

MCCOOK CITY COUNCIL  
December 8, 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 December 6, 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 stated that the Council would reconvene from Monday, December 5, 2011 and 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.

Dave Davidson, pastor of the Norris Avenue Chapel, 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 second report to the City Council was available and would be presented at the end of the meeting. The report will also be available to the general public, press, city employees, and on the City's Website. This report will be sent out on the Thursday or Friday after each City Council meeting.

- (4) CONSENT AGENDA:

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

ITEM A APPROVE THE MINUTES OF THE NOVEMBER 21, 2011 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the November 21, 2011 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher,

Hilker.

ITEM B APPROVE BID SPECIFICATIONS AND DOCUMENTS FOR ONE (1) NEW 2012, 4-WHEEL DRIVE, QUICK ATTACK MINI RESCUE PUMPER AND SET THE DATE TO RECEIVE BIDS AS JANUARY 4, 2012 AT 2:00 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the Bid Specifications and Documents for one (1) new 2012, 4-wheel drive, quick attack mini rescue pumper and set the date to receive bids as January 4, 2012 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM C RECEIVE AND FILE THE REPORT OF THE SURPLUS CITY PROPERTY AUCTION HELD ON NOVEMBER 9, 2011.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the report of the Surplus City Property Auction held on November 9, 2011. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM F APPROVE THE "REQUEST FOR EXTENSION" NO. 1 FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM (EECBG) NO. 09/10-E111 FOR THE LIBRARY BOILER/CHILLER PROJECT.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the "Request for Extension" No. 1 for the Energy Efficiency and Conservation Block Grant Program (EECBG) No. 09/10-E111 for the Library Boiler/Chiller project. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM G APPROVE THE "REQUEST FOR EXTENSION" NO. 1 FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM (EECBG) NO. 09/10-E111 FOR THE CITY SHOP LIGHTING, INSULATION, & WINDOWS PROJECT.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the "Request for Extension" No. 1 for the Energy Efficiency and Conservation Block Grant Program (EECBG) No. 09/10-E111 for the City Shop Lighting, Insulation, & Windows project. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM H APPROVE THE RECOMMENDATION OF THE FUEL CONTRACT ADVISORY COMMITTEE TO CONTINUE THE FUEL PURCHASE AGREEMENT, FOR CALENDAR YEAR 2012, WITH FRENCHMAN VALLEY COOPERATIVE, INC. TO PURCHASE FUEL FOR GOVERNMENT VEHICLES.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the recommendation of the Fuel Contract Advisory Committee to continue the Fuel Purchase Agreement, for Calendar Year 2012, with Frenchman Valley Cooperative, Inc. to purchase fuel for government vehicles. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

## REGULAR AGENDA

ITEM 4D      REJECT ALL BIDS SUBMITTED FOR A NEW POLICE PACKAGE VEHICLE FOR USE BY THE POLICE DEPARTMENT.

Councilmember Kircher questioned why we were rejecting the bids, to which Police Chief Brown responded that the bids received exceed what was in the budget.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to reject all bids submitted for a new police package vehicle for use by the Police Department. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM 4E      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 JANUARY 4, 2012 AT 2:30 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 January 4, 2012 at 2:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

(5)      RECEIVE A PRESENTATION FROM RED WILLOW COUNTY COMMISSIONER, EARL MCNUTT, REGARDING THE POTENTIAL CONSTRUCTION OF A NEW COUNTY JAIL FACILITY.

Red Willow County Commissioner, Earl McNutt, addressed the Council regarding the potential construction of a new county jail facility. He gave a review of the project to date for the benefit of new City Manager Hancock. He invited all Councilmembers to a meeting to be held this coming Monday, December 12, 2011, at 11:00 A.M. at which time a schematic design will be presented. In reference to a letter sent to the Commission by City Attorney Schneider approximately a month ago requesting an update of the project, Mr. McNutt encouraged all to attend these meetings so that their input can be heard. At this point the County has taken no official action. The proposed location is on the site north of the Courthouse. He does not feel that it would have a negative effect on the downtown or surrounding area.

Councilmember Kircher asked what the County's position was in regards to utilizing the City jail facility. Mr. McNutt responded that the City facility would probably have too many hidden costs and that transporting the prisoners may be more cost effective, adding that no official decision has been made by the Commissioners.

(6)      RATIFY THE MAYOR'S APPOINTMENT TO REPRESENT THE CITY OF MCCOOK ON THE ADMINISTRATIVE BOARD FOR THE RED WILLOW COUNTY, NEBRASKA, REGIONAL ECONOMIC DEVELOPMENT PLAN FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM INCOME.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to ratify the Mayor's appointment of Councilmember Calvin to represent the City of McCook on the

Administrative Board for the Red Willow County, Nebraska, Regional Economic Development Plan for use of Community Development Block Grant Program Income. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

(7) APPROVE THE RETENTION OF HOWARD OLSEN OF SIMMONS OLSEN LAW FIRM, P.C. TO PROVIDE LEGAL ASSISTANCE REGARDING THE INVESTIGATION INTO THE CONTINUED QUALIFICATIONS OF COUNCILMEMBERS AARON KIRCHER AND SHANE HILKER AND TO PROVIDE AN OPINION ON THE SAME.

Mayor Berry introduced a motion to approve the retention of Howard Olsen of Simmons Olsen Law Firm, P.C. to provide legal assistance regarding the investigation into the continued qualifications of Councilmembers Aaron Kircher and Shane Hilker and to provide an opinion on the same. Councilmember Gonzales seconded the motion.

Councilmember Gonzales expressed his reluctance to spending additional funds for this opinion, what will we accomplish?

City Attorney Schneider stated that Mr. Olsen is a long time practitioner in the field of municipal law, and serves as the city attorney for Scottsbluff, as well as a number of neighboring communities. He has also served as special city attorney for Bridgeport and Gordon. Mr. Olsen will conduct a review and render an opinion on the qualification status of the council members and provide guidance as to how to proceed on the matter in general. Mr. Olsen will provide an outside opinion that would be free from any perceived biases.

Councilmember Calvin expressed concerns regarding the fact that no one would stand up and offer an opinion on the statute. The hiring of Mr. Olsen would show a good faith effort on the part of the City.

Mayor Berry added that the League of Nebraska Municipalities had been contacted, who could offer no help at this point, but were proposing legislation for the next session to clarify the law. Senator Mark Christensen's office has stated they would look into it also. The Mayor stated that he could not believe that this was the intent of the law, but that is what we have been given to deal with.

The Mayor then stated the question: "Shall the motion on the floor be approved as stated?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker. Motion carried.

(8) MUNICIPAL FACILITIES UPDATE.

City Manager Hancock gave an update on the municipal facilities project. As a result of excavation an electrical line on the east side of the property had less than two feet of cover, which was a concern for Nebraska Public Power. Their standards require four feet of cover. After meeting with the architects, civil engineers, and the construction manager plans will be revised to put the cover back over the line. It will be necessary to move the off-street parking from West 4<sup>th</sup> Street to West "C" Street. Bids for the final package are scheduled for December 20.

(9) COUNCIL COMMENTS.

Mayor Berry and Councilmember Gonzales thanked City Staff for a job well done regarding removal of snow during the recent storm.

Public Works Director Potthoff gave a review of the process required to complete snow and ice removal from city streets, highways, sidewalks, and the airport runways. All departments are involved in the process. He thanked Utilities Director Dutcher for allowing his employees to be included too.

(10) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:18 P.M.

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Dennis Berry, Mayor

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer