

MCCOOK CITY COUNCIL
February 21, 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 17, 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 - JON ALBRECHT - MCCOOK HARVEST CHURCH.

Jon Albrect, pastor of the McCook Harvest 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 McCook Contracting has started on the restoration of the Norris Park Band Shell. The project is scheduled to be completed by mid June.

Mr. Fritsch also noted that Prochaska and Associates has sent out the RFP for Construction Manager of the new Municipal Facilities. They are due March 18, 2011.

(4) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - PROPOSED REZONE OF LOTS ONE (1), TWO (2), AND THREE (3), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC) WITH THE CITY ATTORNEY TO ACT AS HEARING OFFICER.

Upon a motion by Councilmember Kircher, seconded by Councilmember Hilker, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed rezone of Lots One (1), Two (2), and Three (3), Fairacres Addition to the

City of McCook, Red Willow County, Nebraska from Residential Medium Density Mobile Home District (RM-M) to Business Commercial District (BC) 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 - the ownership listing of those receiving mailed notices; Exhibit #3 - proposed Ordinance No. 2011-2854; Exhibit #4 - the City Manager's Report prepared for the February 14, 2011 Planning Commission meeting; Exhibit # 5 - the Land Use Application, pages 1-5; Exhibit #6 - the minutes of the February 14, 2011 Planning Commission meeting.

City Manager Fritsch stated that the property in question is proposed by JL Construction and is owned by Theresa Leamon. The property is currently zoned Residential Medium Density Mobile Home, is vacant and is surrounded by similarly zoned vacant lots to the South and East and developing Business Commercial to the West. Because of the commercial nature of "Q" Street and the warehousing and commercial ventures developing in this block, it is deemed appropriate to rezone the property to the adjoining Business Commercial zone. It is unlikely that these properties could or would be developed as residential. Mr. Leamon is aware of the drainage issues in the area and has suggested that Lot 3 of the proposed rezoned area might be used for that purpose. No public response was received on the proposed rezone.

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 B INTRODUCE AND APPROVE UPON ITS FIRST READING ORDINANCE NO. 2011-2854 APPROVING THE REZONE OF LOTS ONE (1), TWO (2), AND THREE (3), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC).

Councilmember Gonzales introduced Ordinance No. 2011-2854 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING ORDINANCE NO. 1580 BY CHANGING THE ZONING CLASSIFICATION OF LOT ONE (1), TWO (2), AND THREE (3), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC); PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

The motion was made by Councilmember Gonzales, seconded by Councilmember Kircher, 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.

Ordinance No. 2011-2854 was read by title only. Motion was made by Councilmember Kircher, seconded by Councilmember Calvin, to approve Ordinance No. 2011-2854 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None. Motion carried. Whereupon the Mayor declared said Ordinance

No. 2011-2854 approved on its first reading.

ITEM C CONDUCT A PUBLIC HEARING ON THE APPLICATION OF MIGUEL ESPARZA AND GABRIELLA HERNANDEZ-LOPEZ; DBA "TEQUILAS MEXICAN GRILL", FOR A CLASS "I" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 205 NORRIS AVENUE, MCCOOK, NEBRASKA WITH THE CITY ATTORNEY TO ACT AS HEARING OFFICER.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the application of Miguel Esparza and Gabriella Hernandez-Lopez; dba "Tequilas Mexican Grill", for a Class "I" - (Beer, Wine & Distilled Spirits, On Sale Only) License under the Nebraska Liquor Control Commission, to be located at 205 Norris Avenue, McCook, Nebraska 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 - the email from Jackie Matulka of the Nebraska Liquor Control Commission dated February 9, 2011; and Exhibit #3 - application and all attached paperwork, 1 - 36 pages.

City Manager Fritsch noted that no opposition was received regarding the request. The request is for a new license to be located in the old McCook Pharmacy building in the 200 block of Norris Avenue. It is in the Central Business District and is an allowable use. Similar restaurants are located to the north and to the west. No schools or churches are located within four blocks of the proposed location. There is adequate downtown parking and a city parking lot is located behind the restaurant.

Councilmember Hilker inquired about reports that were to be attached regarding questions 13 and 14 of the Police Department Report.

There being no one else present to comment, upon a motion by Councilmember Hilker, seconded by Councilmember Calvin, 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 RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF MIGUEL ESPARZA AND GABRIELLA HERNANDEZ-LOPEZ; DBA "TEQUILAS MEXICAN GRILL", FOR A CLASS "I" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 205 NORRIS AVENUE, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of Miguel Esparza and Gabriella Hernandez-Lopez; dba "Tequilas Mexican Grill", for a Class "I" - (Beer, Wine & Distilled Spirits, On Sale Only) License under the Nebraska Liquor Control Commission, to be located at 205 Norris Avenue, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(5) CONSENT AGENDA:

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

ITEM A APPROVE THE MINUTES OF THE FEBRUARY 7, 2011 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the February 7, 2011 regular 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 MINUTES OF THE NOVEMBER 20, 2010 ECONOMIC DEVELOPMENT PLAN CITIZEN'S ADVISORY REVIEW COMMITTEE, THE JANUARY 4, 2011 SENIOR CENTER ADVISORY BOARD, THE FEBRUARY 14, 2011 PLANNING COMMISSION, AND THE NOVEMBER 15, 2010 AND THE JANUARY 12, 2011 LIBRARY ADVISORY BOARD MEETINGS.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the minutes of the November 20, 2010 Economic Development Plan Citizen's Advisory Review Committee, the January 4, 2011 Senior Center Advisory Board, the February 14, 2011 Planning Commission, and the November 15, 2010 and the January 12, 2011 Library Advisory Board meetings. 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 RECEPTION TO BE HELD AT THE KEYSTONE BUSINESS CENTER, 402 NORRIS AVENUE, ON APRIL 9, 2011 FROM 2 P.M. TO 1:00 A.M.

Upon a motion by Mayor Berry, 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 reception to be held at the Keystone Business Center, 402 Norris Avenue, on April 9, 2011 from 2 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM E APPROVE THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF MCCOOK, MID-PLAINS COMMUNITY COLLEGE AND THE NEBRASKA STATE HISTORIC PRESERVATION OFFICE FOR THE FORMER DAR MUSEUM AND TRUE HALL AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the Memorandum of Agreement between the City of McCook, Mid-Plains Community College and the Nebraska State Historic Preservation Office for the former DAR Museum and True Hall 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 5C APPROVE MILLER AND ASSOCIATES AS THE ENGINEERING FIRM FOR THE ENERGY EFFICIENCY COMMUNITY BLOCK GRANT ON BEHALF OF

THE CITY OF MCCOOK.

Upon a motion by Councilmember Kircher, seconded by Councilmember Gonzales, the Council voted to approve Miller and Associates as the engineering firm for the Energy Efficiency Community Block Grant on behalf of the City of McCook. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(6) DISCUSSION WITH COUNTY COMMISSIONERS REGARDING USE OF EXISTING CITY JAIL.

Red Willow County Commissioners Earl McNutt, Steve Downer, and Vesta Dack addressed the Council regarding the County's possible use of the existing city 96-hour jail. Commissioner McNutt stated that when the City moves into their new facility, the City will no longer provide a jail, adding that providing a jail is the responsibility of the County. They are in the process of reevaluating and bringing their previous jail study up-to-date. They recently met with Nebraska Jail Standards personnel who informed them that use of the City's jail facility would be an option for them and asked what the City intends to do with the facility.

Mayor Berry stated that he is not opposed to the County taking over the facility with little or no cost; adding that all along it has been the City's intent to cooperate with the County.

It was the consensus of the Council to work with the County in regards to using the City's jail facility as an option for their jail solution.

Councilmember Calvin asked how the transition would work going from the City to the County. He wanted to insure that it was done properly so as not to jeopardize the County's future use of the facility.

Members of the City Staff and of the County Staff believed that the transition could take place from one day to the next and that jail standards had indicated no opposition to the plan. Members of the Sheriff's Department and the Police Department stated that they have a good working relationship and were confident they could make it happen for taxpayers of the City and the County.

(7) CONSIDER AUCTION BID FOR OIL AND GAS LEASE ON CITY OWNED PROPERTY, INCLUDING THE MCCOOK BEN NELSON REGIONAL AIRPORT ENVIRONS AND THE CITY WASTE WATER TREATMENT PLANT.

City Attorney Schneider stated that the City received one bid from Credo Petroleum Corporation of Denver, Colorado at today's auction with the following terms:

- 1) 5 year lease
- 2) \$6.00 per acre - bonus payment - 12 month period of time to determine whether to continue work.
- 3) \$1.00 per acre - annual delay rental.
- 4) Standard 12½% royalty provision.
- 5) The City of McCook and Credo Petroleum Corporation agree to negotiate the addendum within a reasonable time period.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the bid terms from today's auction from Credo Company for oil and gas lease on City owned property, including the McCook Ben Nelson Regional Airport environs and the City Waste Water Treatment Plant. The motion passed upon the following roll call vote: YEA: Berry, Gonzales,

Kircher, Calvin, Hilker. NAY: None.

- (8) 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 THIRD AND FINAL READING.

Ordinance No. 2011-2851 now came up for third and final reading. Ordinance No. 2011-2851 was read by title only and thereafter Councilmember Calvin moved for final passage of the Ordinance, which motion was seconded by Councilmember Gonzales. The Mayor then stated the question: "Shall Ordinance No. 2011-2851 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 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 Calvin, seconded by Councilmember Kircher, the Council voted to publish Ordinance No. 2011-2851 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.

- (9) 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 THIRD AND FINAL READING.

Ordinance No. 2011-2852 now came up for third and final reading. Ordinance No. 2011-2852 was read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which motion was seconded by Councilmember Calvin. The Mayor then stated the question: "Shall Ordinance No. 2011-2852 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 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 Calvin, the Council voted to publish Ordinance No. 2011-2852 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.

- (10) 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 THIRD AND FINAL READING.

Ordinance No. 2011-2850 now came up for third and final reading. Ordinance No. 2011-2850 was read by title only and thereafter Councilmember Calvin moved for final passage of the Ordinance, which motion was seconded by Councilmember Gonzales. The Mayor then stated the question: "Shall Ordinance No. 2011-2850 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 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 Calvin, seconded by Mayor Berry, the Council voted to publish Ordinance No. 2011-2850 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) COUNCIL COMMENTS.

Councilmember Kircher inquired about a proclamation designating January 25 in memory of Kailee Clapp. He also suggested preparing a contingency plan for the airport for when we no longer receive Essential Air Service (EAS) funds.

City Manager Fritsch noted that while the loss of EAS funds is a key loss to the City in regards to connectivity and economic development, it is not a large financial loss to the City. The funds are not used in the daily operation of the airport. We will still have our local Fixed Base Operator and we will continue to run as normal, only without commercial service.

(12) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:15 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk