

The McAlester City Council met in a Regular session on Tuesday, February 13, 2018, at 6:00 P.M. after proper notice and agenda was posted, February 12, 2018 at 3:00 A.M.

### **Call to Order**

Mayor Browne called the meeting to order.

Councilman Garvin gave the invocation and led the Pledge of Allegiance.

### **Roll Call**

Council Roll Call was as follows:

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

Staff Present: Toni Ervin, CFO/Acting City Manager; Jayme Clifton, Community Development Director; David Horinek, Public Works Director; William J. Ervin, City Attorney and Cora Middleton, City Clerk

### **Recognition and Awards**

Mayor Browne presented Kelly Jo London as January Employee of the Month. Ms. London received a Certificate of Appreciation and a personal planner.

### **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.*

There were no citizens' comments.

### **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 December 26, 2017, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- B. Approval of the Minutes from the January 9, 2018, Regular Meeting of the McAlester City Council. *(Cora Middleton, City Clerk)*
- C. Approval of Claims for January 17, 2018 through February 6, 2018. *(Toni Ervin, Chief Financial Officer)* General Fund - \$133,547.28; Nutrition - \$2,868.27; Tourism Fund - \$8,857.28; SE Expo Center - \$12,839.59; E-911 - \$16,226.73; Economic Development - \$14,283.70; CDBG Grants Fund - \$42,152.31; Fleet Maintenance - \$13,728.19; Worker's Compensation - \$941.68; CIP Fund - \$52,981.78; Technology Fund - \$29,692.31 and Stormwater Fund - \$3,284.13.
- D. Accept and place on file the Pride in McAlester Second Quarter Performance Report for FY 2017-2018. *(Stephanie Giacomo, Executive Director)*
- E. Concur with the Mayor's appointment of Dr. Raymond Dixon to replace Dr. Leroy Milton on the Hospital Board for a term to expire on February 28, 2024. *(John Browne, Mayor)*

- F. Consider and act upon, a request from Savanna High School, to partner with them for the rental fee for the use of the McAlester Expo Center for the ACT testing for students, set for February 23<sup>rd</sup>, 2018 & April 3<sup>rd</sup>, 2018 in the amount of \$250.00. (*Billy Sumner, Expo Manager*)

Councilman Smith requested that item “E” be removed for individual consideration.

A motion to approve Consent Agenda items “A through D and F” was made by Councilman Read and seconded by Councilman Stevens. There was no discussion, and the vote was taken as follows:

AYE: Councilman Read, Stevens, Smith, Karr, Garvin & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

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

- E. Concur with the Mayor’s appointment of Dr. Raymond Dixon to replace Dr. Leroy Milton on the Hospital Board for a term to expire on February 28, 2024. (*John Browne, Mayor*)

Councilman Smith commented that he felt this item should have a separate vote since it was connected to the Hospital.

There was no further discussion and a motion to approve Consent Agenda item “E” was made by Councilman Read. The motion was seconded by Councilman Stevens, and the vote was taken as follows:

AYE: Councilman Read, Stevens, Karr, Garvin & Mayor Browne

NAY: None

ABSTAIN: Councilman Smith (counted as a no vote)

Mayor Browne declared the motion carried.

A motion to open a Public Hearing to address two (2) CDBG Grant projects and three (3) ordinances was made by Councilman Read and seconded by Councilman Smith. There was no discussion and the vote was taken as follows:

AYE: Councilman Read, Smith, Karr, Garvin, Stevens & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and then Public Hearing was opened at 6:07 P.M.

### **Public Hearing**

*All persons interested in any ordinance listed under Scheduled Business shall have an opportunity to be heard in accordance with Article 2, Section 2.12(b) of the City Charter.*

**A PUBLIC HEARING ON FY2015 CDBG GRANT; WATERLINE REPLACEMENTS PROJECT, FINAL PERFORMANCE REPORT. A PUBLIC HEARING ON CDBG 2015 WATERLINE REPLACEMENTS PROJECT, SHORT STONEWALL, COURT AVENUE, AND N. 14<sup>TH</sup> STREET AREAS.**

**A PUBLIC HEARING ON FY2016 CDBG GRANT; WATERLINE REPLACEMENTS PROJECT. A PUBLIC HEARING ON CDBG 2016 WATERLINE REPLACEMENTS PROJECT, CRISSLER AVENUE AND ALLEY SOUTH OF CARL ALBERT PARKWAY BETWEEN E STREET AND D STREET AREAS.**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2604 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2017-18; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE No. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR A TRACT OF LAND IN BLOCK 15, IN CONNALLY ADDITION, TO THE CITY OF MCALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA, FROM I-2 HEAVY INDUSTRIAL DISTRICT TO C-5 HIGHWAY COMMERCIAL AND COMMERCIAL RECREATION DISTRICT.**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE No. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR A TRACT OF LAND IN LOT 9 IN TOWNSITE ADDITION No. 5 TO PITTSBURG COUNTY, STATE OF OKLAHOMA, FROM A-1 AGRICULTURAL DISTRICT TO C-5 HIGHWAY COMMERCIAL AND COMMERCIAL RECREATION DISTRICT.**

There were no comments or inquiries made on the CDBG Grant projects or the proposed ordinances and a motion to close the Public Hearing was made by Councilman Read. The motion was seconded by Vice-Mayor Karr, and the vote was taken as follows:

AYE: Councilman Read, Karr, Garvin, Smith, Stevens & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried and the Public Hearing was closed at 6:07 P.M.

### **Scheduled Business**

1. Consider and act upon, authorizing the Mayor to sign the Contractor's Final Pay Estimate No. 3 and the close out documents for the contract with KATCON, Inc. for construction of the 2015 CDBG Water Improvements Phase III and accept the project as completed. (*Robert Vaughan, Infrastructure Solutions Group*)

#### Executive Summary

Motion to authorize the Mayor to sign the Contractor's Final Pay Estimate No. 3 of \$3,268.60 and the close-out documents for the construction of the 2015 CDBG Water Improvements Phase III located along Court Avenue and North 14<sup>th</sup> Street and accept the project as completed.

Robert Vaughan, P.E. Infrastructure Solutions Group, LLC Branch Manager addressed the Council explaining that the Contractor had completed all work on the 2015 CDBG Water Improvements Phase III project.

Councilman Smith moved to authorize the Mayor to sign the Contractor's Final Pay Estimate No. 3 of \$3,268.60 and the close-out documents for the construction of the 2015 CDBG Water Improvements Phase III located along Court Avenue and North 14<sup>th</sup> Street, and approve RESOLUTION NO. 18-03, accepting the project as completed. The motion was seconded by Vice-Mayor Karr. There was no further discussion, and the vote was taken as follows:

AYE: Councilman Smith, Karr, Garvin, Stevens, Read & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

2. Consider and act upon, authorizing the Mayor to sign the Contractor's Final Pay Estimate No. 3 and the close out documents for the contract with KATCON, Inc. for construction of the 2016 CDBG Water Improvements and accept the project as completed. (*Robert Vaughan, Infrastructure Solutions Group*)

#### Executive Summary

Motion to authorize the Mayor to sign the Contractor's Final Pay Estimate No. 3 of \$31,948.71 and the close-out documents for the construction of the 2016 CDBG Water Improvements located along Crisler Avenue and the alley south of Carl Albert Parkway between "E" Street and "D" Street and accept the project as completed.

Robert Vaughan, P.E. Infrastructure Solutions Group, LLC addressed the Council explaining that the Contractor had completed all work on the 2016 CDBG Water Improvements project.

There was no further discussion, and a motion was made by Councilman Smith and seconded by Councilman Garvin to authorize the Mayor to sign the Contractor's Final Pay Estimate No. 3 of \$31,948.71 and the close-out documents for the construction of the 2016 CDBG Water Improvements located along Crisler Avenue and the alley south of Carl Albert Parkway between "E" Street and "D" Street and approve RESOLUTION NO. 18-04, accepting the project as completed.

The vote was taken as follows:

AYE: Councilman Smith, Garvin, Stevens, Read, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried.

3. Consider and act upon, the final invoice from Millie Vance Inc. for administrative services on FY-2016 CDBG Waterline Replacements Project. (*Millie Vance, Millie Vance Inc.*)

Executive Summary

Motion to authorize payment on final invoice from Millie Vance Inc. for administrative services on FY-2016 CDBG Waterline Replacements Project.

Millie Vance addressed the Council stating that both the 2015 and the 2016 CDBG projects were completed and this was the final step in the process. She added that the City would be eligible to apply in July for the next CDBG grant.

A motion was made by Councilman Read and seconded by Councilman Smith to authorize the payment on the final invoice from Millie Vance, Inc. for administrative serviced on FY-2016 CDBG Waterline Replacements Project.

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

AYE: Councilman Read, Smith, Stevens, Karr, Garvin & Mayor Browne

NAY: None

Mayor Browne declared the motion carried

4. Discussion by the Bureau of Land Management regarding the recent surface and subsurface mining activity. Representatives will be present to answer questions and provide explanations. (*John Browne, Mayor*)

Executive Summary

Discussion.

Robert Pawelak, Patrick Rich, Allen Holubec and April Crawley of the Bureau of Land Management addressed the Council concerning letters that had been received by citizens of the City of McAlester regarding surface mining for coal.

There was a brief discussion concerning the type of mining that could occur, where that mining would be allowed, how the Federal Government had acquired mineral rights to property and how any allowed mining could affect citizens.

There was no vote on this item.

5. Consider and act upon, an Ordinance amending Ordinance No. 2604 which established the budget for fiscal year 2017-2018; repealing all conflicting ordinances; providing for a severability clause; and declaring an emergency. (*Toni Ervin, Acting City Manager*)

Executive Summary

Motion to approve the budget amendment ordinance.

CFO Ervin addressed the Council reviewing the exhibits of the fiscal year 2017/2018 Budget amendment. During this review CFO Ervin explained that the amendment would appropriate funds for partnerships, the Walkability study signs and installation project, part of the Streetscape design and the project at First Street and Choctaw Avenue. It would also appropriate additional funds for the Comprehensive Plan and Bullet Proof vests and mobile radios for Patrol.

**ORDINANCE NO. 2617**

**AN ORDINANCE OF THE CITY OF McALESTER, OKLAHOMA, AMENDING ORDINANCE NO. 2604 WHICH ESTABLISHED THE BUDGET FOR FISCAL YEAR 2017-18; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.**

A motion was made by Councilman Smith and seconded by Councilman Read to approve **ORDINANCE NO. 2617**, amending fiscal year 2017/2018 Budget. There was no discussion, and the vote was taken as follows:

AYE: Councilman Smith, Read, Karr, Garvin, Stevens & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

Councilman Stevens moved to approve the EMERGENCY CLAUSE. The motion was seconded by Councilman Read, and the vote was taken as follows:

AYE: Councilman Stevens, Read, Smith, Karr, Garvin & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

6. Consider and act upon, an Ordinance amending the general zoning ordinance and accompanying map thereto known as General Zoning Ordinance No. 1843 (1989), by changing the classification of the zoning district for a Tract of Land in Block 15, in Connally Addition, to the City of McAlester, Pittsburg County, State of Oklahoma, from I-2 Heavy Industrial District to C-5 Highway Commercial and Commercial Recreation District. (*Jayme Clifton, Community Development Director*)

Executive Summary

Motion to act upon and approve the above Ordinance changing the classification of the zoning district for the property identified in the Ordinance from I-2 Heavy Industrial District to C-5 Highway Commercial and Commercial Recreation District and authorizing the Mayor to sign the ordinance.

Director Clifton addressed the Council regarding the rezoning Ordinance. She stated that the Planning and Zoning Commission had voted seven (7) to zero (0) to recommend the applicant's request during their January 16, 2018 meeting. She added that this was property located on east Electric Avenue and the applicant wanted to make the property conforming to its' use.

**ORDINANCE NO. 2618**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR A TRACT OF LAND IN BLOCK 15, IN CONNALLY ADDITION, TO THE CITY OF McALESTER, PITTSBURG COUNTY, STATE OF OKLAHOMA, FROM I-2 HEAVY INDUSTRIAL DISTRICT TO C-5 HIGHWAY COMMERCIAL AND COMMERCIAL RECREATION DISTRICT.**

A motion was made by Councilman Stevens and seconded by Councilman Smith to approve **ORDINANCE NO. 2618**, changing the zoning of a tract of land in Block 15 from I-2 Heavy Industrial District to C-5 Highway Commercial and Commercial Recreation District.

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

AYE: Councilman Stevens, Smith, Read, Karr, Garvin & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

7. Consider and act upon, an Ordinance amending the general zoning ordinance and accompanying map thereto known as General Zoning Ordinance No. 1843 (1989), by changing the classification of the zoning district for a Tract of Land in Lot 9 in Townsite Addition No. 5 to Pittsburg County, State of Oklahoma, from A-1 Agricultural District to C-5 Highway Commercial and Commercial Recreation District. (*Jayme Clifton, Community Development Director*)

Executive Summary

Motion to act upon and approve the above Ordinance changing the classification of the zoning district for the property identified in the Ordinance from A-1 Agricultural District to C-5 Highway Commercial and Commercial Recreation District and authorizing the Mayor to sign the ordinance.

Director Clifton addressed the Council regarding the rezoning Ordinance. She stated that the Planning and Zoning Commission had voted seven (7) to zero (0), during its' January 16, 2018 meeting to recommend the applicant's request. She added that this was in the same area as the previous item.

**ORDINANCE NO. 2619**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS GENERAL ZONING ORDINANCE NO. 1843 (1989), BY CHANGING THE CLASSIFICATION OF THE ZONING DISTRICT FOR A TRACT OF LAND IN LOT 9 IN TOWNSITE ADDITION NO. 5 TO PITTSBURG COUNTY, STATE OF OKLAHOMA, FROM A-1 AGRICULTURAL DISTRICT TO C-5 HIGHWAY COMMERCIAL AND COMMERCIAL RECREATION DISTRICT.**

Councilman Stevens moved to approve **ORDINANCE NO. 2619** changing the zoning of a tract of land in lot 9 in Townsite addition 5 from A-1 Agricultural District to C-5 Highway Commercial and Commercial Recreation District. The motion was seconded by Vice-Mayor Karr and the vote was taken as follows:

AYE: Councilman Stevens, Karr, Read, Garvin, Smith & Mayor Browne  
NAY: None

Mayor Browne declared the motion carried.

8. Consider and act upon, a resolution amending the City's Non-Uniform Pay Plan. (*Toni Ervin, Chief Financial Officer*)

Executive Summary

Staff recommends motion to approve a resolution amending the City's Non-Uniform Pay Plan.

CFO Ervin addressed the Council explaining that the Police and Fire pay scales had been negotiated in the past two (2) years to add steps to the top of their pay scales. She stated that this resolution would add six (6) steps to the top of each of the City's Non-Uniform pay grades. She added that this would also add pay grade 137 for the Assistant City Manager's position.

After discussion concerning the Assistant City Manager's position, when the position had been approved and the pay scale, a motion was made by Councilman Read and seconded by Councilman Garvin to approve RESOLUTION NO. 18-05, adding steps to the Non-Uniform pay grades 107 through 140 and excluding pay grade 137.

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

AYE: Councilman Read, Garvin, Karr, Smith, Stevens & 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.*

There was no new business.

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

- Report on activities for the past two weeks.

CFO/Acting City Manager Ervin reported that the thirty inch (30") line at the Water Plant had been replaced and the pumps were working to fill the tanks. CFO/Acting City Manager Ervin informed the Council that during the night the Variable Speed Drivers had quit working but one was currently working with the other three (3) expected to be delivered Thursday. She added that Staff would most likely be coming back to Council for more repairs on the thirty inch (30") line.

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

Councilman Stevens asked if the City had looked into what a new water plant would cost. He also commented on the excellent job that the employees do.

CFO Ervin stated that she thought they had and would get that information to him.

Councilman Garvin thanked the Police Department for patrolling the bypass.

Councilmen Smith, Read and Karr did not have any comments or inquiries for the evening.

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

Mayor Browne commented that through the tremendous work that had been done by Eddie Gray, the Puterbaugh Foundation had given the City a grant of \$125,000.00 for the Streetscape Project. He also thanked the employees for the job they do.

### **Recess Council Meeting**

Councilman Stevens moved to recess the Regular Meeting and convene the Authorities. The motion was seconded by Councilman Smith.

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

AYE: Councilman Stevens, Smith, Karr, Garvin, Read & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the meeting was recessed at 6:58 P.M.

### **Reconvene Council Meeting**

The Regular Meeting was reconvened at 6:59 P.M.

A motion was made by Councilman Smith and seconded by Councilman Garvin 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 pending investigations, claims, or actions.

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

AYE: Councilman Smith, Garvin, Stevens, Read, Karr & Mayor Browne

NAY: None

Mayor Browne declared the motion carried and the Regular Meeting was recessed at 6:59 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 pending investigations, claims, or actions.

Return to Open Session

The Regular Meeting was reconvened at 7:48 P.M. Mayor Browne 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 pending investigations, claims, or actions. Only that matter was discussed, no action was taken, and the Council returned to open session at 7:48 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. The motion was seconded by Councilman Read.

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

AYE: Councilman Smith, Read, Stevens, Karr, Garvin & Mayor Browne

NAY: None

Mayor Browne declared the motion carried, and the meeting was adjourned at 7:48 P.M.

ATTEST:

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John Browne, Mayor

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Cora Middleton, City Clerk