

MCCOOK CITY COUNCIL
June 6, 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 June 2, 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 - MARY HENDRICKS, ST. ALBAN'S EPISCOPAL CHURCH.

Clark Bates, pastor of the McCook Christian 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) PUBLIC HEARING:

ITEM A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROJECT FOR WHICH FINANCIAL ASSISTANCE IS BEING SOUGHT FROM THE FEDERAL TRANSIT ADMINISTRATION, PURSUANT TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, BY THE CITY OF MCCOOK PUBLIC TRANSIT, FOR THE PURCHASE OF A 2011 DODGE CARAVAN, LOWERED FLOOR MINI-VAN, TO ACCOMMODATE THE DRIVER, ONE WHEEL CHAIR, AND TWO AMBULATORY INDIVIDUALS.

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 for the purpose of considering a project for which financial assistance is being sought from the Federal Transit Administration, pursuant to the American Recovery and Reinvestment Act of 2009, by the City of McCook Public Transit, for the purchase of a 2011 Dodge Caravan, lowered

floor mini-van, to accommodate the driver, one wheel chair, and two ambulatory individuals 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 May 27 and June 3, 2011.

Marlan Dooley, owner of High Plains Cab and Golden Plains Services, spoke in opposition of the project. He gave a review of his business over the past twelve years citing various federal program changes that have had an impact on his business. He has cabs, vans, and vans with lifts available twenty four hours per day and serves most of Nebraska and some of Kansas. Mr. Dooley stated he did not think he would see the day that private carriers would be in competition with our tax dollars and that he did not feel that the City's purchase of a van was necessary or needed when appropriate privately-owned vehicles were available to provide this service. He also knew of programs where the City purchased vehicles and leased them to a private individual for use in there companies.

Senior Services Director Sue Chipman stated that the purchase will use the American Recovery and Reinvestment Act of 2009 funds (ARRA), at no cost to the City, and will replace the current bus which has approximately 133,000 miles. The van will be more economical and easier to load those in wheel chairs. The existing bus will be retained for transporting larger groups of six to eight. Currently we average two passengers per ride, which the smaller van would be better suited for. Ms. Chipman stated that with the federal program requirements, leasing of the van to a private entity was not an option. The City of McCook Public Transit provides service only within the City limits and operates daily 8:00 A.M. to 4:30 P.M., with no evenings or weekends.

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

(5) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE MAY 16, 2011 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve the minutes of the May 16, 2011 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM B AWARD THE BID FOR THE 2011 ARMOR COATING PROJECT TO FIGGINS CONSTRUCTION OF RED CLOUD, NEBRASKA, IN THE AMOUNT OF \$3.61 PER GALLON, THAT BEING THE LOWEST RESPONSIBLE BID.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to award the bid for the 2011 Armor Coating Project to Figgins Construction of Red Cloud, Nebraska, in the amount of \$3.61 per gallon, that being the lowest responsible bid. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM C APPROVE THE PLANS AND SPECIFICATIONS FOR THE 2011 STREET IMPROVEMENTS AND SET THE TIME AND DATE TO RECEIVE THE BIDS AS 2:30 P.M. ON JUNE 28, 2011.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve the plans and specifications for the 2011 Street Improvements and set the time and date to receive the bids as 2:30 P.M. on June 28, 2011. 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 FOR MANAGER SUBMITTED FOR CHRISTOPHER HENNING IN CONNECTION WITH WAL-MART STORES, INC., DBA "WAL-MART SUPERCENTER #790, LOCATED AT 1902 WEST "B" STREET, WHICH HOLDS LICENSE #D-31542.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to recommend approval to the Nebraska Liquor Control Commission the Application for Manager submitted for Christopher Henning in connection with Wal-Mart Stores, Inc., dba "Wal-Mart Supercenter #790, located at 1902 West "B" Street, which holds License #D-31542. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM E RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION FOR ADDITION TO PREMISE SUBMITTED BY A & N RESTAURANT, LLC, DBA "COPPERMILL RESTAURANT & LOUNGE", LICENSE # I-88659, LOCATED AT NORTH HIGHWAY 83 AND COPPERMILL STREET.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to recommend approval to the Nebraska Liquor Control Commission the Application for Addition to Premise submitted by A & N Restaurant, LLC, dba "Coppermill Restaurant & Lounge", License # I-88659, located at North Highway 83 and Coppermill Street. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM F APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE CONTRACT WITH THE WEST CENTRAL NEBRASKA AREA AGENCY ON AGING (WCNAAA) FOR THE PURPOSE OF DEFINING AND SPECIFYING THE SEPARATE AND MUTUAL RESPONSIBILITIES OF EACH IN THE MANAGEMENT, OPERATION, SUPPORT, MONITORING, AND EVALUATION OF THE MCCOOK HERITAGE SENIOR CENTER.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve and authorize the Mayor to sign the contract with the West Central Nebraska Area Agency on Aging (WCNAAA) for the purpose of defining and specifying the separate and mutual responsibilities of each in the management, operation, support, monitoring, and evaluation of the McCook Heritage Senior Center. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM G APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH LLC, DBA "SEHNERT'S BAKERY AND BIEROC CAFÉ", LICENSE IK 57785, FOR A 20TH CLASS REUNION TO BE HELD AT THE KEYSTONE BUSINESS CENTER, 402 NORRIS AVENUE, ON JULY 30, 2011 FROM 2:00 P.M. TO 1:00 A.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve the application for a Special Designated Liquor License submitted by Mo Dough LLC,

dba "Sehnert's Bakery and Bieroc Café", License IK 57785, for a 20th Class Reunion to be held at the Keystone Business Center, 402 Norris Avenue, on July 30, 2011 from 2:00 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 H APPROVE DRAWINGS AND SPECIFICATIONS FOR WEST 10TH STREET DRAINAGE IMPROVEMENTS AND SET DATE TO RECEIVE BIDS FOR JUNE 28, 2011, AT 1:30 P.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve drawings and specifications for West 10th Street Drainage Improvements and set date to receive bids for June 28, 2011, at 1:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM I APPROVE THE CLOSURE OF EAST "M" STREET BETWEEN EAST 3RD STREET AND EAST 5TH STREET ON JUNE 11, 2011 FROM 6:00 A.M. TO 1:30 P.M. FOR THE COMMUNITY HOSPITAL 5K HALF MARATHON AND KIDS FUN RUN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve the closure of East "M" Street between East 3rd Street and East 5th Street on June 11, 2011 from 6:00 A.M. to 1:30 P.M. for the Community Hospital 5K Half Marathon and Kids Fun Run. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM J APPROVE DRAWINGS AND SPECIFICATIONS FOR WATER SYSTEM IMPROVEMENTS ON "C" STREET BETWEEN EAST 13TH STREET AND AIRPORT ROAD AND SET DATE TO RECEIVE BIDS FOR JUNE 28, 2011 AT 2:00 P.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to approve drawings and specifications for Water System Improvements on "C" Street between East 13th Street and Airport Road and set date to receive bids for June 28, 2011 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM K RECEIVE AND FILE THE MINUTES OF THE SENIOR CENTER ADVISORY BOARD DATED MAY 3, 2011.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hilker, the Council voted to receive and file the minutes of the Senior Center Advisory Board dated May 3, 2011. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

REGULAR AGENDA

(6) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2011-2858 AMENDING THE MUNICIPAL CODE OF THE CITY OF MCCOOK, NEBRASKA; DELETING SECTION 32.08 - INTRODUCTION OF RESOLUTIONS AND MOTIONS; AMENDING SECTION 72.36 - CONTRACTOR AND REPAIRPERSON

PERMITS, SUBSECTION (C); AND AMENDING SECTION 72.37 - TRUCKS AND OTHER SPECIFIED VEHICLES, SUBSECTION (F)(4).

Councilmember Kircher introduced Ordinance No. 2011-2858 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING THE MUNICIPAL CODE OF THE CITY OF MCCOOK, NEBRASKA; DELETING SECTION 32.08 - INTRODUCTION OF RESOLUTIONS AND MOTIONS; AMENDING SECTION 72.36 - CONTRACTOR AND REPAIRPERSON PERMITS, SUBSECTION (C); AND AMENDING SECTION 72.37 - TRUCKS AND OTHER SPECIFIED VEHICLES, SUBSECTION (F)(4); TO 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 Mayor Berry, 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 Calvin that the statutory rule requiring reading on three different days be suspended. Councilmember Gonzales seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hilker. NAY: Kircher. 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 Hilker moved for final passage of the Ordinance, which was seconded by Councilmember Calvin.

Upon a motion by Councilmember Kircher, seconded by Councilmember Hilker, the Council voted to amend Section 2 of the presented ordinance by adding "for a period of three weeks" to the end of Section 72.36 (A) and that Section 72.36 (C) be deleted in its entirety, of the Municipal Code of the City of McCook. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Calvin, Hilker. NAY: Gonzales.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend Section 3 of the presented ordinance by deleting Section 72.37 (F)(4) of the Municipal Code of the City of McCook in its entirety. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Calvin, Hilker. NAY: Gonzales.

The Mayor then stated the question: "Shall Ordinance No. 2011-2858 be passed and adopted as amended?" 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 Calvin, the Council voted to publish Ordinance No. 2011-2858, 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.

(7) MUNICIPAL FACILITIES UPDATE.

City Manager Fritsch informed the Council that the Staff continues to work with Prochaska & Associates and Sampson Construction regarding project cost as we continue to explore options, such as storage space in the basement, to stay within budget. It is a project that has always been budget driven.

(8) ACCEPT RESIGNATION OF CITY MANAGER KURT FRITSCH EFFECTIVE JUNE 10, 2011.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to accept the resignation of City Manager Kurt Fritsch effective June 10, 2011. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

The Council accepted the resignation with gratitude of his five years of excellent service to the City.

Mayor Berry stated that Mr. Fritsch was one of the best City Managers McCook has had in a long while.

Councilmember Kircher added that he believed Mr. Fritsch would be remembered as one of McCook's better City Managers.

(9) CONSIDER RECRUITMENT OF A NEW CITY MANAGER AND GIVE STAFF DIRECTION.

The Council set a Special Meeting for June 13, 2011 at 7:30 P.M. for further consideration of the recruitment process and directed City Staff to prepare a draft advertisement, provide information regarding ICMA advertising costs, cutoff dates for publishing for both ICMA and the Nebraska League of Municipalities Newsletter, and comparable Nebraska salary ranges.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council appointed Public Works Director Kyle Potthoff and City Clerk Lea Ann Doak as co-interim City Managers during the absence of a City Manager. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(10) COUNCIL COMMENTS.

Councilmember Hilker stated that City Manager Fritsch will be missed and all of the Council thanked him for his service to the City and wished him well in his new position.

Mr. Fritsch thanked the Council and Staff for all that they have done for him during his tenure with the City.

(11) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:40 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer