

MCCOOK CITY COUNCIL
November 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 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 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 - LANCE CLAY, UNITED METHODIST CHURCH.

Lance Clay, pastor of the United Methodist Church, was present for the invocation.

(2) CITIZEN'S FORUM.

No one was present for Citizen's Forum.

Mayor Berry recognized the members of Boy Scout Troop 147 who were attending the meeting to fulfill requirements of a citizenship badge.

(3) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Hancock informed the Council that he would be gone from the City this coming week. Fire Chief Harpham will be acting in his place this Tuesday, Saturday, and Sunday and Police Chief Brown will be filling in on Wednesday, Thursday, and Friday.

City Attorney Schneider stated that he has been informed of a state statute which states that any Councilmember who has been convicted of a crime while in office shall forthwith forfeit such office. The crimes at issue are misdemeanors that didn't occur as an abuse of office and they aren't felonies. This may have an impact on Councilmembers Hilker and Kircher. He has contacted the Attorney General's office and the League of Nebraska Municipalities regarding the matter to seek clarification of the statute, and in particular what constitutes a crime. He has not received any concrete answers with respect to the issue of what constitutes a crime for purposes of the state statute. The statute he referenced only applies to cities that have adopted the City Manager form of government and is contrary to Neb. Rev. Stat. 16-302.01 which is the qualification statute for council members of cities of the first class and the Cities ordinance. He will continue his research.

The Council may wish to consider looking at outside counsel to review this as he cannot set policy for the City. In the interim, it is important to note that there could be a concern with respect to the validity of the Council's action while we are looking in to the matter. He recommended that any vote that were to occur be done without Councilmember Hilker and Kircher participation until we have satisfactory resolution to this matter. He also recommended that Councilmember Hilker and Kircher not make any motions or second any motions until we have a better clarification of the statute. In the end, there may not be an answer that resolves the underlying issue of what constitutes a crime. If that is the case, it will be necessary to follow the letter of the statute.

(4) CONSENT AGENDA:

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

ITEM A APPROVE THE MINUTES OF THE NOVEMBER 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 November 7, 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 THE REQUEST FROM THE MCCOOK CHRISTIAN CHURCH TO CLOSE WEST 4TH STREET BETWEEN "B" STREET AND "C" STREET ON DECEMBER 17, 2011 FROM 10:00 A.M. TO 11:00 P.M. FOR THEIR "A NIGHT IN BETHLEHEM" EVENT.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the request from the McCook Christian Church to close West 4th Street between "B" Street and "C" Street on December 17, 2011 from 10:00 A.M. to 11:00 P.M. for their "A Night in Bethlehem" event. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

ITEM C APPROVE CHANGE ORDER NO. 1 IN THE AMOUNT OF \$7,000.00 FOR THE WILDLIFE FENCE CONTRACT AT THE MCCOOK BEN NELSON REGIONAL AIRPORT, SUBJECT TO FAA APPROVAL, AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve Change Order No. 1 in the amount of \$7,000.00 for the Wildlife Fence Contract at the McCook Ben Nelson Regional Airport, subject to FAA approval, and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

REGULAR AGENDA

ITEM 4D ACCEPT THE BID FROM SNELL SERVICES INC., NORTH PLATTE, NEBRASKA, IN THE AMOUNT OF \$118,500 FOR THE LIBRARY BOILER AND CHILLER REPLACEMENT THROUGH THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT NO. 09/10-E111 WITH THE NEBRASKA

ENERGY OFFICE, AUTHORIZE CITY STAFF TO COMPLETE WHAT IS POSSIBLE USING GRANT AND BUDGETED FUNDS, AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENTS FOR THE NEGOTIATED AMOUNT, CONTINGENT UPON APPROVAL BY THE NEBRASKA ENERGY OFFICE.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to accept the bid from Snell Services Inc., North Platte, Nebraska, in the amount of \$118,500 for the Library Boiler and Chiller Replacement through the Energy Efficiency and Conservation Block Grant No. 09/10-E111 with the Nebraska Energy Office, authorize City Staff to complete what is possible using grant and budgeted funds, and authorize the Mayor to sign the agreements for the negotiated amount, contingent upon approval by the Nebraska Energy Office. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None. ABSTAIN: Kircher, Hilker.

(5) MUNICIPAL FACILITIES UPDATE.

City Manager Hancock gave an update regarding the new Municipal Facility. The dirt work continues and the various bid packages are proceeding on schedule. The final package is scheduled to be bid mid December.

(6) COUNCIL COMMENTS.

It was the consensus of the Council to have City Attorney Schneider continue review of the issue regarding Councilmember Hilker and Kircher to bring the issue to a close as soon as possible.

(7) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 7:56 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer