

MCCOOK CITY COUNCIL
September 20, 2010
7:30 P.M.

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 7:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Berry; Councilmembers Kircher, Anderson, Calvin, Gonzales; City Attorney Schneider; City Manager Fritsch; City Clerk-Treasurer Doak.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on September 16, 2010, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgment of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Berry announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

- (1) INVOCATION - THE MCCOOK MINISTERIAL ASSOCIATION - EMMANUEL REINBOLD - FIRST NAZARENE CHURCH.

Jason Van Pelt, associate pastor of the First Nazarene Church, was present for the invocation.

- (2) CITIZEN'S FORUM.

No one was present for Citizen's Forum.

- (3) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

There were no Mayor's announcements or recognitions.

- (4) LIFETEAM CRITICAL CARE TRANSPORT INTRODUCTION AND REVIEW OF THE SERVICES THEY WILL PROVIDE TO THE COMMUNITY.

Mike Johnson, Program Development Director for LifeTeam Critical Care Transport, gave a short review of the services they will provide to the community and introduced some of their team that will be working in McCook.

- (5) CONDUCT A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT CONCERNING ANY ADVERSE EFFECTS THAT MAY OCCUR AT THE PROPERTY LOCATED AT 304 WEST 4TH STREET, MCCOOK, NEBRASKA, KNOWN AS THE WEST WARD ELEMENTARY BUILDING, WHICH IS CURRENTLY SCHEDULED TO BE DEMOLISHED.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to recess as a City Council and convene a public hearing with the City Attorney

to act as hearing officer for the purpose of receiving public comment concerning any adverse effects that may occur at the property located at 304 West 4th Street, McCook, Nebraska, known as the West Ward Elementary building, which is currently scheduled to be demolished. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Whereupon the following proceedings were had:

CITY ATTORNEY SCHNEIDER: This is a public hearing to receive public comment concerning the adverse effects that may occur to the property located at 304 West 4th Street, McCook, Nebraska, known as West Ward Elementary School building, which is currently scheduled to be demolished.

We have exhibits. Exhibit #1 is the Notice of Public Hearing which consists of two pages. Exhibit #2 - is the list of addresses of individuals who had provided the petition with respect to the West Ward building. That's Exhibit #2 and that includes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 pages. Just to note, these were individuals who were given notice of the hearing tonight by public mail. Exhibits #1 and #2 are offered and received at this time.

At this point in time we will begin a Public Hearing with a presentation with respect to the elementary school.

CITY MANAGER FRITSCH (PowerPoint Presentation): Mayor, we will just walk through these real quickly. This is of course the exterior shot you are all familiar with. This is the old kindergartner room. It was obviously in bad shape when the City purchased the building approximately 2 - 2½ years ago. It is getting worse. That is on the first floor. You've got water that's coming down through that ceiling tile. We've got rot as well in the columns above that. The ceiling in that room with mold. There is quite a lot of mold. You can see the roof tile collapsing. Floor mold that is growing in the building now. These at one time we thought were art work when we went into the building a couple of years ago. This is actually mold growing on some of the old display and blackboards in the kindergartner room. Again the floor deterioration there. This is one of the rooms further down in the building, I think near the office., I believe the old office. The roof is failing at that end of the building as well, that would be the southern end. More carpet. I think this is up on the second floor where the greatest roof failure is. This is one of the closets where it appears the bulk of the water is coming into the building from. This is down by the old office, I believe this was the principals office at the extreme opposite end of the building, we have the same problems with roof failure and what is going on there. That was just made to go through it real quick.

We've got folks on board this week removing asbestos from the building. They have run into additional asbestos, more than we initially thought was there. It is in the ceiling tile. There is over 1,300 square feet of ceiling tile and glue that needs to be removed. There's over 1,000 feet, square feet, on the chalkboard areas, glued areas that needs to be removed that's asbestos and then the caulking in the windows is all asbestos as well. So it has to be removed. It a building that's certainly outlived its lifetime. Not just my opinion, but three different engineers we have spoken to as well as the State Historical Preservation Office who did visit the building in early July. Really to do anything to it adds cost and project we would need to do.

The real purpose of this tonight is to talk about the adverse impacts to the building. Which is demolition of the building, what we have planned, taking comments on that. And then, also, we should mention we do have, this is a part of the process to meet federal guidelines to have to have two public hearings to take comment from folks.

Any demolition we do we have put in the qualification that the contractor preserve over 5,000 square feet of brick that we can put back into places in the community, such as monument signs around the community. I have had countless requests, both personally, seen in the paper in print, of folks who would like to have bricks. We certainly are not adverse to anything like that.

The monument signs in the entryway are something that we have talked about preserving as well and putting on the corner of the property as a display.

One of the other pieces, one of the requirements we have from the State Historical Preservation Office is to do a, basically an environmental survey of the property. That requires us to hire a certified historic architect of which we are aware of three in the state. We have been in contact with a couple of them. What it requires them to do is put together a photographic history of the building as it exists today. To do specific measurements of the building as it exists and then to record that. Beyond that, then they will also be writing a history of the facility as well, a general history of the facility. That's a requirement from SHPO that we put together that document then put it on record with the State Library, the local historic office and to generally make them available to the public.

MAYOR BERRY: Those are all requirements prior to us receiving any federal funding.

CITY MANAGER FRITSCH: Any federal funds, so what we come down to is this process here tonight and going forward is to secure the federal funding for the \$98,000 demolition project. That project is scheduled to start, actually that price is only good until mid November, per our contractor.

The measurement portion of the study, we have heard back from two of the three companies. They could have that done by that time frame. Around the 1st of November, which would give the Historic Preservation Office anywhere from 15 plus days, depending on how soon they get it done, to review it and approve it. Then they would be writing the history over the next couple of months. We can move forward with demolition with that because we would have taken care of the visual and recording of the facility and structures.

If we don't go that way, which obviously is our option, then we would be using sales tax to take the building down.

COUNCILMEMBER KIRCHER: And we would have the additional cost of the survey, right?

CITY MANAGER FRITSCH: Correct. But the survey, the Department of Economic Development has said that they will reimburse, basically pay for because we wouldn't miss anything up front.

COUNCILMEMBER KIRCHER: Right. I am just saying that if the whole thing went south by itself, we would be paying for the \$96,000 plus the \$20,000 for the survey out of our own pockets.

CITY MANAGER FRITSCH: Yes, that is correct.

COUNCILMEMBER CALVIN: The survey is going to cost \$20,000?

CITY MANAGER FRITSCH: Both of them have told us that it will be under \$20,000. Now the key to that is that if it under \$20,000, I can go ahead and sign that contract, as we do with all contracts for the City. If it is over \$20,000, then it needs to come before the City Council

for official action. So it is really a timing issue. The more time that we take, or have to take, then the tighter it gets to have do this project. So it appears, for at least right now, that we can do this very quickly.

COUNCILMEMBER CALVIN: How far under \$20,000? A couple of dollars or a couple of thousand under \$20,000?

CITY MANAGER FRITSCH: Probably a 1,000 to a couple of 1,000 is close.

COUNCILMEMBER KIRCHER: 18,000 to 19,000.

COUNCILMEMBER CALVIN: These folks have had a really excellent track record of changing the rules in mid-stream on us. This is like the third or fourth time now. We really are in a time crunch on this. What assurances do we have from the State Office that come October 30th or October 31st they are not going to make new rules again?

CITY ATTORNEY SCHNEIDER: I have spoken with one of the architectural firms and I know that Kurt has spoke with the other architectural firm. The architectural firm that I spoke with said they could have everything done on their side within three weeks and probably sooner than that. As far as the SHPO review and response, there are no guarantees on how quickly that is going to happen. They state they are suppose to have the review done within a 30-day time period. If that's the case, if everything is done within 2 - 3 weeks and they have their 30 days, we meet that mid November deadline. But, if they don't get it done within that 30-day time period and it falls back on the DED and the DED then has to make a determination within a certain period of time, now that's the fallback.

COUNCILMEMBER CALVIN: Do we have time if they continue with their behavior as such and we get a last minute declining of our procedures, do we have time to go ahead with the demolition contract and pay for it with sales tax money? In other words, are we going to run into a very real situation where we can't meet that demolition contract and we have to rebid?

CITY ATTORNEY SCHNEIDER: I have spoke with the State Historical Preservation Society and they said we can terminate the Memorandum of Understanding if it is not going to work out with our time-line.

COUNCILMEMBER CALVIN: I just don't want to see us paint ourselves into a corner.

COUNCILMEMBER KIRCHER: I worry about that and I also worry about that \$19,000 if they decide to decline us, because then that is all on us and it didn't really do us any good. If they say no or come up with a new rule and \$19,000 that is nearly 1/5 of the cost of the entire project, for something that we can't do anything with.

CITY ATTORNEY SCHNEIDER: Well, at this point in time and I guess for the sake of moving things along, it may not be a bad idea to take testimony. I don't know if there is anybody here to speak on behalf of the demolition process or against it. If you do wish to speak, I am going to ask that you actually sign your name and put your address on the sign in sheet here. We would take public comment at this point in time. Yes, just come on up Gene.

GENE MORRIS: Just sign right here.

CITY ATTORNEY SCHNEIDER: Yes.

GENE MORRIS: My name is Gene Morris, I'm a citizen of McCook. I'm also the Western

Nebraska Field Representative for Heritage Nebraska. Heritage Nebraska is a group that advocates statewide for Historic Preservation. We are associated with the National Trust for Historical Preservation and I want to begin tonight by complimenting the Council and others in the community that have done the restoration work on the Keystone Project. It is an excellent illustration of why we believe in historic preservation. In almost every case it is more economical to rehabilitate than it is to demolish. Almost every case. For example, on the Keystone project for an estimated completion price of \$3.5 million you have created a structure that would have a value of at least \$10 million in today's building environment. I realize that there are many other issues facing you, but I think it is a critical time in McCook's life. We are, We have pasted the 125 year mark and we have many vintage historic buildings. That is shown by the work that you have done on the Keystone. But there are many other buildings facing this same plight at this time. They are at the critical time in their life and I think we just witnessed what happened at the corner of Norris and "B". I mean, we all realize that, that building went too far. It was uninhabited, there was facing on the side of it. It had lost its historic appeal because of that, but we also have seen in the last two days what happens when you take the building down. As necessary as it was, it is like taking a tooth out of the mouth. I mean we have created a cavity at the corner, most critical juncture of our town.

And so with all of that preparatory talk, I guess what I am saying is that in regards to West Ward, I want to talk about my point of rehabilitation versus demolition.

You did the study. I read the study and the study said that; and you know what the costs were.

Now what the term we like to use when it comes to historic preservation is adaptive reuse. Adaptive reuse. In other words, you take the structure that you have and you adapt your needs or your purposes to that structure. Okay, in cases, and I thought Miller & Associates did an excellent job of analyzing it for you, with two exceptions. One was that we do a building addition which cost \$450,000, we add contingency funds of \$187,000, and we base our professional fees upon that. And, so what we have done here is change the economic, the economics of rehabilitation. So what I am saying is that you take the \$450,000 out and adapt to the 14,000 square feet of space that you have there. If you would do that, then it becomes a viable project. That doesn't mean that it will fit exactly with what you want, but it could be adapted to that purpose. Perhaps for Administrative uses of the building and you would still be able to take out everything inside there. I saw the pictures as you did and I mean yes it is deteriorated, yes we have allowed mold to form, yes we have asbestos, but those can be removed and then, and then the outer shell of the building still has economic value.

So, I guess the main reason I am speaking tonight is because you are very far along in this project and it is possibly too late to change it, but I would like you as a Council to be aware going forward of the importance of historic preservation because this is, this is a town that's 128 years old. It is a town that has many valuable structures and we need to preserve, we need to make a commitment to them and it is a critical time to do that.

There is a mechanism to help you as you go forward and that is called Certified Local Governance. What it does is gives us the authority, or it gives us the power on the local basis to evaluate our local historic structures and to make, and to make use of them in the best way possible for our community's life and growth. Yes the future is important, yes today is important, but by goodness the past is too. And, we need to be mindful of that as we go forward.

I thank you for your time and I appreciate all you do as a Council. As I have told many of you, I am an admirer of what you do, but I also want you to realize that there is not single view points, there are multiple view points in our community and we need to be mindful of all of them. Thank you.

MAYOR BERRY: Thank you Gene.

CITY ATTORNEY SCHNEIDER: Is there anybody else that wishes to provide testimony at this time?

DALE COTTON: Yea, Historic Register.

CITY ATTORNEY SCHNEIDER: Sir – would you please approach.

DALE COTTON: Once that building is established on the historical register, it will be eligible for whatever comes down. If there is funds for that building, you would be eligible for it, where you won't be on that new building for another 50 - 60 years. And, I am not sure that new building is going to last 60 years like this building has done.

And, also that mold and stuff in there don't mean nothing. That all comes out and it said that the, some body said in the news media that it had steel beams, in in, and that is just absolutely perfect. That is what you want. There are a lot of old school buildings that had wooden structures in them and those buildings were saved to, even with wood. But, with those steel beams in there that makes it a nice building and like Gene said all that brick work. So that would be the advantages of putting it on the registers. Whatever could be available in the future would qualify for that. Thank you.

MAYOR BERRY: Thank you Dale.

CITY ATTORNEY SCHNEIDER: Is there anyone else that wishes to provide testimony at this time? Seeing that there is no further testimony, I recommend that the public hearing be closed.

There being no one else present to comment, upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to adjourn the public hearing and to reconvene as a City Council. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(6) CONSENT AGENDA:

Councilmember Kircher requested that Item F, Item G, Item N, and Item O be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE SEPTEMBER 7, 2010 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the minutes of the September 7, 2010 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B ADOPT RESOLUTION NO. 2010-22 SETTING THE PROPERTY TAX REQUEST FOR FY2010/2011 AT A DIFFERENT AMOUNT THAN THE PROPERTY TAX REQUEST FOR THE PRIOR YEAR.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2010-22 setting the property tax request for FY2010/2011 at a different amount than the property tax request for the prior year. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM C APPROVE THE BID SPECIFICATIONS FOR ONE (1) NEW FOUR WHEEL DRIVE RUBBER-TIRED LOADER FOR THE CITY OF MCCOOK TRANSFER STATION AND SET THE DATE TO RECEIVE BIDS AS OCTOBER 12, 2010 AT 2:00 P.M.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the bid specifications for One (1) New Four Wheel Drive Rubber-Tired Loader for the City of McCook Transfer Station and set the date to receive bids as October 12, 2010 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM D RECEIVE AND FILE THE MINUTES OF THE SENIOR CENTER ADVISORY BOARD MEETING DATED AUGUST 3, 2010.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to receive and file the minutes of the Senior Center Advisory Board meeting dated August 3, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM E APPROVE THE WASTE MANAGEMENT PLAN FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) NUMBER #09-10-E111 FOR CITY SHOP LIGHTING, INSULATION AND WINDOWS AND THE LIBRARY BOILER AND CHILLER.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the Waste Management Plan for Energy Efficiency and Conservation Block Grant (EECBG) Number #09-10-E111 for City Shop Lighting, Insulation and Windows and the Library Boiler and Chiller. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM H APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE FOR THE MIXER TO BE HELD AT WAGNER CHEVROLET, 201 EAST "B" STREET, ON WEDNESDAY, OCTOBER 13, 2010 FROM 5:30 P.M. TO 7:00 P.M., WITH AN ALTERNATE DATE OF OCTOBER 20, 2010.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by the McCook Area Chamber of Commerce for the mixer to be held at Wagner Chevrolet, 201 East "B" Street, on Wednesday, October 13, 2010 from 5:30 P.M. to 7:00 P.M., with an alternate date of October 20, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM I APPROVE THE ADDENDUM TO THE MCCOOK HUMANE SOCIETY

AGREEMENT EFFECTIVE OCTOBER 1, 2010 AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the Addendum to the McCook Humane Society Agreement effective October 1, 2010 and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM J APPROVE THE APPLICATION FOR INTERCITY BUS ASSISTANCE FOR DASHABOUT SHUTTLE AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the Application for Intercity Bus Assistance for Dashabout Shuttle and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM K AWARD THE BID FOR SENIOR CENTER ROOF REPLACEMENT TO CTE CONSTRUCTION OF MCCOOK, NEBRASKA IN THE AMOUNT OF \$38,491.30, THAT BEING THE LOWEST RESPONSIBLE BID.

Pursuant to instruction given by the City Council, a Notice to Bidders was published asking for sealed bids for the Senior Center Roof Replacement. The following bids were received:

Nebraska Re-Roof and Construction, LLC - North Platte, Nebraska
Base Bid - \$25,215.00

CTE Construction - McCook, Nebraska
Base Bid - \$38,491.30

Roof Tech - Shenandoah, Iowa
Base Bid - \$38,600.00

Eagle 1st Roofing and Construction, Inc. - Lincoln, Nebraska
Base Bid - \$40,274.00

Weathercraft Company of McCook - McCook, Nebraska
Base Bid - \$46,700.00

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to award the bid for Senior Center Roof Replacement to CTE Construction of McCook, Nebraska in the amount of \$38,491.30, that being the lowest responsible bid.

ITEM L OFFER A CONTRACT TO INDUSTRIAL PROCESSING TECHNOLOGY INC. WITH A BASE BID OF \$265,930.00, AS THE LOWEST RESPONSIBLE BIDDER FOR CLARIFIER REHABILITATION; AUTHORIZE CHANGE ORDER NO. 1 TO AWARD THE CONTRACT FOR A TOTAL OF \$97,660.00 FOR THE EAST CLARIFIER REHABILITATION; AND AUTHORIZE THE MAYOR TO EXECUTE THE NECESSARY PAPERWORK.

Pursuant to instruction given by the City Council, a Notice to Bidders was published asking for sealed bids for Clarifier Rehabilitation. The following bids were received:

Industrial Process Technology, Inc. - Mitchell, South Dakota

Total Bid - \$265,930.00

CAS Construction, LLC - Topeka, Kansas
Total Bid - \$319,950.00

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to offer a contract to Industrial Processing Technology Inc. with a base bid of \$265,930.00, as the lowest responsible bidder for clarifier rehabilitation; authorize Change Order No. 1 to award the contract for a total of \$97,660.00 for the east clarifier rehabilitation; and authorize the Mayor to execute the necessary paperwork. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM M APPROVE THE STATE OF NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT, COMMUNITY DEVELOPMENT ASSISTANCE ACT CONTRACT 11-CDAA-01 FOR \$20,868 IN TAX CREDITS TO SUPPORT THE KEYSTONE BUSINESS CENTER PROJECT.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the State of Nebraska Department of Economic Development, Community Development Assistance Act Contract 11-CDAA-01 for \$20,868 in tax credits to support the Keystone Business Center Project. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM P ADOPT RESOLUTION NO. 2010-25 RATIFYING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MCCOOK AND THE MCCOOK FRATERNAL ORDER OF POLICE LODGE #57 SETTING THE COST OF LIVING INCREASE AND INCREASING MEDICAL CONTRIBUTIONS FOR THE PERIOD OF OCTOBER 1, 2010 THROUGH SEPTEMBER 30, 2011.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2010-25 ratifying the Memorandum of Understanding between the City of McCook and the McCook Fraternal Order of Police Lodge #57 setting the cost of living increase and increasing medical contributions for the period of October 1, 2010 through September 30, 2011. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

REGULAR AGENDA

ITEM 6F APPROVE THE REQUEST FROM MCCOOK NATIONAL BANK TO CLOSE THE ALLEY BETWEEN NORRIS AVENUE AND WEST FIRST STREET FROM WEST "B" STREET TO WEST "C" STREET ON OCTOBER 30, 2010 FROM 3:00 P.M. TO 12:00 MIDNIGHT FOR THEIR ANNUAL HALLOWEEN HAUNTED BANK TOUR.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to approve the request from McCook National Bank to close the alley between Norris Avenue and West First Street from West "B" Street to West "C" Street on October 30, 2010 from 3:00 P.M. to 12:00 midnight for their Annual Halloween Haunted Bank Tour. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM 6G ADOPT RESOLUTION NO. 2010-21 APPROVING THE GRANT APPLICATION FOR FEDERAL ASSISTANCE FROM THE NEBRASKA GAME AND PARKS COMMISSION RECREATIONAL TRAILS PROGRAM FOR THE MCCOOK RECREATIONAL TRAIL PHASE III - SOUTHVIEW.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2010-21 approving the Grant Application for Federal Assistance from the Nebraska Game and Parks Commission Recreational Trails Program for the McCook Recreational Trail Phase III - Southview. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM 6N ADOPT RESOLUTION NO. 2010-23 RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MCCOOK AND THE LIEUTENANTS BARGAINING UNIT OF THE MCCOOK PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL 2100 FOR THE TIME PERIOD OF OCTOBER 1, 2010 TO SEPTEMBER 30, 2015, AND AUTHORIZE THE MAYOR TO SIGN SAID AGREEMENT.

Councilmember Kircher introduced a motion to adopt Resolution No. 2010-23 ratifying the Collective Bargaining Agreement between the City of McCook and the Lieutenants Bargaining Unit of the McCook Professional Firefighters Association Local 2100 for the time period of October 1, 2010 to September 30, 2015, and authorize the Mayor to sign said agreement. Councilmember Calvin seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend the presented contract on page 25 by changing the COLA calculation to reflect what was agreed to in the Memorandum of Understanding with the McCook Professional Firefighters Association Local 2100, dated August 31, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Upon a motion by Councilmember Calvin, seconded by Mayor Berry, the Council voted to amend the date in Section 3 from "September 30, 2010 to September 30, 2011. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall the motion on the floor be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

ITEM 6O ADOPT RESOLUTION NO. 2010-24 RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MCCOOK AND THE FIREFIGHTERS BARGAINING UNIT OF THE MCCOOK PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL 2100 FOR THE TIME PERIOD OF OCTOBER 1, 2010 TO SEPTEMBER 30, 2015, AND AUTHORIZE THE MAYOR TO SIGN SAID AGREEMENT.

Councilmember Kircher introduced a motion to adopt Resolution No. 2010-24 ratifying the Collective Bargaining Agreement between the City of McCook and the Firefighters Bargaining Unit of the McCook Professional Firefighters Association Local 2100 for the time period of October 1, 2010 to September 30, 2015, and authorize the Mayor to sign said agreement. Councilmember Anderson seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to

amend the presented contract on page 26 by changing the COLA calculation to reflect what was agreed to in the Memorandum of Understanding with the McCook Professional Firefighters Association Local 2100, dated August 31, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Upon a motion by Councilmember Calvin, seconded by Mayor Berry, the Council voted to amend the date in Section 3 from "September 30, 2010 to September 30, 2011. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall the motion on the floor be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

(7) APPROVE ORDINANCE NO. 2010-2840 PROVIDING FOR THE AMENDMENT OF APPENDIX II, SEWER DEPARTMENT RATES AND FEE, OF THE MCCOOK MUNICIPAL CODE UPON ITS THIRD AND FINAL READING.

Ordinance No. 2010-2840 now came up for third and final reading. Ordinance No. 2010-2840 was read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which motion was seconded by Councilmember Anderson. The Mayor then stated the question: "Shall Ordinance No. 2010-2840 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to publish Ordinance No. 2010-2840 in the McCook Daily Gazette, a legal newspaper, one time as required by law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(8) APPROVE ORDINANCE NO. 2010-2841 PROVIDING FOR THE ADOPTION OF THE 2010/2011 FISCAL YEAR EMPLOYEE CLASSIFICATION PAY PLAN UPON ITS THIRD AND FINAL READING.

Ordinance No. 2010-2841 now came up for third and final reading. Ordinance No. 2010-2841 was read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which motion was seconded by Councilmember Calvin.

Upon a motion by Councilmember Calvin, seconded by Councilmember Anderson, the Council voted to amend the presented Pay Plan to reflect the Cost of Living Adjustment as stated in the Police and Fire Collective Bargaining Agreements. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall Ordinance No. 2010-2841 be passed and adopted as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the

Council voted to publish Ordinance No. 2010-2841 in the McCook Daily Gazette, a legal newspaper, one time as required by law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(9) ORDINANCES PROVIDING FOR THE SALE OF CITY PROPERTIES:

ITEM A APPROVE ORDINANCE NO. 2010-2842 AUTHORIZING THE SALE OF PART OF LOT ONE (1), BLOCK ONE (1), WEST MCCOOK ADDITION AND A PORTION OF MISCELLANEOUS MCCOOK, ALL IN THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA TO HOWARD R. MUSGRAVE AND BARBARA J. MUSGRAVE FOR THE SUM OF \$5,000.00 UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve Ordinance No. 2010-2842 authorizing the sale of part of Lot One (1), Block One (1), West McCook Addition and a portion of Miscellaneous McCook, all in the City of McCook, Red Willow County, Nebraska to Howard R. Musgrave and Barbara J. Musgrave for the sum of \$5,000.00 upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B APPROVE ORDINANCE NO. 2010-2843 AUTHORIZING THE SALE OF LOT THIRTY-NINE (39), BLOCK TWO (2), SOUTH MCCOOK ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA TO PAUL J. MONZON FOR THE SUM OF \$6,000.00 UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve Ordinance No. 2010-2843 authorizing the sale of Lot Thirty-nine (39), Block Two (2), South McCook Addition to the City of McCook, Red Willow County, Nebraska to Paul J. Monzon for the sum of \$6,000.00 upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(10) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2010-2844 AUTHORIZING THE CONVEYANCE OF AN EASEMENT UPON AND UNDER REAL ESTATE OWNED BY THE CITY OF MCCOOK TO SOURCEGAS DISTRIBUTION LLC.

Councilmember Kircher introduced Ordinance No. 2010-2844 entitled:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF AN EASEMENT UPON AND UNDER REAL ESTATE OWNED BY THE CITY OF MCCOOK, NEBRASKA; PRESCRIBING THE TERMS AND CONDITIONS OF SUCH CONVEYANCE; REPEALING CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

The motion was made by Councilmember Kircher, seconded by Councilmember Anderson, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The motion was made by Councilmember Kircher that the statutory rule requiring reading on three different days be suspended. Councilmember Calvin seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. The motion to suspend the rule was

adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Said Ordinance was then read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which was seconded by Councilmember Anderson. The Mayor then stated the question: "Shall Ordinance No. 2010-2844 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried. The passage and adoption of said Ordinance, having been concurred in by a majority of all members of the Council, the Mayor declared the Ordinance adopted and the Mayor, in the presence of the Council, signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to publish Ordinance No. 2010-2844, in the McCook Daily Gazette, a legal newspaper, one time as required by law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(11) COUNCIL COMMENTS.

Councilmember Kircher expressed concerns moving forward to meet the conditions set by the Department of Economic Development in order to receive federal funding for demolition of West Ward. If they do not accept our reports, the additional costs become ours and we have gained nothing. That's a gamble he is not comfortable with.

Councilmember Gonzales favored to continue until staff had some indication that we would be unable to meet our time frame.

It was the consensus of the Council to put on the agenda for the September 27 special meeting reconsideration of the decision to move forward with recommended Department of Economic Development conditions in order to use NSP funds to demolish the West Ward.

Councilmember Kircher stated he felt the City should talk with the County regarding the jail should the City's election pass.

Mayor Berry reminded all of the Special meeting scheduled for September 27, 2010 at the Heritage Senior Center beginning at 7:00 P.M. to conduct an open house regarding the municipal facilities election.

(12) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR THE ANNUAL EVALUATION OF THE JOB PERFORMANCE OF CITY MANAGER KURT FRITSCH.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to move into executive session for the annual evaluation of the job performance of City Manager Kurt Fritsch at 8:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of conducting the annual evaluation of the job performance of City Manager Kurt Fritsch. The Council will reconvene in public session following this closed session.

Upon a motion by Councilmember Kircher, seconded by Councilmember Gonzales, the Council voted to move out of executive session at 9:05 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(13) APPROVE EMPLOYMENT AGREEMENT WITH CITY MANAGER KURT FRITSCH AND AUTHORIZE THE MAYOR TO SIGN.

Councilmember Kircher introduced a motion to approve the Employment Agreement with City Manager Kurt Fritsch and authorize the Mayor to sign. Motion was seconded by Councilmember Anderson.

Upon a motion by Mayor Berry, seconded by Councilmember Kircher, the Council voted to amend the dates in the presented agreement in the first paragraph on Page 1 to "20th day of September, 2010"; in Section 2 to "October, 2010" and "September 21, 2009"; and in Section 3, third paragraph to "September 15, 2011". The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the annual salary to \$94,568.15, a 2.1% increase. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall the motion on the floor be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

(14) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2010-2845 SETTING THE SALARY AND COMPENSATION OF CITY MANAGER KURT FRITSCH.

Mayor Berry introduced Ordinance No. 2010-2845 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA SETTING THE SALARY AND COMPENSATION OF THE CITY MANAGER OF THE CITY OF MCCOOK; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

The motion was made by Councilmember Kircher, seconded by Councilmember Anderson, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The motion was made by Councilmember Kircher that the statutory rule requiring reading on three different days be suspended. Councilmember Anderson seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. The motion to suspend the rule was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said Ordinance.

Said Ordinance was then read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which was seconded by Councilmember Anderson. The Mayor then stated the question: "Shall Ordinance No. 2010-2845 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried. The passage and adoption of said Ordinance, having been concurred in by a majority of all members of the Council, the Mayor

declared the Ordinance adopted and the Mayor, in the presence of the Council, signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to publish Ordinance No. 2010-2845, in the McCook Daily Gazette, a legal newspaper, one time as required by law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(15) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:10 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk