

MCCOOK CITY COUNCIL
January 16, 2012
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, Calvin; 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 January 12, 2012, 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 - CLARK BATES, MCCOOK CHRISTIAN 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.

City Manager Hancock recognized Jody Crocker, Library Director, for completion of the basic skill classes required to become a certified Public Librarian. Her certification helps the City maintain their accredited library.

Mr. Hancock acknowledged his fellow co-workers who had no time lost due to accidents during the second and third quarters of 2011.

City Manager Hancock noted that the recent survey of thirty communities completed by the City of Norfolk on municipal property tax levies, twenty-two of the cities had a higher municipal tax levy than McCook.

(4) RATIFY THE MAYOR'S APPOINTMENT OF A REPLACEMENT TO FILL THE VACANCY IN THE OFFICE OF CITY COUNCILMEMBER CREATED BY THE FORFEITURE OF SHANE HILKER FROM SAID OFFICE FROM NOW UNTIL DECEMBER 3, 2012.

Letters of interest to fill the vacancies on the Council were received from Roger Henthorn, Janet Hepp, Aaron Kircher, James McCarville, Bruce McDowell, and Fred Shepherd. Each gave a short presentation and answered questions from the Council. Since Mr. Shepherd was out of town, he addressed the Council via telephone.

Mayor Berry offered the name of Bruce McDowell to fill the vacancy of Shane Hilker.

City Attorney Schneider informed the Council that these appointments must be ratified by a majority vote of the City Council, which would be two votes from the current Council of three.

Upon the following roll call the Council ratified the Mayor's appointment of Bruce McDowell to fill the vacancy in the office of City Councilmember created by the forfeiture of Shane Hilker from said office from now until December 3, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None.

- (5) RATIFY THE MAYOR'S APPOINTMENT OF A REPLACEMENT TO FILL THE VACANCY IN THE OFFICE OF CITY COUNCILMEMBER CREATED BY THE FORFEITURE OF AARON KIRCHER FROM SAID OFFICE FROM NOW UNTIL DECEMBER 3, 2012.

Mayor Berry offered the name of Janet Hepp to fill the vacancy of Aaron Kircher.

Upon the following roll call the Council ratified the Mayor's appointment of Janet Hepp to fill the vacancy in the office of City Councilmember created by the forfeiture of Aaron Kircher from said office from now until December 3, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin. NAY: None.

- (6) ADMINISTER THE OATH OF OFFICE FOR THE NEWLY APPOINTED COUNCILMEMBERS.

The City Clerk administered the Oath of Office for newly appointed Councilmembers McDowell and Hepp.

- (7) APPROVE THE PROCLAMATION DESIGNATING THE MONTH OF JANUARY 2012 AS "NATIONAL RADON ACTION MONTH" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve the proclamation designating the month of January 2012 as "National Radon Action Month" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

- (8) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - FINAL PLAT TO BE KNOWN AS A.M. BISHOP ADDITION, LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK.

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 Final Plat to be known as A.M. Bishop Addition, located within the two mile extra-territorial jurisdiction of the City of McCook with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published; Exhibit #2 - list of property owners receiving notice of public hearing; Exhibit #3 - proposal from the A.M. Bishop Family Trust; Exhibit #4 - agreement from the H&RW Irrigation Districts; Exhibit #5 - City of McCook Annexation Policy; Exhibit #6 - minutes of the Planning Commission dated January 9, 2012; Exhibit #7 - proposed Resolution No. 2012-02; and the proposed plat of the A.M. Bishop Addition.

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, Calvin, Hepp, McDowell. NAY: None.

ITEM B ADOPT RESOLUTION NO. 2012-02 PROVIDING FOR THE APPROVAL OF THE FINAL PLAT TO BE KNOWN AS A.M. BISHOP ADDITION, LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION AND WITHIN THE CORPORATE LIMITS OF THE CITY OF MCCOOK.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to adopt Resolution No. 2012-02 providing for the approval of the final plat to be known as A.M. Bishop Addition, located within the two mile extra-territorial jurisdiction and within the corporate limits of the City of McCook. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C PUBLIC HEARING - REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A COMMERCIAL WELDING AND REPAIR SHOP IN AN AGRICULTURAL (AG) DISTRICT LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK, PROJECT SPONSOR/ DEVELOPER - JLB WELDING SHOP, LAND OWNER - A.M. BISHOP FAMILY TRUST.

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 commercial welding and repair shop in an Agricultural (AG) District located within the two-mile extra-territorial jurisdiction of the City of McCook, Project Sponsor/ Developer - JLB Welding Shop, Land Owner - A.M. Bishop Family Trust with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published; Exhibit #2 - list of property owners receiving notice of public hearing; Exhibit #3 - Special Exception package, pages 1 through 8, containing the Findings and Determinations of McCook City Council, the Land Use Request Form and attachments, and the A.M. Bishop plat indicating the location of the request; and Exhibit #4 - minutes of the Planning Commission dated January 9, 2012.

There being no one else present to comment, upon a motion by Councilmember Calvin, 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, Calvin, Hepp, McDowell. NAY: None.

ITEM D APPROVE THE REQUEST FOR SPECIAL EXCEPTION TO ALLOW A COMMERCIAL WELDING AND REPAIR SHOP IN AN AGRICULTURAL (AG) DISTRICT LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; PROJECT SPONSOR/DEVELOPER - JLB WELDING SHOP, LAND OWNER - A.M. BISHOP FAMILY TRUST; 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 Calvin introduced a motion to approve the Special Exception request from Project Sponsor/Developer - JLB Welding Shop, Land Owner - A.M. Bishop Family Trust to allow a commercial welding and repair shop in an Agricultural (AG) District located 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 the 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 Gonzales, and passed by the follow roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM NO. 9 Consent Agenda:

Aaron Kircher requested that Item D be removed from the Consent Agenda and placed on the

Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE JANUARY 3, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the January 3, 2012 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM B APPROVE THE TRAFFIC SIGN RETROREFLECTIVITY MAINTENANCE PROGRAM FOR THE CITY OF MCCOOK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the Traffic Sign Retroreflectivity Maintenance Program for the City of McCook and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C AWARD THE BID FOR ONE (1) NEW 2012 4-WHEEL DRIVE QUICK ATTACK MINI RESCUE PUMPER TO WEIS FIRE AND SAFETY IN THE AMOUNT OF \$147,111.00, THAT BEING THE LOWEST RESPONSIBLE BID.

Pursuant to instruction given by the City Council a Notice to Bidders was published asking for sealed bids for one (1) new 2012 4-wheel Drive Quick Attack Mini Rescue Pumper. The following bids were received:

FYR-TEK, Gothenburg, Nebraska
Bid of \$164,289.60, with exceptions

Fire Guard - Omaha, Nebraska
Bid of \$178,978.35, with exceptions

Weis Fire - Salina, Kansas
Bid of \$147,111.00, with no exceptions

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to award the bid for one (1) new 2012 4-wheel Drive Quick Attack Mini Rescue Pumper to Weis Fire and Safety in the amount of \$147,111.00, that being the lowest responsible bid. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E RECEIVE AND FILE THE QUARTER ENDING DECEMBER 31, 2011 FINANCIAL REPORT.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file the quarter ending December 31, 2011 Financial Report. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF DECEMBER 2011 AS PUBLISHED ON JANUARY 16, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file claims for the month of December 2011 as published on January 16, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM G ACCEPT THE PROPOSAL FROM APPLIED CONNECTIVE TECHNOLOGIES FOR PROVISION OF DATA AND CABLING SERVICES FOR THE PLANNED CITY FACILITIES LOCATED AT 505 WEST "C" STREET AND AUTHORIZE STAFF TO NEGOTIATE A CONTRACT FOR PROVISION OF THE SERVICES.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to accept the proposal from Applied Connective Technologies for provision of Data Cabling Services for the planned City facilities located at 505 West "C" Street and authorize staff to negotiate a contract for the provision of services. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM H RECEIVE AND FILE THE MINUTES OF THE SENIOR CENTER ADVISORY BOARD DATED NOVEMBER 1, 2011 AND DECEMBER 6, 2011 AND THE PLANNING COMMISSION DATED JANUARY 9, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file the minutes of the Senior Center Advisory Board dated November 1, 2011 and December 6, 2011 and the Planning Commission dated January 9, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

ITEM 9D AWARD THE BID FOR ONE (1) NEW SPECIAL SERVICES VEHICLE FOR USE BY THE POLICE DEPARTMENT TO DEVENY CHRYSLER JEEP DODGE FOR A 2012 DODGE RAM SPECIAL SERVICE VEHICLE IN THE AMOUNT OF \$21,790.00, THAT BEING THE LOWEST RESPONSIBLE BID.

Mayor Berry introduced a motion to award the bid for one (1) new Special Service Vehicle for use by the Police Department to Deveny Chrysler Jeep Dodge for a 2012 Dodge Ram Special Service vehicle in the amount of \$21,790.00, that being the lowest responsible bid. Councilmember Calvin seconded the motion.

Pursuant to the instruction given by the City Council a Notice to Bidders was published asking for sealed bids for one (1) new Police Package Vehicle or Special Service Vehicle for the McCook Police Department. The following bids were received:

POLICE PACKAGE VEHICLE:

Wagner Chevrolet - McCook, Nebraska
2012 Impala "Front Wheel Drive" - \$20,429.00

Wagner Ford - McCook, Nebraska
2013 Taurus "Front Wheel Drive" - \$21,338.00

Gene Steffy - Fremont, Nebraska
2011 Dodge Charger - \$22,956.00

SPECIAL SERVICE VEHICLE:

Deveny Chrysler Jeep Dodge - McCook, Nebraska
2012 Dodge Ram 1500 - \$21,790.00

Gene Steffy CDJR - Fremont, Nebraska
2012 Dodge Ram 1500 - \$22,816.00

Wagner Ford - McCook, Nebraska
2013 Explore "Front Wheel Drive" - \$23,888.00

Janssen Chrysler Jeep Dodge - North Platte, Nebraska
2012 Dodge Ram 1500 - \$24,870.00

Police Chief Brown reviewed the submitted bids. All vehicles for which bids were received met bid specifications. Special Service vehicles are police/fire package 4-wheel drive vehicles and are normally cost prohibitive. However, the Police Department has need for a 4-wheel drive vehicle, which was the reasoning for soliciting bids for both police package and special service vehicles. The Dodge Ram 1500 pickup is a 4-wheel drive pickup special service vehicle that meets or exceeds all required bid specification and is needed for use by the Police Department. Of the bids for special service vehicles received, the bid submitted by Deveny Motors for a Dodge Ram 1500 Special Service vehicle was the lowest responsible bid. Therefore, he recommended that the bid be awarded to Deveny Motors for a 2012 Dodge Ram 1500 Special Service vehicle in the amount of \$21,790, that being the lowest responsible bid.

Aaron Kircher asked whether the vehicle would be a replacement or addition to the police fleet and why the desire for a 4-wheel drive, when that was not the type of vehicle indicated during the budget process.

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, Hepp, McDowell. NAY: None. Motion carried.

- (10) APPROVE AND SIGN THE PURCHASE AGREEMENT BETWEEN THE MCCOOK LIBRARY FOUNDATION AND THE CITY OF MCCOOK FOR THE PROPERTY LEGALLY DESCRIBED AS LOT FOUR (4), BLOCK FIVE (5), FIRST ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA.

Mayor Berry introduced a motion to approve and sign the Purchase Agreement between the McCook Library Foundation and the City of McCook for the property legally described as Lot Four (4), Block Five (5), First Addition to the City of McCook, Red Willow County, Nebraska.. Councilmember Calvin seconded the motion.

Upon a motion by Mayor Berry, seconded by Councilmember Hepp, the Council voted to amend the presented agreement as stated by City Attorney Schneider in Section 1 by adding "for as long as is practicable", Section 7 by adding "The Seller shall be responsible for any real estate tax owing on

the property up until the closing on the sale of this property”, and in Section 10 by adding “Seller agrees to pay for the preparation of this Purchase Agreement”. The motion passed upon the following roll call vote: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to amend Section 3 to state a Warranty Deed instead of a Quitclaim Deed. The motion passed upon the following roll call vote: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

The Mayor then stated the question: “Shall the motion on the floor be approved as amended?” Upon a roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None. Motion carried.

(11) APPROVE AND SIGN THE MEMORANDUM OF UNDERSTANDING REGARDING THE MCCOOK LIBRARY FOUNDATION’S DONATION TOWARD THE CONSTRUCTION OF AN ELEVATOR AT THE MCCOOK PUBLIC LIBRARY.

Councilmember Calvin introduced a motion to approve and sign the Memorandum of Understanding regarding the McCook Library Foundation’s donation toward the construction of an elevator at the McCook Public Library. Councilmember Gonzales seconded the motion.

Councilmember Hepp questioned if there is another egress from the basement and if the City will be responsible for annual maintenance of the elevator.

Councilmember Gonzales noted this is a great gift to the City that will allow us to utilize the entire building.

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, Hepp, McDowell. NAY: None. Motion carried.

(12) MUNICIPAL FACILITIES UPDATE.

City Manager Hancock stated that Sampson Construction continues to review all bids received for the building. The final bid has yet to be completed. Pouring of the footings started this week.

(13) COUNCIL COMMENTS.

Councilmember Calvin thanked the Library Foundation for the donation of the elevator and the property to the north of the Library to allow for future expansion, it is an excellent asset to the City.

Councilmember McDowell thanked the Mayor and Council for giving him the opportunity to serve on the Council.

Councilmember Hepp thanked the Mayor and Council for giving her the opportunity to serve on the Council, which she will do to the best of her ability and integrity.

Councilmember Gonzales informed the Council that he and City Manager Hancock will be going to Lincoln to testify for LB 786 introduced by Senator Christensen to clarify the law regarding forfeiture of office by a Council Member convicted of a crime in cities that have adopted a city manager form of government.

Mayor Berry acknowledged Lori Prestes retirement from the McCook Humane Society and thanked her for her dedicated service to the City. He also thanked those who submitted their name for consideration to fill the vacancies on the Council.

(14) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:30 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer