

MCCOOK CITY COUNCIL
May 16, 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 May 12, 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, MCCOOK 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 stated that he had contact with representatives of Senator Nelson's office regarding the proposed wildlife fence at the airport. The FAA and Nebraska Department of Aeronautics are working to reevaluate the required specifics. The proposed height and construction materials may not be needed.

- (4) APPROVE THE PROCLAMATION DESIGNATING MAY 15 - 21, 2011 AS "EMERGENCY MEDICAL SERVICES WEEK" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve the proclamation designating May 15 - 21, 2011 as "Emergency Medical Services Week" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

- (5) PUBLIC HEARINGS:

ITEM A INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE

ORDINANCE NO. 2011-2857 PROVIDING FOR AMENDMENT 2 OF ORDINANCE NO. 2006-2783 WHICH AUTHORIZED THE SALE OF CERTAIN REAL ESTATE OWNED BY THE CITY OF MCCOOK AND LOCATED IN THE KELLEY PARK TO MID-PLAINS COMMUNITY COLLEGE AREA AND AUTHORIZING THE MAYOR TO EXECUTE THE ADDENDUM TO THE PURCHASE AGREEMENT SIGNED OCTOBER 16, 2006.

Councilmember Kircher introduced Ordinance No. 2011-2857 entitled:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CITY OF MCCOOK ORDINANCE NO. 2006-2783 WHICH AUTHORIZED THE SALE OF CERTAIN REAL ESTATE OWNED BY THE CITY OF MCCOOK AND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6TH P.M., RED WILLOW COUNTY, NEBRASKA TO MID-PLAINS COMMUNITY COLLEGE AREA; AUTHORIZING THE MAYOR TO EXECUTE THE ADDENDUM TO PURCHASE AGREEMENT SIGNED ON THE 16TH DAY OF OCTOBER, 2006; REPEALING CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

The motion was made by Councilmember Kircher, seconded by Councilmember Hilker, 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. 2011-2857 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 Mayor Berry, the Council voted to publish Ordinance No. 2011-2857, 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.

ITEM B PUBLIC HEARING - FINAL PLAT OF MCC ADDITION, A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 20, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6TH P.M. IN CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Hilker, 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 proposed Final Plat of MCC Addition, a tract of land located in the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of Section 20, Township 3 North, Range 29 West of the 6th P.M. in City of McCook, Red Willow County, 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 and Exhibit #2 - proposed plate of MCC Addition.

City Manager Fritsch informed the Council that the Planning Commission had met earlier in the evening and unanimously recommended approval of the plat. This is a final step in the process of transferring the parcel to the college. The Purchase Agreement with the College required that the parcel be platted in accordance with the City's subdivision regulations prior to closing. City Staff recommends approval of the plat.

Dr. Richard Tubbs, McCook Community College Vice President, and Dr. Michael Chipps, President of Mid-Plains Community College, addressed the Council regarding the proposed plat. They noted this is a final step prior to closing and thanked City Staff for all that they have done in helping them get to this point. They have a very aggressive construction time line proposed with construction to begin immediately.

There being no one else present to comment, upon a motion by Councilmember Gonzales, 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 C ADOPT RESOLUTION NO. 2011-08 APPROVING THE FINAL PLAT OF MCC ADDITION, A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 20, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6TH P.M. IN CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2011-08 approving the Final Plat of MCC Addition, a tract of land located in the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of Section 20, Township 3 North, Range 29 West of the 6th P.M. in City of McCook, Red Willow County, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(6) CONSENT AGENDA:

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

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

ITEM A APPROVE THE MINUTES OF THE MAY 2, 2011 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the May 2, 2011 regular City Council meeting. The motion passed upon the

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

ITEM B APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE FIRST AMENDMENT TO TELECOMMUNICATIONS SITE LEASE AGREEMENT BETWEEN THE CITY OF MCCOOK AND ALLTEL COMMUNICATIONS OF NEBRASKA, INC., D/B/A VERIZON WIRELESS, FOR THE PLACEMENT OF ADDITIONAL COMMUNICATION EQUIPMENT ON THE WEST WATER TOWER.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve and authorize the Mayor to sign the First Amendment to Telecommunications Site Lease Agreement between the City of McCook and Alltel Communications of Nebraska, Inc., d/b/a Verizon Wireless, for the placement of additional communication equipment on the West Water Tower. 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 #IK-57785, FOR A RECEPTION TO BE HELD AT THE MCCOOK MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON AUGUST 27, 2011 FROM 10:00 A.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 #IK-57785, for a reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on August 27, 2011 from 10:00 A.M. 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 17 RANCH WINERY, LTD - LICENSE #YK-73170 FOR A MCCOOK ART GUILD FUND RAISER, TO BE HELD AT 209 NORRIS AVENUE, ON JUNE 4, 2011 FROM 1:00 P.M. TO 8:00 P.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 17 Ranch Winery, LTD - License #YK-73170 for a McCook Art Guild Fund Raiser, to be held at 209 Norris Avenue, on June 4, 2011 from 1:00 P.M. to 8:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM F RECEIVE AND FILE THE NOTICE OF INTENT TO CLOSE PURCHASE AGREEMENT RECEIVED BY MID-PLAINS COMMUNITY COLLEGE.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the Notice of Intent to Close Purchase Agreement received by Mid-Plains Community College. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM G RECEIVE AND FILE THE NOTICE OF CLAIM AND DEMAND FROM DALE E. ADAMS AND INSTRUCT THAT IT BE SUBMITTED TO THE CITY'S INSURANCE CARRIER FOR REVIEW AND APPROPRIATE ACTION.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the Notice of Claim and Demand from Dale E. Adams and instruct that it be submitted to

the City's insurance carrier for review and appropriate action. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

REGULAR AGENDA

ITEM 6E APPROVE THE APPLICATION FOR FEDERAL ASSISTANCE (STANDARD FORM 424) FOR AIRPORT IMPROVEMENT PROJECT NO. 3-31-0052-13-2011 FOR THE CONSTRUCTION OF WILDLIFE FENCING AT THE MCCOOK BEN NELSON REGIONAL AIRPORT AND AUTHORIZE THE MAYOR TO SIGN SAID APPLICATION AND ALL REQUIRED DOCUMENTATION.

Councilmember Kircher introduced a motion to approve the Application for Federal Assistance (Standard Form 424) for Airport Improvement Project No. 3-31-0052-13-2011 for the construction of wildlife fencing at the McCook Ben Nelson Regional Airport and authorize the Mayor to sign said application and all required documentation. Councilmember Gonzales seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the proposed application by inserting "it supports FAA Part 139 for commuter aviation" to Section 2 of Part IV, Program Narrative. 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 6H APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) CONTRACT FOR CONGREGATE MEALS, HOME DELIVERED MEALS, AND TRANSPORTATION SERVICES FOR PERSONS UNDER 60 YEARS OF AGE AND OVER 60 YEARS OF AGE AND THE CONTRACT WITH AMR (AMERICAN MEDICAL RESPONSE) FOR TRANSPORTATION OF DHHS CLIENTS.

Upon a motion by Councilmember Hilker, seconded by Councilmember Kircher, the Council voted to approve and authorize the Mayor to sign the Nebraska Department of Health and Human Services (DHHS) contract for congregate meals, home delivered meals, and transportation services for persons under 60 years of age and over 60 years of age and the contract with AMR (American Medical Response) for transportation of DHHS clients. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(7) APPROVE ORDINANCE NO. 2011-2855 PROVIDING FOR THE REVISION OF THE CODE OF ORDINANCES OF THE CITY OF MCCOOK, NEBRASKA, TO REPEAL PRIOR ORDINANCES, TO REQUIRE FILING, AND TO PROVIDE FOR AN EFFECTIVE DATE UPON ITS THIRD AND FINAL READING.

Ordinance No. 2011-2855 now came up for third and final reading. Ordinance No. 2011-2855 was read by title only and thereafter Councilmember Calvin moved for final passage of the Ordinance, which motion was seconded by Councilmember Gonzales.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted that

Appendix G: Parking Fees and Fines Section (A) and Section (B) be returned as stated in the previous Municipal Code Book. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted that section 32.08 - Introduction of Resolutions and Motions, be retained. 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. 2011-2855 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 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 Mayor Berry, the Council voted to publish Ordinance No. 2011-2855 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.

(8) APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2011-2856 AUTHORIZING THE SALE AND CONVEYANCE OF REAL ESTATE OWNED BY THE CITY OF MCCOOK IN REPLATTED LOT NINE (9), ORIGINAL TOWN ADDITION TO AUGUST M. JONES.

Councilmember Gonzales introduced Ordinance No. 2011-2856 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA, AUTHORIZING AND DIRECTING THE SALE AND CONVEYANCE OF REAL ESTATE HEREINAFTER DESCRIBED TO AUGUST M. JONES; TO PROVIDE FOR PUBLICATION OF NOTICE OF SALE AND CONVEYANCE AND THE TERMS THEREOF; TO PROVIDE FOR THE RIGHT TO FILE A REMONSTRANCE AGAINST THE CONVEYANCE; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL AND EFFECTIVE DATE OF THIS ORDINANCE.

The motion was made by Councilmember Gonzales, seconded by Mayor Berry, 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 Gonzales that the statutory rule requiring reading on three different days be suspended. Mayor Berry 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 Gonzales moved for final passage of the Ordinance, which was seconded by Councilmember Calvin.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the closing date in Section 20 of the Purchased Agreement to "June 30, 2011". The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend Section 12 of the Purchase Agreement by checking "Buyer Waives all Inspections". 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. 2011-2856 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 Mayor Berry, seconded by Councilmember Calvin, the Council voted to publish Ordinance No. 2011-2856, 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) MUNICIPAL FACILITIES UPDATE.

City Manager Fritsch stated that City Staff will be meeting with representatives from Prochaska and Associates and Sampson Construction Wednesday and Thursday of this week for further review of the proposed plans.

(10) COUNCIL COMMENTS.

There were no Council Comments.

(11) 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-Treasurer