supply for (4) four copiers. *(Toni Ervin, CFO, Sheila Norman, Purchasing Fixed Assets)*
- E. Consider and act upon, concurrence with the City Manager of the nominations of Earl Burson, City Manager City of Harrah; Janice Cain, City Manager City of Altus and Pam Polk, City Manager City of Collinsville to the Board of Trustees of the Oklahoma Municipal Assurance Group. *(Cora Middleton, City Clerk)*

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

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

### **Scheduled Business**

1. Consider and act upon, approval and authorization for the Mayor to sign an Energy Audit Agreement between the City of McAlester and Ameresco, Inc. for the installation of energy conservation measures within City facilities. *(Peter Stasiak, City Manager)*

Executive Summary

Approve and authorize the Mayor to sign the Energy Audit Agreement between the City of McAlester and Ameresco, Inc.

Manager Stasiak addressed the Council briefly explaining the energy conservation program that Ameresco, Inc. was proposing. He added that the Energy Audit could identify areas where the City could cut expenses and have better equipment. He then introduced Randy Wills, Senior Account Executive.

Randy Wills, Senior Account Executive for Ameresco, Inc. addressed the Council reviewing the Energy Audit, what the program included, the cost savings that the City could realize, replacing not only the lights in all of the buildings but also replacing the HVAC systems and the possibility of cooling the large area of the Expo. He added that during any project that the City approved a Project Manager would be on-site.

There was discussion concerning the cost of the Audit, what was guaranteed, how long it would take the City of recoup its' initial investment, the compressors at the water treatment plant and the Stipe Center, if the City would be able to take advantage of any Federal Credits, if a base usage rate of energy could be established and that the document was in the proper legal form.

A motion was made by Councilman Stevens and seconded by Councilman Smith to approve and authorize the Energy Audit Agreement between the City of McAlester and Ameresco, Inc. There was no discussion, and the vote was taken as follows:

AYE: Councilman Stevens, Smith, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

2. Consider and act upon, authorizing the Mayor to sign the updates to the Wholesale Water Purchase Contracts. (*Toni Ervin, Chief Financial Officer*)

Executive Summary

Staff recommends that the Council make a motion to approve and authorize the Mayor to sign the Wholesale Water Purchase Contracts.

CFO Ervin addressed the Council explaining the Wholesale Water Purchase Contracts were being sent out early this year. She reviewed the language that had changed, the terms of the contracts, the actual rate per gallon that the customers would be charged, and how this rate was calculated.

After a brief discussion regarding the new rate and if this rate included all of the costs to produce water for the city of McAlester and its customers and help to maintain the plant a motion was made by Councilman Smith and seconded by Vice-Mayor Karr to approve and authorize the Mayor to sign the Wholesale Water Purchase Contracts. The vote was taken as follows:

AYE: Councilman Smith, Karr, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

3. Consider and act upon, acceptance and authorization for the Mayor to sign the Change Order No. One for the Automatic Meter Reading System by Utility Technology Services, Inc. for a deduction of 1100 5/8" x 3/4" Water meters and an addition of 1100 5/8" x 1/2" Water Meters. This is a net \$0 change to the contracted price. (*Toni Ervin, CFO, Sherri Swift, Accountant*)

Executive Summary

Staff recommends that the Council approve Change Order No. One.

CFO Ervin addressed the Council explaining that this change order was because of the varying sizes of the meters. She stated that this would exchange of 1100 5/8" x 3/4" meters for 1100 5/8" x 1/2" meters.

After a brief discussion concerning the use of adapters instead of changing meters, the cost of the meters and how it was more efficient to switch the meters, a motion was made by Vice-Mayor Karr to approve and authorize the Mayor to sign Change Order No. One for the Automatic Meter Reading System by Utility Technology Services, Inc. for a deduction of 1100 5/8" x 3/4" Water meters and an addition of 1100 5/8" x 1/2" Water Meters. This is a net \$0 change to the contracted price. The motion was seconded by Councilman Stevens, and the vote was taken as follows:

AYE: Councilman Karr, Stevens, Smith & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

4. 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 the fire services. (*Brett Brewer, Fire Chief*)

Executive Summary

Motion to approve and accept a bid award to Casco Industries to purchase bunker gear. The bid amount is \$12,666.00. The funds to be used will come from the City of McAlester Fire Department's portion of the county quarter cent excise tax for fire services.

Manager Stasiak addressed the Council explaining that the Fire Chief and the Assistant Fire Chief were in Tulsa with a Firefighter that had been hospitalized. He stated that this item was to purchase four (4) sets of Bunker gear using the City's portion of the county quarter cent excise tax. He added that this was for three (3) new hires and one (1) replacement set.

Councilman Smith asked if only one (1) bid was gotten because it was a small order. Manager Stasiak commented he thought that somewhere in the packet it indicated that it was the only bid that was received. Councilman Smith then commented that in the future it would be good to see the list of companies that were sent bid packets so the Council could see how many packets were sent out.

There was no further discussion, and Councilman Smith moved to approve and accept the bid award to Casco Industries to purchase bunker gear, in the bid amount of \$12,666.00 and funds to be used from the City of McAlester Fire Department's portion of the county quarter cent excise tax for fire services. The motion was seconded by Councilman Stevens and the vote was taken as follows:

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

5. 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 the fire services. (*Brett Brewer, Fire Chief*)

Executive Summary

Motion to approve the purchase of hand guns for the Fire Department with funds to be used from the City of McAlester Fire Department's portion of the county quarter cent excise tax for fire services.

Manager Stasiak addressed the Council explaining that this item was to purchase three (3) sets of fire arms for the Fire Chief, Assistant Fire Chief and the Fire Marshall. He commented that sometimes during investigations they find themselves in precarious situations. He added these fire arms would be for self-defense only and would remain in their vehicle most of the time.

After a lengthy discussion concerning what type of training the Fire Chief, Assistant Fire Chief and Fire Marshall had, how much they should have, what the City's liability could be if those individuals were armed, what CLEET would and would not do for the City's liability, adopting procedures that the Police Department had, what if any certifications that the Assistant Chief and Fire Marshall had, what other fire departments have in place and tabling this item to allow the City Manager and City Attorney time to look into this matter further, a motion was made by Councilman Smith and seconded by Vice-Mayor Karr to postpone this item. There was no other discussion, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

6. Consider and act upon, accepting the bid amount of \$106,974.55 from Katcon, Inc. to repair a portion of Tributary "B" canal wall and floor, and authorizing the Mayor to sign the Notice of Award to Katcon, Inc., and the Agreement to complete the repair. (*Peter Stasiak, City Manager*)

Executive Summary

The recommendation is to enter into an agreement with Katcon, Inc. for the Total Bid equal to \$106,974.55, to repair a portion of Tributary "B" canal wall and floor.

Manager Stasiak addressed the Council explaining that this project was part of the Storm Water Committee recommendations. He commented that the hydraulic pressure under the canal floor appeared to have, at some time, to have caused the floor to buckle up and the walls to shift and start to slide inwards towards the center of the canal. He added that the project included approximately 56' of the canal floor and walls and also about 1,300 square feet of parking area inside the TH Rogers' fenced area. He stated that area was failing because of the shifting of the canal walls.

Manager Stasiak informed the Council that three (3) bids had been received and opened on February 28, 2017 with the low bid being received from Katcon, Inc.

There was no other discussion, and a motion was made by Councilman Smith to accept the bid amount of \$106,974.55 from Katcon, Inc. to repair a portion of Tributary "B" canal wall and floor, and authorize the Mayor to sign the Notice of Award to Katcon, Inc., and the Agreement to complete the repair. The motion was seconded by Councilman Stevens and the vote was taken as follows:

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

7. Consider and act upon, a “Use Permit After Review” for the use of the property at 319 E. Polk Avenue as “municipal uses”. (*Jayne Clifton, Planning Technician*)

Executive Summary

Motion to approve a “Use Permit After Review” for the use of the property at 319 E Polk Avenue as “municipal uses” and to authorize the Mayor to sign the “Use Permit after Review” approval form.

Jayne Clifton, Planning Technician addressed the Council explaining that the City had requested a “Use Permit After Review” for the old National Guard Armory at 319 E. Polk and the Planning Commission at its February 21, 2017 meeting had voted to approve the request for “municipal uses”

There was a brief discussion concerning that this was for use as a recycling center, that the kitchen had always been used for the annual Community Thanksgiving Dinner, where that dinner would be held in the future and if there had been any opposition to this request.

A motion was made by Councilman Stevens and seconded by Councilman Smith to approve a “Use Permit After Review” for the use of the property at 319 E. Polk Avenue as “municipal uses” and authorize the Mayor to sign the “Use Permit after Review”.

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

AYE: Councilman Stevens, Smith, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

8. Submission, and Presentation of the 5-Year Capital Improvements Plan for FY 2017/18-2021/22. (*Peter Stasiak, City Manager*)

Executive Summary

Presentation.

Manager Stasiak presented the 5-Year Capital Program for the City of McAlester as required by the Charter for the period 2017/2018 through 2021/2022. He then reviewed the projected projects and needed equipment for 2017/2018 and reviewed the projects that had been completed or funded and equipment purchased or funded during 2016/2017. Manager Stasiak commented that the top 5 of each department for 2017/2018 totaled \$1,837,123, the total for all of the 2017/2018 CIP was approximately \$4,144,623 and the total for the 5-Year CIP was \$25,244,936. He briefly spoke about the funding of the CIP.

Councilman Smith commented on some items not being on the CIP, like the jail. Manager Stasiak commented that the City was very close to having the jail renovations completed. He then asked the Council to forward him any comments or questions regarding the 5-year CIP.

There was no vote on this item.

9. Consider and act to authorize the public release of the City Council Sub-Committee's Internal Personnel Investigative Report provided to the City Council on February 14, 2017, or in the alternative to designate said report as a confidential personnel record. *(Joe Ervin, City Attorney)*

Executive Summary

The City Attorney recommends that the City Council authorize the public release of the final investigative report referenced above.

Attorney Ervin addressed the Council explaining that the next three (3) items on the agenda are related. He began by reminding them of the Sub-Committee they had appointed to investigate an alleged complaint against a Council employee. He stated that there had been multiple requests for the release of the report of the Sub-Committee to the Council. He stated that the document was a personnel record and as such is available for discretionary release, by the governing body of the City, under the Oklahoma Open Records Act. Because there is a public interest in this matter and continuing stories about it, after discussing it with the Manager Stasiak, we are recommending that it be released to the public.

Mayor Browne commented that he had spoken with the employee that was investigated and that employee did not have a problem with it being released.

There was a brief discussion concerning releasing personnel records, the report not containing any personal identifiers, the release of this document serving the interest of general government and transparency, there being no liability on the Council for releasing this document and the other meetings that would possibly use this information.

Attorney Ervin clarified the motion as to release the document.

There was no further discussion, and a motion was made by Councilman Smith and seconded by Councilman Stevens to authorize the release the final investigative report of the City Council Sub-Committee provided to the City Council on February 14, 2017.

The vote was taken as follows:

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

10. Consider and act to authorize the public release of the Internal Personnel Disciplinary Investigative Report prepared by Safety/Human Resources and provided to the City Manager on January 25, 2017, or in the alternative to designate said report as a confidential personnel record. *(Joe Ervin, City Attorney)*

Executive Summary

The City Attorney recommends that the City Council authorize the public release of the final investigative report referenced above.

Attorney Ervin commented that this was the other report in the packet that was prepared by Safety and Human Resources of their investigation into the allegation. He stated that the City had received requests for this document from both the press and the employees. He added that he believed it was in the best interest to release this document.

A motion was made by Councilman Stevens and seconded by Councilman Smith to authorize the public release of the Internal Personnel Disciplinary Investigative Report prepared by Safety/Human Resources and provided to the City Manager on January 25, 2017.

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

AYE: Councilman Stevens, Smith, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

11. Consider and act to authorize the public release of employee performance evaluations for former city employees Kathy Wall and Jerry Lynn Wilson, or in the alternative to designate said evaluations as confidential personnel records. *(Joe Ervin, City Attorney)*

Executive Summary

The City Attorney recommends that the City Council authorize the release of the individual performance evaluations referenced above to the individual employee who are the subject of the evaluations, but to maintain the records as confidential personnel records in every other respect.

Attorney Ervin stated that this item was a little different. He commented that there had not been a request for this information from the press, but from the employees. He added that he recommended that the information be released to the employees only and what they did with the documents was up to them.

A motion was made by Councilman Smith and seconded by Councilman Stevens to maintain these documents as confidential personnel records but authorize the release of employee performance evaluations for former city employees Kathy Wall and Jerry Lynn Wilson, to the employees only.

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

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

### **New Business**

*Any matter not known or which could not have been reasonably foreseen prior to the time of posting the Agenda in accordance with Sec. 311.9, Title 25, Oklahoma State Statutes.*



Manager Stasiak informed the Council that a request from Savanna High School had been received after the deadline. He explained that it was a partnership request to use room 101 of the Southeast Expo Center for ACT Testing for Juniors on March 21, 2017.

A motion was made by Councilman Stevens and seconded by Vice-Mayor Karr to approve a partnership with Savanna High School in the amount of \$125.00 for the use of Room 101 on March 21, 2017 for ACT Testing for their Juniors. There was no discussion, and the vote was taken as follows:

AYE: Councilman Stevens, Karr, Smith & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

### **City Manager's Report**

- Report on activities for the past two weeks.

Manager Stasiak informed the Council that the back of a fire hydrant attached to an 18 inch feeder line from the Water Plant in the location of the Penitentiary, had blown out yesterday. He commented that the repair crew had not been able to locate the valve to shut the line down. He stated that there would be two (2) new valves added to the line so in the future it could be turned off if needed.

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

Councilman Stevens asked to have additional trash cans placed around the Sertoma fields.

Councilmen Smith and Karr did not have any comments for the evening.

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

Mayor Browne thanked the Utility Maintenance crew for fixing the water leak.

### **Recess Council Meeting**

Mayor Browne 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 Stevens.

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

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the meeting was recessed at 7:46 P.M.

Reconvene Council Meeting

The Regular Meeting was reconvened at 7:47 P.M.

Adjournment

There being no further business to come before the Council, Councilman Smith moved for the meeting to be adjourned. The motion was seconded by Councilman Stevens.

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

AYE: Councilman Smith, Stevens, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 7:47 P.M.

ATTEST:

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John Browne, Mayor

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Cora Middleton, City Clerk