

MCCOOK CITY COUNCIL
December 6, 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 December 2, 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 - CLARK BATES, MCCOOK CHRISTIAN CHURCH.

Clark Bates, pastor of the McCook Christian Church, was present for the invocation.

(2) RECOGNITION OF OUTGOING COUNCILMEMBER LONNIE ANDERSON.

Mayor Berry presented Councilmember Anderson with a plaque in recognition of his "excellent, dedicated service" to the City of McCook while serving on the Council.

(3) ADMINISTER OATH OF OFFICE FOR THE NEWLY ELECTED COUNCILMEMBERS DENNIS BERRY, JERRY CALVIN, MIKE GONZALES, AND SHANE HILKER.

City Clerk Doak administered the oath of office to the newly elected Councilmembers Dennis Berry, Jerry Calvin, Mike Gonzales, and Shane Hilker.

(4) REORGANIZATION OF THE CITY COUNCIL:

– Election of Mayor

City Manager Fritsch called for nominations from the Council for the office of Mayor (President) of the Council. Mike Gonzales nominated Dennis Berry. Jerry Calvin seconded the nomination. There being no further nominations, the nominations were declared closed. Upon a roll call vote of the Council, Dennis Berry, Jerry Calvin, Mike Gonzales, Shane Hilker, and Aaron Kircher voted yea. City Manager Fritsch thereupon declared Dennis Berry to be elected as Mayor and he assumed the chair at that time.

– Election of Vice President of the Council

Mayor Berry asked for nominations from the Council for the office of Vice President of the Council. Jerry Calvin nominated Mike Gonzales. Dennis Berry seconded the nomination. Aaron Kircher nominated Shane Hilker. Mr. Hilker withdrew from consideration. Upon roll call vote of the Council, Dennis Berry, Jerry Calvin, Mike Gonzales, Shane Hilker, and Aaron Kircher voted yea. Mayor Berry thereupon declared Mike Gonzales to be elected as Vice President of Council.

(5) DETERMINATION OF SEATING ORDER.

Based on the policy set by previous Council, the Councilmembers at this time chose their seats by seniority. The seating order for this Council shall be:

Councilmember Hilker, Councilmember Calvin, Mayor Berry, Councilmember Gonzales, Councilmember Kircher, City Clerk Doak, City Manager Fritsch, City Attorney Schneider.

(6) CITIZEN'S FORUM.

No one was present for Citizen's Forum.

(7) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

There were no Mayor's announcements or recognitions.

(8) PUBLIC HEARING - REGARDING THE MITIGATION EFFORTS ON THE PART OF THE CITY OF MCCOOK, MID-PLAINS COMMUNITY COLLEGE, AND THE NEBRASKA STATE HISTORICAL PRESERVATION OFFICE WITH RESPECT TO THE FORMER DAUGHTERS OF THE AMERICAN REVOLUTION (DAR) BUILDING LOCATED IN KELLEY PARK NEAR THE INTERSECTION OF EAST "M" STREET AND EAST 3RD STREET.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment regarding the mitigation efforts on the part of the City of McCook, Mid-Plains Community College, and the Nebraska State Historical Preservation Office with respect to the former Daughters of the American Revolution (DAR) building located in Kelley Park near the intersection of East "M" Street and East 3rd Street with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published.

Dr. Richard Tubbs, Vice President of McCook Community College, and Darrin Morgan, Facilities Director, spoke on behalf of the College. Dr. Tubbs stated that this is the second of three required public hearings being held pursuant to Section 106 of the National Historic Preservation Act of 1966. This hearing is to discuss mitigation efforts on the part of the City of McCook, Mid-Plains Community College, and the Nebraska State Historical Preservation Office (SHPO) with respect to the relocation of the DAR Building. The building is being moved approximately 200 feet as part of the proposed events center that the college hopes to begin construction early in 2011. Dr. Tubbs closed by stating that the college is committed to maintaining the heritage of McCook and Kelley Park and will work closely with the City and SHPO to insure that is done.

City Manager Fritsch stated that the relocation project will aid in preservation of the building with a new roof, windows, doors and foundation pad.

There being no one else present to comment, upon a motion by Councilmember Gonzales, 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, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(9) CONSENT AGENDA:

Councilmember Calvin requested that Item G be removed from the Consent Agenda and placed on the Regular Agenda.

Councilmember Kircher requested that Item E and Item H be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE NOVEMBER 15, 2010 REGULAR CITY COUNCIL MEETING AND THE NOVEMBER 29, 2010 SPECIAL CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the November 15, 2010 regular City Council meeting and the November 29, 2010 special City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM B RECEIVE AND FILE THE 2011 COUNCIL RADIO SHOW SCHEDULE.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file the 2011 Council Radio Show Schedule. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM C APPROVE THE REQUEST FROM THE MCCOOK YOUNG LEADERS TO CLOSE NORRIS AVENUE FROM "D" STREET TO "E" STREET ON DECEMBER 31, 2010 FROM 6:00 P.M. TO 1:00 A.M. JANUARY 1, 2011 FOR THE ANNUAL FIRST NIGHT MCCOOK 2011 EVENT.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the request from the McCook Young Leaders to close Norris Avenue from "D" Street to "E" Street on December 31, 2010 from 6:00 P.M. to 1:00 A.M. January 1, 2011 for the annual First Night McCook 2011 event. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM D RECEIVE AND FILE THE MINUTES OF THE ECONOMIC DEVELOPMENT PLAN - CITIZEN'S ADVISORY REVIEW COMMITTEE DATED JULY 26, 2010 AND THE LIBRARY ADVISORY BOARD DATED MAY 11, 2010 AND OCTOBER 12, 2010.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file the minutes of the Economic Development Plan - Citizen's Advisory Review Committee dated July 26, 2010 and the Library Advisory Board dated May 11, 2010 and October 12, 2010. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM F APPROVE THE RECOMMENDATION OF THE FUEL CONTRACT ADVISORY COMMITTEE TO CONTINUE THE FUEL PURCHASE AGREEMENT, FOR

CALENDAR YEAR 2011, WITH FRENCHMAN VALLEY COOPERATIVE, INC.
TO PURCHASE FUEL FOR GOVERNMENT VEHICLES.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the recommendation of the Fuel Contract Advisory Committee to continue the Fuel Purchase Agreement, for Calendar Year 2011, with Frenchman Valley Cooperative, Inc. to purchase fuel for government vehicles. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

REGULAR AGENDA

ITEM 9E APPROVE AWARD OF BID FOR THE PURCHASE OF ONE NEW 2011 4-WHEEL DRIVE TYPE I AMBULANCE TO FIREGUARD INC., REPRESENTING OSAGE AMBULANCE, WHO SUBMITTED THE LOWEST RESPONSIBLE BID IN THE AMOUNT OF \$163,838.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the award of bid for the purchase of one new 2011 4-wheel Drive Type I Ambulance to Fireguard Inc., representing Osage Ambulance, who submitted the lowest responsible bid in the amount of \$163,838. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM 9G ADOPT RESOLUTION NO. 2010-30 AMENDING THE FEES FOR HANGAR RENTAL AT THE MCCOOK BEN NELSON REGIONAL AIRPORT.

Councilmember Calvin introduced a motion to adopt Resolution No. 2010-30 amending the fees for hangar rental at the McCook Ben Nelson Regional Airport. Motion was seconded by Mayor Berry.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the presented resolution by inserting "effective through February 1, 2016" at the end of Section 2. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

The Mayor then stated the question: "Shall the Resolution No. 2010-30 be adopted as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None. Motion carried.

ITEM 9H APPROVE THE GRANT OF EASEMENT WITH NORTHROP GRUMMAN CORPORATION TO PERFORM DRILLING ACTIVITIES AS REQUESTED.

Councilmember Kircher introduced a motion to approve the Grant of Easement with Northrop Grumman Corporation to perform drilling activities as requested. The motion was seconded by Councilmember Calvin.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend the presented Grant of Easement by striking "however, the consent of the City shall not be unreasonably withheld" at the end of the fifth paragraph and strike "take all reasonable efforts to" at the end of the sixth paragraph. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. 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, Gonzales, Kircher, Calvin, Hilker. NAY: None. Motion carried.

(10) APPROVE ORDINANCE NO. 2010-2846 PROVIDING FOR THE AMENDMENT OF CHAPTER 7, ARTICLE 4, SECTION 402, 403, 404, AND 409 OF THE MCCOOK MUNICIPAL CODE - DISCHARGE OF FIREWORKS GENERALLY, AMENDING THE DAYS AND HOURS OF SALE UPON ITS THIRD AND FINAL READING.

Ordinance No. 2010-2846 now came up for third and final reading. Ordinance No. 2010-2846 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 Kircher, the Council voted to amend Section 7-402(a) by striking "through January 1" and inserting "through December 31." The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

Upon a motion by Councilmember Calvin, seconded by Mayor Berry, the Council voted to amend Section 7-404(a) and Section 7-404(b) by striking "through January 1" and inserting "through December 31." The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

The Mayor then stated the question: "Shall Ordinance No. 2010-2846 be passed and adopted as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Hilker. NAY: Calvin. 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 Mayor Berry, seconded by Councilmember Gonzales, the Council voted to publish Ordinance No. 2010-2846 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, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(11) RECEIVE AN UPDATE REGARDING THE PROPERTY LOCATED AT 810½ WEST 4TH STREET, DECLARED AS A NUISANCE PROPERTY BY THE MCCOOK BOARD OF HEALTH ON SEPTEMBER 30, 2010, AND DIRECT STAFF TO ABATE THE NUISANCE ISSUES IN THE EVENT THE NUISANCE ISSUES HAVE NOT BEEN ABATED.

Police Chief Brown informed the Council that staff did inspect Ms. Boley's property on Friday, December 3. He presented pictures indicating the progress made, stating, that while the progress is remarkable, some work still needs to be completed and the water still needs to be restored.

Ms. Boley informed the Council that the plumber she has contacted still has no trenching machine and possibly will not be able to complete the project until spring.

Council expressed concerns with Ms. Boley living in the house without water service, which was a violation of City Ordinance.

Councilmember Calvin inquired if there is any way that the City can replace the service and charge

it back to the property.

Utilities Director Dutcher responded that City Code makes the City responsible for maintenance up to the curb, from the curb to the house is the property owners responsibility.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to instruct staff to continue to monitor progress of abatement of the nuisances and that the residence not be inhabited until water has been restored to the property. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

- (12) RECEIVE AN UPDATE REGARDING THE PROPERTY LOCATED AT 300 AIRPORT ROAD OWNED BY STEVEN FRITZ, DBA FRITZ TRUCKING, DECLARED AS A NUISANCE PROPERTY BY THE MCCOOK BOARD OF HEALTH ON SEPTEMBER 30, 2010, AND DIRECT STAFF TO ABATE THE NUISANCE ISSUES IN THE EVENT THE NUISANCE ISSUES HAVE NOT BEEN ABATED.

Police Chief Brown informed the Council that Mr. and Mrs. Fritz had appeared at the October 18, 2010 City Council regarding the decision of the Health Board and requested additional time to abate their nuisance issues. The Council allowed them until December 6, 2010. The Fritz's did absolutely nothing until about 24 - 48 hours ago. As of today, the mobile home in issue has been moved off of the property, but a great deal still needs to be done. Several inoperable and unlicensed vehicles still remain on the property.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to direct staff to abate the nuisance issues regarding the property located at 300 Airport Road owned by Steven Fritz, dba Fritz Trucking, declared as a nuisance property by the McCook Board of Health on September 30, 2010. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

- (13) ADOPT RESOLUTION NO. 2010-29 APPROVING THE FORMATION AND INCORPORATION OF THE CITY OF MCCOOK LEASING CORPORATION A NEBRASKA NONPROFIT CORPORATION IN ORDER TO ADMINISTER THE BONDS FOR CONSTRUCTION OF MUNICIPAL FACILITIES.

Paul Grieger of D. A. Davidson was present to answer questions from the Council. They have recommended that the City create a nonprofit corporation under the Nebraska Nonprofit Corporation Act and controlled by the City, in order to administer the bonds to be sold for the construction of the Municipal Facilities. The creation of the corporation is required in order to properly administer the public funds of the project.

Councilmember Kircher stated that he felt all five members of the Council should serve on the board of this corporation.

It was the consensus of the Council that three Councilmembers would serve on the board, Mayor Berry, Councilmember Gonzales, and Councilmember Kircher.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2010-29 approving the formation and incorporation of the City of McCook Leasing Corporation, a Nebraska nonprofit corporation, in order to administer the bonds for construction of municipal facilities. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(14) COUNCIL COMMENTS.

Councilmember Kircher suggested that the resolution, which gave Mayor Berry excused absences when he had ongoing health issues, could be repealed at this time.

Councilmember Hilker thanked all who had supported him during the election, the City Staff for meeting with him during his tour of the City facilities, and the Council for their direction, adding that he hopes that he is able to do a good job for the community.

Councilmembers encouraged all to purchase their First Night Buttons for the McCook Young Leaders event held on New Year's eve. They are available at several locations in McCook.

(15) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:26 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk