

MCCOOK CITY COUNCIL
November 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 Hancock; City Clerk-Treasurer Doak.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on November 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 - BRIAN BOWMAN, FIRST NAZARENE CHURCH.

Brian Bowman, pastor of the First Nazarene 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 Hancock informed the Council that his uncle had passed away and that he would be absent from the City November 10 through November 13, 2011. Police Chief Brown would be in charge during his absence.

(4) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A WHOLESALE OPERATION IN AN AGRICULTURAL (AG) DISTRICT LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; PROJECT SPONSOR/ DEVELOPER/ LAND OWNER - EUGENE KOCH.

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 request for a special exception to allow a wholesale operation in an Agricultural (AG) District located within the two mile extra-territorial jurisdiction of the City of McCook; Project Sponsor/ Developer/ Land Owner - Eugene Koch 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 notice of public hearing; Exhibit #3 - the Land Use Application and all attachments, 1 - 14 pages; and Exhibit #4 - the minutes of the Planning Commission dated October 24, 2011.

Mr. Koch was present to address questions from the Council. The proposed building will be used for a storage of the seed that he sells. He has closed on this parcel, Lot 4.

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

ITEM B APPROVE THE REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A WHOLESALE OPERATION IN AN AGRICULTURAL (AG) DISTRICT LOCATED IN THE N½ SE¼ OF SECTION 24, TOWNSHIP 3 NORTH, RANGE 30 WEST, OF THE 6TH P.M., RED WILLOW COUNTY, NEBRASKA; WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; PROJECT SPONSOR/DEVELOPER/LAND OWNER - EUGENE KOCH. THAT THE GRANTING OF THE SPECIAL EXCEPTION WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST; AND THAT SATISFACTORY PROVISIONS AND ARRANGEMENTS HAVE BEEN MADE BY THE APPLICANT CONCERNING SPECIAL EXCEPTION CONSIDERATIONS A - H.

Councilmember Kircher introduced a motion to approve the Special Exception request from Eugene Koch to allow a wholesale operation in an Agricultural (AG) District located in the N½ SE¼ of Section 24, Township 3 North, Range 30 West, of the 6th P.M., Red Willow County, Nebraska; within the two mile extra-territorial jurisdiction of the City of McCook; that the Council is empowered to grant this special exception; that the granting of the special exception will not adversely affect the public interest; and that satisfactory provisions and arrangements have been made by the applicant concerning the following issues:

- a) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- b) off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district;
- c) refuse and service areas, with particular reference to the items in (a) and (b) above;
- d) utilities, with reference to locations, availability and compatibility;
- e) screening and buffering with reference to type, dimensions and character;
- f) signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

- g) required yards and other open space;
- h) general compatibility with adjacent properties and other property in the district.

The motion was seconded by Councilmember Hilker and passed by the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(5) CONSENT AGENDA:

Councilmember Kircher requested that Item B, Item N, and Item O be removed from the Consent Agenda and placed on the Regular Agenda.

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

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the October 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 RECEIVE AND FILE THE MINUTES OF THE MAY 11, 2011 LIBRARY BOARD MEETING, THE JUNE 14, 2011 PARKS ADVISORY BOARD MEETING, THE OCTOBER 4, 2011 SENIOR CENTER ADVISORY BOARD MEETING, AND THE OCTOBER 24, 2011 PLANNING COMMISSION MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the minutes of the May 11, 2011 Library Board meeting, the June 14, 2011 Parks Advisory Board meeting, the October 4, 2011 Senior Center Advisory Board meeting, and the October 24, 2011 Planning Commission meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM D RATIFY THE MAYOR'S APPOINTMENTS TO THE:

- AIRPORT ADVISORY COMMISSION - REAPPOINT DOUG VAP, KEN ALLEN, AND GRIFF MALLECK (FBO) - TERMS EXPIRE NOVEMBER 2014.
- BOARD OF HEALTH - APPOINT JEFF HANCOCK, IKE BROWN, DR. RICHARD KLUG, MARY EKLUND, DENNIS BERRY - TERMS EXPIRE JUNE 2012.
- BOARD OF ZONING ADJUSTMENT - REAPPOINT FRED SHEPHERD, JERRY REITZ, AND MARLENE FOSTER - TERMS EXPIRE JANUARY 2014 AND APPOINT GREG LARSON TO REPLACE DUANE TAPPE - TERM EXPIRES JANUARY 2014.
- BUILDING ADVISORY AND APPEALS BOARD - REAPPOINT JERDA GAREY (PLANNING COMMISSION REPRESENTATIVE) AND BILL LOOP (ELECTRICIAN) - TERMS EXPIRE SEPTEMBER 2014.
- CITY/COUNTY AIRPORT ZONING BOARD - REAPPOINT STEVE KEENE AND BRUCE MCDOWELL - TERMS EXPIRE SEPTEMBER 2014.
- COMMUNITY REDEVELOPMENT AUTHORITY ADVISORY BOARD - REAPPOINT MARLENE GARCIA, SHANE FAGOT, AND PETER M. GRAFF - TERMS EXPIRE NOVEMBER 2014.
- ECONOMIC DEVELOPMENT PLAN CITIZEN'S ADVISORY REVIEW COMMITTEE - REAPPOINT LINDA TAYLOR - TERM EXPIRES JULY 2014.

- HOUSING AGENCY BOARD - REAPPOINT SHANE FAGOT - TERM EXPIRES NOVEMBER 2016.
- LIBRARY BOARD - REAPPOINT KAY NEUHAUS AND STEVE BATTY - TERMS EXPIRE JUNE 2014.
- PARKS ADVISORY BOARD - REAPPOINT MARK FIREHE AND TOM LENTZ - TERMS EXPIRE MAY 2014.
- PLANNING COMMISSION - REAPPOINT DONALD O. HARPST AND KURT VOSBURG - TERMS EXPIRE SEPTEMBER 2014 AND APPOINT LONNIE ANDERSON TO REPLACE DIXIE LORENTZ - TERM EXPIRES SEPTEMBER 2014.
- SENIOR CITIZENS ADVISORY BOARD - REAPPOINT DEE MESSINGER, JOAN DIKE, AND JIM HAMILL - TERMS EXPIRE SEPTEMBER 2013 AND APPOINT SHARON PARDE TO REPLACE TRUDY NELSON - TERM EXPIRES SEPTEMBER 2013.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to ratify the Mayor's appointments to the Airport Advisory Commission - reappoint Doug Vap, Ken Allen, and Griff Malleck (FBO) - terms expire November 2014; the Board of Health - appoint Jeff Hancock, Ike Brown, Dr. Richard Klug, Mary Eklund, Dennis Berry - terms expire June 2012; Board of Zoning Adjustment - reappoint Fred Shepherd, Jerry Reitz, and Marlene Foster - terms expire January 2014 and appoint Greg Larson to replace Duane Tappe - term expires January 2014; the Building Advisory and Appeals Board - reappoint Jerda Garey (Planning Commission Representative) and Bill Loop (Electrician) - terms expire September 2014; the City/County Airport Zoning Board - reappoint Steve Keene and Bruce McDowell - terms expire September 2014; the Community Redevelopment Authority Advisory Board - reappoint Marlene Garcia, Shane Fagot, and Peter M. Graff - terms expire November 2014; the Economic Development Plan Citizen's Advisory Review Committee - reappoint Linda Taylor - term expires July 2014; the Housing Agency Board - reappoint Shane Fagot - term expires November 2016; the Library Board - reappoint Kay Neuhaus and Steve Batty - terms expire June 2014; the Parks Advisory Board - reappoint Mark Firehe and Tom Lentz - terms expire May 2014; the Planning Commission - reappoint Donald O. Harpst and Kurt Vosburg - terms expire September 2014 and appoint Lonnie Anderson to replace Dixie Lorentz - term expires September 2014; and the Senior Citizens Advisory Board - reappoint Dee Messinger, Joan Dike, and Jim Hamill - terms expire September 2013 and appoint Sharon Parde to replace Trudy Nelson - term expires September 2013. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM E APPROVE THE REQUEST FOR PROPOSAL FOR DATA AND CABLING FOR THE NEW MUNICIPAL FACILITY LOCATED AT 505 WEST "C" STREET AND SET THE DATE TO RECEIVE PROPOSALS AS NOVEMBER 28, 2011 AT 2:30 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the Request for Proposal for Data and Cabling for the new Municipal Facility located at 505 West "C" Street and set the date to receive proposals as November 28, 2011 at 2:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM F APPROVE THE BID SPECIFICATIONS FOR ONE (1) NEW POLICE PACKAGE OR SPECIAL SERVICES VEHICLE FOR USE BY THE MCCOOK POLICE DEPARTMENT AND SET THE DATE TO RECEIVE BIDS AS NOVEMBER 28, 2011 AT 2:00 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the bid specifications for One (1) New Police Package or Special Services Vehicle for use by the McCook Police Department and set the date to receive bids as November 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 G APPOINT JEFF HANCOCK AS BOARD MEMBER TO REPRESENT THE CITY ON THE REWARD BOARD OF DIRECTORS.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to appoint Jeff Hancock as Board Member to represent the City on the REWARD Board of Directors. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM H ADOPT RESOLUTION NO. 2011-21 DESIGNATING THE REPRESENTATIVES OF THE CITY OF MCCOOK TO THE PUBLIC ALLIANCE FOR COMMUNITY ENERGY (ACE) BOARD OF DIRECTORS.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2011-21 designating the representatives of the City of McCook to the Public Alliance for Community Energy (ACE) Board of Directors. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM I APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET INC., LICENSE # ID-84561, FOR A RECEPTION AT THE RED WILLOW COUNTY FAIRGROUNDS COMMUNITY BUILDING, 1412 WEST 5TH STREET, ON DECEMBER 10, 2011, FROM 5:00 P.M. TO 11:59 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 Schmick's Market Inc., License # ID-84561, for a reception at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on December 10, 2011, from 5:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM J APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE THE DECEMBER MIXER TO BE HELD AT WELLS FARGO BANK, 108 WEST "D" STREET, ON DECEMBER 7, 2011, FROM 5:30 P.M. TO 7:00 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 the McCook Area Chamber of Commerce the December Mixer to be held at Wells Fargo Bank, 108 West "D" Street, on December 7, 2011, from 5:30 P.M. to 7:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM K APPROVE THE MCCOOK AREA CHAMBER OF COMMERCE REQUEST TO CONDUCT THE ANNUAL CHRISTMAS LIGHT PARADE AT 6:00 P.M. ON DECEMBER 3, 2011, THE FLYING IN OF SANTA CLAUS AT MCCOOK BEN NELSON REGIONAL AIRPORT AT 10:00 A.M., AND THE USE OF A FIRE TRUCK FOR SANTA'S TRANSPORTATION IN THE PARADE AT 6:00 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the McCook Area Chamber of Commerce Request to conduct the Annual Christmas Light Parade at 6:00 P.M. on December 3, 2011, the flying in of Santa Claus at McCook Ben Nelson Regional Airport at 10:00 A.M., and the use of a fire truck for Santa's transportation in the parade at 6:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM L AUTHORIZE THE MAYOR TO SIGN THE CERTIFICATE OF COMPLIANCE FOR THE 2011 MAINTENANCE AGREEMENT BETWEEN THE CITY OF MCCOOK AND THE NEBRASKA DEPARTMENT OF ROADS.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to authorize the Mayor to sign the Certificate of Compliance for the 2011 Maintenance Agreement between the City of McCook and the Nebraska Department of Roads. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM M APPROVE MAINTENANCE AGREEMENT NO. 17 BETWEEN THE NEBRASKA DEPARTMENT OF ROADS AND THE MUNICIPALITY OF MCCOOK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve Maintenance Agreement No. 17 between the Nebraska Department of Roads and the Municipality of McCook 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 DECLARE THE LISTED VEHICLES SURPLUS CITY PROPERTY TO BE DISPOSED OF ACCORDING TO LAW.

Police Chief Brown informed the Council that State Statute requires these items to be sold at auction and that they can not sell any of the items before hand.

Upon a motion by Councilmember Kircher, seconded by Councilmember Hilker, the Council voted to declare the listed vehicles surplus city property to be disposed of according to law. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM 5N ADOPT RESOLUTION NO. 2011-22 ESTABLISHING THE CITY OF MCCOOK GOVERNMENTAL MONEY PURCHASE PLAN & TRUST WITH THE ICMA-RETIREMENT CORPORATION FOR A 401(A) PLAN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2011-22 establishing the City of McCook Governmental Money Purchase Plan & Trust with the ICMA-Retirement Corporation for a 401(a) Plan. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

ITEM 5O APPROVE THE PLANS AND SPECIFICATIONS FOR THE LIBRARY BOILER & CHILLER REPLACEMENT, ENERGY EFFICIENCY IMPROVEMENTS, EECBG NO. 09/10-E111, AND SET THE DATE TO RECEIVE BIDS AS

NOVEMBER 15, 2011 AT 2:00 P.M.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the plans and specifications for the Library Boiler & Chiller Replacement, Energy Efficiency Improvements, EECBG No. 09/10-E111, and set the date to receive bids as November 15, 2011 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(6) MUNICIPAL FACILITIES UPDATE.

Councilmember Gonzales gave an update regarding the new Municipal Facility. The dirt work should be started within the next couple of weeks and the various bid packages are proceeding on schedule. Beginning in December, monthly meetings with city personnel, Sampson Construction, and Prochaska and Associates will be held for review of construction progress and issues.

Councilmembers expressed concerns with required street closings during construction and the need for notifying the public of these closings.

(7) COUNCIL COMMENTS.

Councilmember Kircher expressed concerns with the City's housing shortage and wondered if there was something the City could do to assist with bringing the various entities together to address the issue.

Councilmember Calvin agreed and asked if the City could help facilitate activity that would start addressing the issue.

City Manager Hancock informed the Council that he has already started the process. He requested time to review the issue and that he would report back to the Council in thirty days. The agenda could be set at that point on how to proceed.

Councilmember Calvin welcomed City Manager Hancock on board.

Councilmember Gonzales thanked the High School for providing crossing guards on Norris Avenue on Halloween evening to ensure the safety of the children.

Mayor Berry thanked Kyle Potthoff and Lea Ann Doak for their service as Interim City Managers.

(8) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR A STRATEGY SESSION WITH RESPECT TO A POTENTIAL LITIGATION.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to move into an executive session for a strategy session with respect to a potential litigation at 7:50 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

Mayor Berry then stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of a strategy session with respect to a potential litigation. The Council will reconvene in public session following this closed session.

Upon a motion by Councilmember Calvin, seconded by Councilmember Calvin, the Council voted

to move out of executive session at 8:25 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Kircher, Calvin, Hilker. NAY: None.

(9) 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-Treasurer