

MCCOOK CITY COUNCIL
February 7, 2011
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 Gonzales, Kircher, Calvin, Hilker; 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 February 3, 2011, 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 noted that Consent Agenda Item 5C should state from 5:30 P.M. to 7:00 P.M. for the Special Designated Liquor License request for the Chamber Mixer. With this noted, it does not require that this item be removed from the Consent Agenda.

(4) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - PROPOSED 2011 ONE AND SIX YEAR STREET IMPROVEMENT PLAN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed 2011 One and Six Year Street Improvement Plan 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; Exhibit #2 - proposed Resolution No. 2011-02; and Exhibit #3 - proposed 2011 One and Six Year

Street Improvement Plan.

City Street Superintendent Chris Miller and Public Works Director Kyle Potthoff presented the 2011 One and Six Year Street Improvement Plan. Several projects were completed in the last fiscal year and removed from the plan. They include: asphalt paving on segments of West "F", "I", and Sunset; asphalt paving on West "M" Street, Elizabeth Lane, Park Road, north Norris Avenue, and West 5th Street; concrete sidewalk along West "B" Street; and concrete paving of a downtown parking lot. A drainage project between "L" and "M" Streets, west of East 1st Street, was delayed to the Six Year Plan. There are two projects on the One Year Plan. The paving and drainage project on one block of West 10th Street was reduced to drainage only, and moved from the Long Range Plan to the One Year Plan. The second project is asphalt paving Kelly Park Drive, which was moved from the Six Year Plan. There are seven projects shown in the Six Year Plan. Six of the projects were carried over from last year's Six Year Plan. These include two concrete paving projects on East "H" Street, a concrete paving project on East "J" Street, an asphalt paving project on "P" Street, West 1st Street, and Marsh Street, an asphalt paving project on East 7th Street, Country Club Drive, and Seminole Drive, an asphalt paving project on a segment of West "D" Street, and a storm sewer repair project between "L" and "M" Streets, on the east side of East 1st Street, which was moved from the last year's One Year Plan. The process has been initiated to program the asphalt paving project on East 7th Street, Country Club Drive, and Seminole Drive, as a federal aid project. If this programming request is approved, the actual year of construction will be determined by the Nebraska Department of Roads.

It was the consensus of the Council that the following changes be made to the presented plan:

That asphalt paving on West 5th Street from West "J" north to West "Q" Street be added to the Form 9 Summary of Six-Year Plan; that asphalt paving of East "C" Street from East 11th to Airport Road be added to the Summary of Long Range Street Plan; and that Priority 7 on the Summary of Long Range Street Plan be moved to Priority 5.

There being no one else present to comment, upon a motion by Councilmember Gonzales, seconded by Councilmember Hilker, 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.

ITEM B ADOPT RESOLUTION NO. 2011-02 PROVIDING FOR THE ADOPTION OF THE 2011 ONE AND SIX YEAR STREET IMPROVEMENT PLAN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Hilker, the Council adopted Resolution No. 2011-02 providing for the adoption of the 2011 One and Six Year Street Improvement Plan incorporating the changes made in Agenda Item 4A. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM C PUBLIC HEARING - PROPOSED FY 2010/2011 BUDGET CHANGE IN THE SPECIAL REVENUE FUND IN THE AMOUNT OF \$3,750,000 TO ALLOW FOR THE USE OF BOND FUNDS FOR MUNICIPAL FACILITIES CONSTRUCTION EXPENDITURES AND REVENUES.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed FY 2010/2011 budget change in the Special Revenue Fund in the amount of \$3,750,000 to allow for the use of bond funds for Municipal Facilities construction expenditures

and revenues 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; Exhibit #2 - proposed Ordinance No. 2011-2853; and Exhibit #3 - the Amended 2010-2011 State of Nebraska City Budget Form consisting of six pages.

City Manager Fritsch stated that the election approving the bond issue for construction of the new municipal facilities was held after the FY2010/2011 Budget was approved. It is now necessary to amend the budget to provide for the bond revenue and construction expenditures.

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

ITEM D INTRODUCE AND APPROVE ORDINANCE NO. 2011-2853, UNDER SUSPENSION OF THE RULE, PROVIDING FOR THE ADOPTION OF THE AMENDED BUDGET TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR FY 2010/2011.

Councilmember Kircher introduced Ordinance No. 2011-2853 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA TO ADOPT THE AMENDED FY 2010/2011 BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO REPEAL ORDINANCE NO. 2010-2839; TO REPEAL ALL ORDINANCE AND RESOLUTIONS IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.

The motion was made by Councilmember Kircher, seconded by Councilmember Calvin, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Calvin, Hilker. 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, Gonzales, Kircher, Calvin, Hilker. 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 Calvin. The Mayor then stated the question: "Shall Ordinance No. 2011-2853 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Calvin, Hilker. 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 Hilker, the Council voted to publish Ordinance No. 2011-2853, 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.

(5) CONSENT AGENDA:

Councilmember Kircher requested the Item B, Item E, Item F, and Item G be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE JANUARY 17, 2011 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the minutes of the January 17, 2011 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM C APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH LLC, LICENSE NO. IK-57785, FOR A CHAMBER MIXER TO BE HELD AT OLSON PHOTOGRAPHY, 1001 NORRIS AVENUE, ON MARCH 8, 2011 FROM NOON TO 1:00 A.M.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by MO Dough LLC, License No. IK-57785, for a Chamber Mixer to be held at Olson Photography, 1001 Norris Avenue, on March 8, 2011 from Noon to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM D APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH LLC, LICENSE NO. IK-57785, FOR A WEDDING RECEPTION TO BE HELD AT THE RED WILLOW COUNTY FAIRGROUNDS COMMUNITY BUILDING, 1408 WEST 5TH STREET, ON MAY 7, 2011 FROM NOON TO 1:00 A.M.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by MO Dough LLC, License No. IK-57785, for a wedding reception to be held at the Red Willow County Fairgrounds Community Building, 1408 West 5th Street, on May 7, 2011 from Noon to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM H ADOPT RESOLUTION NO. 2011-04 APPROVING THE CONTRACT AGREEMENT BETWEEN THE CITY OF MCCOOK AND W DESIGN ASSOCIATES FOR PRELIMINARY ENGINEERING SERVICES FOR STREET IMPROVEMENT PROJECT NO. URB-6154(1), CN: 71135, EAST "H" STREET FROM NORRIS AVENUE TO AIRPORT ROAD AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2011-04 approving the contract agreement between the City of McCook and W Design Associates for Preliminary Engineering Services for Street Improvement Project No. URB-6154(1), CN: 71135, East "H" Street from Norris Avenue to Airport Road and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

REGULAR AGENDA

ITEM 5B APPROVE RESOLUTION NO. 2011-03 AMENDING THE RATES FOR THE AMBULANCE SERVICE OPERATED BY THE CITY OF MCCOOK, NEBRASKA.

Councilmember Kircher introduced a motion to approve Resolution No. 2011-03 amending the rates for the ambulance service operated by the City of McCook, Nebraska. Councilmember Calvin seconded the motion.

Councilmember Kircher questioned what impact these proposed rate increases would have on the bottom line and wanted to see these numbers before approving any increases. He stated that just because it comes from other government funding is not a good enough reason for approval; people do not understand that federal money has to be paid back. He added that he would not approve it without looking at the numbers.

Councilmember Calvin stated that these increases are not costing taxpayers any extra money. We are just increasing rates to what Medicaid and Medicare will reimburse for.

Councilmember Kircher introduced a motion to postpone consideration of this item. Councilmember Hilker seconded the motion. After further discussion, Councilmember Hilker withdrew his second.

The Mayor then stated the question: "Shall Resolution No. 2011-03 be approved?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hilker. NAY: Kircher. Motion carried.

ITEM 5E APPROVE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT NO. 10-TD-006 WITH THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT FOR THE FOX THEATRE RECONSTRUCTION AND UPGRADING PROJECT AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve Community Development Block Grant Contract No. 10-TD-006 with the Nebraska Department of Economic Development for the Fox Theatre reconstruction and upgrading project and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM 5F APPROVE MILLER & ASSOCIATES AS THE GENERAL ADMINISTRATOR OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE FOX THEATRE RECONSTRUCTION AND UPGRADING PROJECT.

Councilmember Kircher introduced a motion to approve Miller & Associates as the General Administrator of the Community Development Block Grant for the Fox Theatre reconstruction and upgrading project. Councilmember Calvin seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend by adding "Candy Kuntz" of Miller & Associates. 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.

ITEM 5G APPROVE MILLER & ASSOCIATES AS THE ADMINISTRATOR FOR THE CITY'S ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM (EECBG) AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, CFDS #81.128.

Councilmember Kircher introduced a motion to approve Miller & Associates as the Administrator for the City's Energy Efficiency and Conservation Block Grant Program (EECBG) American Recovery and Reinvestment Act of 2009, CFDS #81.128. Councilmember Calvin seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend by adding "Candy Kuntz" of Miller & Associates. 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.

(6) AUTHORIZE AUCTION FOR OIL AND GAS LEASE PROPOSALS FOR CITY OWNED PROPERTY, INCLUDING THE MCCOOK BEN NELSON REGIONAL AIRPORT ENVIRONS AND THE CITY WASTE WATER TREATMENT PLANT ON FEBRUARY 21, 2011 AT 2 P.M.

Councilmember Gonzales introduced a motion to authorize an auction for oil and gas lease proposals for City owned property, including the McCook Ben Nelson Regional Airport environs and the City Waste Water Treatment Plant on February 21, 2011 at 2 P.M. Councilmember Hilker seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the presented Addendum to Oil and Gas Lease by adding provision 15 "City shall be notified of any environmental issue or significant spill within twenty-four (24) hours of such event becoming known to lessee." 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.

(7) APPROVE ORDINANCE NO. 2011-2851 AUTHORIZING THE SALE OF REPLATTED LOT 3A, BLOCK 3, REPLAT NO. 2 FIRST BISON ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA TO THE MCCOOK HOUSING CORPORATION, D/B/A MCCOOK HOUSING AGENCY UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve Ordinance No. 2011-2851 authorizing the sale of Replatted Lot 3A, Block 3, Replat No. 2 First Bison Addition to the City of McCook, Red Willow County, Nebraska to the McCook Housing Corporation, d/b/a McCook Housing Agency upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(8) REVIEW AND ACCEPTANCE OF THE SCHEMATIC DESIGN DRAWINGS FOR THE NEW CITY OF MCCOOK MUNICIPAL FACILITIES.

Steve Riley and Jim Classe of Prochaska & Associates reviewed the proposed floor plans and presented the schematic design drawings for the new City of McCook Municipal Facilities.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council vote to accept the Schematic Design Drawings for the new City of McCook Municipal Facilities. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(9) ADOPT RESOLUTION NO. 2011-05 AUTHORIZING THE ADMINISTRATION TO UNDERTAKE THE CONSTRUCTION MANAGEMENT AT RISK PROCESS FOR THE CONSTRUCTION OF THE NEW CITY OF MCCOOK MUNICIPAL FACILITY.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to adopt Resolution No. 2011-05 authorizing the Administration to undertake the Construction Management at Risk process for the construction of the new City of McCook Municipal Facility. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(10) APPROVE THE CONSTRUCTION MANAGEMENT AT RISK POLICY FOR THE CITY OF MCCOOK AND AUTHORIZE STAFF TO PROCEED WITH THE REQUEST FOR PROPOSAL FOR CONSTRUCTION MANAGER OF THE NEW CITY OF MCCOOK MUNICIPAL FACILITIES AS PROVIDED IN THE APPROVED POLICY.

Councilmember Gonzales introduced a motion to approve the Construction Management at Risk Policy for the City of McCook and authorize staff to proceed with the Request for Proposal for Construction Manager of the new City of McCook Municipal Facilities as provided in the approved policy. Councilmember Calvin seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Councilmember Hilker, the Council voted to amend the presented policy in the Evaluating Construction Manager Proposals paragraph by adding "other than any individual listed in Items 1-4 above" to the end of Item 5. 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 Construction Management at Risk Policy be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None. Motion carried.

(11) APPROVE ORDINANCE NO. 2011-2852 AMENDING SECTION 6, SUB-SECTION 5 AND SECTION 8 OF THE CITY OF MCCOOK ECONOMIC DEVELOPMENT PLAN CLARIFYING THE MEMBERSHIP REQUIREMENTS FOR THE LOAN COMMITTEE PER THE MCCOOK ECONOMIC DEVELOPMENT PLAN UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Gonzales, the Council voted to approve Ordinance No. 2011-2852 amending Section 6, Sub-Section 5 and Section 8 of the City of McCook Economic Development Plan clarifying the membership requirements for the Loan Committee per the McCook Economic Development Plan upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

- (12) APPROVE ORDINANCE NO. 2011-2850 PROVIDING FOR THE AMENDMENT OF ZONING ORDINANCE NO. 1580, BY AMENDING ARTICLE 7, AGRICULTURAL DISTRICT (AG), SECTION 704, SPECIAL EXCEPTIONS, TO ALLOW INDIVIDUAL DOMESTIC WIND TURBINES IN THE AGRICULTURE DISTRICT UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Gonzales, the Council voted to approve Ordinance No. 2011-2850 providing for the amendment of Zoning Ordinance No. 1580, by amending Article 7, Agricultural District (AG), Section 704, Special Exceptions, to allow individual domestic wind turbines in the Agriculture District upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

- (13) COUNCIL COMMENTS.

Councilmember Calvin noted that demolition of the West Ward building has been completed ahead of schedule.

Councilmember Gonzales stated that he appreciated all the work from staff and the architects that has went into the completion of the schematic of the new municipal facilities. The building is very pleasing and will serve the community well for many years.

- (14) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:35 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk