

MCCOOK CITY COUNCIL  
October 18, 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 October 14, 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 - BRUCE LESTER, EVANGELICAL FREE CHURCH.

Bruce Lester, pastor of the Evangelical Free Church, was present for the invocation.

- (2) CITIZEN'S FORUM.

No one was present for Citizen's Forum.

- (3) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Fritsch informed the Council that a gentlemen from Palisade has contacted him with a proposed design for the area of Norris Avenue and "B" Street. This proposal, as well as others received, will be presented to the Council at a later date.

- (4) DAN SMITH, GENERAL MANAGER OF THE MIDDLE REPUBLICAN NATURAL RESOURCES DISTRICT (MRNRD), PRESENTATION REGARDING HOW THE INTEGRATED MANAGEMENT PLAN (IMP) WILL IMPACT THE CITY AND SURROUNDING AREA.

Dan Smith, General Manager of the Middle Republican Natural Resources District (MRNRD), gave a presentation regarding how the Integrated Management Plan (IMP) will impact the City of McCook and surrounding area. Reductions in pumping will continue to be achieved using a combination of regulation and incentive programs. The revised occupation tax authority in LB 862 makes it possible to move forward with larger scale programs and projects. The MRNRD continues to work with the other districts in the basin to improve the IMP and to provide the most accurate data possible for compact accounting. The August revision to the IMP will become effective in November 2010. This revision includes a much more effective

forecast and while it does require the curtailment of surface water and some ground water uses, it also provides for the credit of management actions that have been implemented or can be implemented in a dry year. The economic impact of these management actions will be minimal compared to the devastating impact of regulations. The overall goal will be to manage the waters of the basin as one water rather than managing ground water and surface water separately. The IMP does include the possibility of shutdowns in water short years, but it is the MRNRD Board's intention to do everything it can to avoid them.

Councilmember Kircher inquired as to how the allocation to McCook will be treated. Mr. Smith responded that McCook's allocation was established by a previous City Manager and allows for future growth.

Gene Morris, McCook resident, stated that he appreciated the Council giving time to this very important issue, adding that there are some very sharp differences in opinion. It deserves strong study and consideration if it comes to pass. It could cause a significant loss to nearby irrigators.

(5) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE OCTOBER 4, 2010 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the October 4, 2010 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B APPROVE THE BID SPECIFICATIONS FOR ONE (1) NEW POLICE PACKAGE OR SPECIAL SERVICES VEHICLE FOR USE BY THE MCCOOK POLICE DEPARTMENT AND SET THE DATE TO RECEIVE BIDS AS NOVEMBER 8, 2010 AT 2:00 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the bid specifications for One (1) New Police Package or Special Services Vehicle for use by the McCook Police Department and set the date to receive bids as November 8, 2010 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM C APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE FOR THE MIXER TO BE HELD AT JANSSEN KOOL HONDA, 711 WEST "C" STREET, ON NOVEMBER 17, 2010, FROM 5:30 P.M. TO 7:00 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, 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 Janssen Kool Honda, 711 West "C" Street, on November 17, 2010, from 5:30 P.M. to 7:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM D APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE FOR THE MIXER TO BE HELD AT WELLS FARGO BANK, 108 WEST "D"

STREET, ON DECEMBER 8, 2010, FROM 5:30 P.M. TO 7:00 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, 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 Wells Fargo Bank, 108 West "D" Street, on December 8, 2010, from 5:30 P.M. to 7:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM E RECEIVE AND FILE THE MINUTES OF THE AIRPORT ADVISORY COMMISSION DATED APRIL 16, 2010.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to receive and file the minutes of the Airport Advisory Commission dated April 16, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM F RATIFY THE MAYOR'S APPOINTMENTS TO THE:

- BOARD OF ZONING ADJUSTMENT - REAPPOINT TAMMIE HILKER AS THE PLANNING COMMISSION REPRESENTATIVE - TERM EXPIRES SEPTEMBER, 2013.
- COMMUNITY REDEVELOPMENT AUTHORITY ADVISORY BOARD - REAPPOINT MICHAEL OWENS, MIKE O'DELL, AND LEON KUHLIN - TERMS EXPIRE NOVEMBER, 2013.
- HOUSING AGENCY BOARD - REAPPOINT JUDY DOW - TERM EXPIRES NOVEMBER, 2015.
- PLANNING COMMISSION - REAPPOINT MICHAEL EKLUND (EXTRA TERRITORIAL REPRESENTATIVE), FLORA LUNDBERG, TAMMIE HILKER, AND JERDA GAREY - TERMS EXPIRE SEPTEMBER, 2013.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to ratify the Mayor's appointments to the Board of Zoning Adjustment - reappointing Tammie Hilker as the Planning Commission representative - term expires September, 2013; the Community Redevelopment Authority Advisory Board - reappointing Michael Owens, Mike O'Dell, and Leon Kuhlen - terms expire November, 2013; the Housing Agency Board - reappointing Judy Dow - term expires November, 2015; and the Planning Commission - reappointing Michael Eklund (Extra Territorial Representative), Flora Lundberg, Tammie Hilker, and Jerda Garey - terms expire September, 2013. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM G AWARD THE BID FOR ONE (1) NEW 4-WHEEL DRIVE RUBBER-TIRED LOADER, TO BE USED AT THE TRANSFER STATION, TO NEBRASKA MACHINERY IN THE AMOUNT OF \$86,000.00, 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 one (1) new 4-Wheel Drive Rubber-Tired Loader. The following bids were received:

Kleins Motor & Electric - McCook, Nebraska  
Net Trade Difference - \$101,086.00

Titan Machinery - North Platte, Nebraska  
Net Trade Difference - \$109,900.00

Nebraska Machinery - North Platte, Nebraska  
Net Trade Difference - \$86,000.00

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to award the bid for one (1) new 4-Wheel Drive Rubber-Tired Loader, to be used at the Transfer Station, to Nebraska Machinery in the amount of \$86,000.00, that being the lowest responsible bid. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM H APPROVE THE REVISED APPLICATION FOR PUBLIC TRANSPORTATION ASSISTANCE FOR THE CITY OF MCCOOK FY 2010/2011.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the revised Application for Public Transportation Assistance for the City of McCook FY 2010/2011. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM I APPROVE THE AGREEMENT RENEWAL FOR MAINTENANCE AGREEMENT NO. 17 BETWEEN THE NEBRASKA DEPARTMENT OF ROADS AND THE MUNICIPALITY OF MCCOOK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the Agreement Renewal for Maintenance Agreement No. 17 between the Nebraska Department of Roads and the Municipality of McCook 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 FEDERAL TRANSPORTATION FUNDING INTERLOCAL AGREEMENT AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the Federal Transportation Funding Interlocal Agreement 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 RECEIVE AND FILE NOTICE FROM WEST CENTRAL AREA AGENCY ON AGING ON CHANGES TO THEIR BY-LAWS.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to receive and file notice from West Central Area Agency on Aging on changes to their By-Laws. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM L APPROVE INTERCITY BUS AGREEMENT NO. BUS-B732(211) WITH THE NEBRASKA DEPARTMENT OF ROADS AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve Intercity Bus Agreement No. BUS-B732(211) with the Nebraska Department of Roads and authorize the Mayor to sign. The motion passed upon the following

roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM M APPROVE INTERCITY BUS AGREEMENT NO. BUS-B732(211) WITH DASHABOUT ROADRUNNER, INC. AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve Intercity Bus Agreement No. BUS-B732(211) with Dashabout Roadrunner, Inc. and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

### REGULAR AGENDA

(6) CONDUCT A HEARING FOR THE APPEAL OF THE DECLARATION OF THE PROPERTY LOCATED AT 810½ WEST 4<sup>TH</sup> STREET AS A NUISANCE PROPERTY BY THE MCCOOK BOARD OF HEALTH ON SEPTEMBER 30, 2010 FILED BY SHARON BOLEY AS THE OWNER OF THE PROPERTY.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to recess as a City Council and conduct a public hearing for the appeal filed by Sharon Boley of the declaration of the property located at 810½ West 4<sup>th</sup> Street as a nuisance property by the McCook Board of Health on September 30, 2010 with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The City Attorney stated that this appeal is being held pursuant to provisions of Article 3, Sections 4-301 through 4-305 of the McCook Municipal Code.

Christopher Boley and his mother Sharon Boley addressed the Council regarding the appeal of the declaration of their property located at 810½ West 4<sup>th</sup> as a nuisance property. Ms Boley has contacted a plumber to reestablish the water service, which she claims was damaged during the demolition of the house on the same lot. She requested 45 to 60 days to have that done and the cleanup of the property completed.

Councilmembers expressed concerns with the fact that the water has been turned off since 2009 and nothing has been done.

Councilmember Gonzales inquired if Ms. Boley had made contact with an exterminator, adding that the Council needs a plan of action from her to resolve the nuisance issues.

Police Chief Brown informed the Council that what you do not see in the pictures is the condition of the house itself and the number of animals. The odor and presence of urine-soaked floors, effected his eyes and breathing while in the house. They were unable to safely get to the basement because of all of the items stored there. Because of animals and filth the house is a nuisance and health issue and an unsafe property as was determined by the Health Board. What we are hearing from the Boley's is the same song as before, "we are gonna", but we have seen nothing since June of 2009. This property is a nuisance property, unsafe and is a health hazard and he asked that the Council declare it as such.

The City Attorney offered and received into evidence as Exhibit #1 the City Manager's Report prepared for the October 18, 2010 City Council meeting.

There being no one else present to comment, upon a motion by Mayor Berry, seconded by Councilmember Kircher, 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.

- (7) IF THE DETERMINATION OF THE MCCOOK BOARD OF HEALTH FOR THE PROPERTY LOCATED AT 810½ WEST 4<sup>TH</sup> STREET AS A NUISANCE PROPERTY IS CONFIRMED, DIRECT STAFF TO ABATE THE NUISANCE.

Mayor Berry introduced a motion that the determination of the McCook Board of Health for the property located at 810½ West 4<sup>th</sup> Street as a nuisance property is confirmed and to direct staff to abate the nuisance. Councilmember Calvin seconded the motion.

Councilmembers again expressed concerns that after a year no progress has been made, what is necessary should staff need to abate the nuisance, and could their proposed plumber be contacted to see when and if the water service will be ready.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to delay the direction to staff to abate the nuisance. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Councilmember Kircher noted that his does not mean that action will not be taken to abate the nuisance.

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.

An update of Ms. Boley's progress will be placed on the agenda for the November 1 meeting.

- (8) DECLARE THE PROPERTIES AND/OR RESIDENCES LOCATED AT 200 AIRPORT ROAD, 211 WEST "P" STREET, 1416 WEST FAIRACRES, AND 1418 WEST FAIRACRES AS UNSAFE NUISANCE PROPERTIES AND STRUCTURES AND DIRECT STAFF TO ABATE THE NUISANCES.

Councilmember Kircher introduced a motion to declare the properties and/or residences located at 200 Airport Road, 211 West "P" Street, 1416 West Fairacres, and 1418 West Fairacres as unsafe nuisance properties and structures and direct staff to abate the nuisances. Councilmember Calvin seconded the motion.

City Attorney Schneider stated that all five properties - 810½ West 4<sup>th</sup> Street, 200 Airport Road, 211 West "P" Street, 1416 West Fairacres, and 1418 West Fairacres were sent the Notice of Determination from the Health Board and had five days to appeal. Ms. Boley was the only one that appealed. These properties are unsafe nuisance properties and structures as determined by the Board of Health and requested that the Council direct staff to abate the nuisance.

Steve and Renee Fritz, owners of the properties located at 200 Airport Road were present to address the Council.

Mr. Fritz stated that they are no longer living at 406 West 10<sup>th</sup> and did not receive the notice. Their correct mailing address is a PO Box, which has always been their mailing address. They do not own the property at 200 Airport Road and the notice included inaccurate owner

information. The property has been used for this same purpose for the past twenty years. He questioned why the trailer could not be on the property and why the Building Inspector had not been out to inspected as requested. The trailer is not mobile home, as referenced by the City, but is an on-site trailer. He stated that they would need until after harvest, December 1, to have the cleanup completed.

Mrs. Fritz stated that they need more time since Mr. Fritz has been out of town working.

Police Chief Brown stated that the property was inspected on September 30 and they were not present. All are their vehicles, some are working units, some are not licensed, and some are not required to be. In response to Mr. Fritz's claim that the property was not inspected by the Building Official, he stated that the Building Official did not feel safe going on his own after previous conversations with the Fritz's, and was inspected by him. He had provided the Fritz's copies of ordinances that stated the trailer could not be there. Mr. Fritz's response was that he did not agree and would not comply. Chief Brown added that they had received more than ample information regarding nuisance issues surrounding the trailer and several junk vehicles on their property.

City Manager Fritsch stated that they were asked to provide a plan for abatement and they refused to do so.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend by adding 200 Airport Road, "also known as 302 Airport Road". The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: Gonzales.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to determine the property located at 302 Airport Road a nuisance property and allow until December 6, 2010 for abatement of the nuisance. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Rob Henry was present to address his property located at 211 West "P". He stated that he had hired a contractor to take the entire foundation out and to fill the hole. He planned to maintain the water and sewer service to the property. He provided pictures detailing the progress made.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council confirmed that the property was a nuisance property and to delay directing staff to abate the nuisance, to allow Mr. Henry time to complete the process. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Alejandro (Alex) Martinez addressed the Council regarding the properties located at 1416 and 1418 West Fairacres. He has a contract with Bernard and Kathy Weaver to purchase them and asked what was required to address the nuisance issues.

City Manager Fritsch offered to have the Building Official meet with Mr. Martinez to walk through the properties to identify the issues that need to be addressed.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to pull 1416 and 1418 West Fairacres from the motion to be reconsidered at a future date. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(9) COUNCIL COMMENTS.

Councilmember Gonzales noted that the update of the City's website was recently completed and complimented staff on a job well done. He was very impressed with the end result.

Mayor Berry reminded all of the special Council meeting to be held this coming Monday, October 25, at the Heritage Senior Center. A presentation will be held regarding the proposed municipal facilities and a public hearing regarding mitigation of the West Ward building.

(9) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:30 P.M.

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Dennis Berry, Mayor

ATTEST:

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Lea Ann Doak, City Clerk