

MCCOOK CITY COUNCIL
May 7, 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, Hepp, McDowell; City Manager Hancock; City Attorney Schneider; City Clerk-Treasurer Doak.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on May 3, 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) PLEDGE OF ALLEGIANCE.

Mayor Berry led the Council and audience in the Pledge of Allegiance.

(3) CITIZEN'S FORUM.

Aaron Kircher, McCook citizen, expressed concerns with collected sales tax revenue received for property tax relief.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

Mayor Berry presented a \$400 check to Boy Scout Troop 132 from the Public Alliance for Community Energy (ACE) as a donation for placing "Door Hangers" announcing the annual Choice Gas Selection Period and promoting ACE.

Police Chief Ike Brown introduced patrol officers Michael Jordan and William Watts who recently completed their Nebraska Law Enforcement Certification.

City Manager Hancock reviewed highlights of his recent newsletter. On April 25 the City received notice that we were selected to proceed to the site visit portion of the application for 2012 Downtown Revitalization Funds. Out of the seven applications received by the Department of Economic Development (DED), they will be conducting four site visits and, depending on funding allocations, they will fund either three or four communities with Phase I Downtown Revitalization

funds. The tentative date for our site visit is May 22. The number of building permits from 2011 to 2012 through the end of April are up 101%.

(5) PROCLAMATIONS:

ITEM A APPROVE THE PROCLAMATION DESIGNATING THE WEEK OF MAY 13 - 19, 2012 AS "NATIONAL NURSING HOME 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 the week of May 13 - 19, 2012 as "National Nursing Home Week" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM B APPROVE THE PROCLAMATION DESIGNATING MAY 15, 2012 AS "POLICE OFFICERS MEMORIAL DAY" AND MAY 13 - 19, 2012 AS "NATIONAL POLICE 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, 2012 as "Police Officers Memorial Day" and May 13 - 19, 2012 as "National Police Week" 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 APPROVE THE PROCLAMATION DESIGNATING THE WEEK OF MAY 6 - 12, 2012 AS "DRINKING WATER WEEK" IN THE CITY OF MCCOOK 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 week of May 6 - 12, 2012 as "Drinking Water Week" in 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 D APPROVE THE PROCLAMATION DESIGNATING THE WEEK OF MAY 6 - 12, 2012 AS "PUBLIC SERVICE RECOGNITION 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 the week of May 6 - 12, 2012 as "Public Service Recognition Week" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(6) 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 APRIL 16, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the April 16, 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 GRANT OF LICENSE WITH RED WILLOW COUNTY FOR USE OF THE RIGHT-OF-WAY ON WEST "F" STREET BETWEEN NORRIS AVENUE AND THE FIRST ALLEY TO THE WEST FOR OFF STREET PARKING AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the Grant of License with Red Willow County for use of the right-of-way on West "F" Street between Norris Avenue and the first alley to the west for off street parking 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 APPROVE THE PLANS AND SPECIFICATIONS FOR THE 2012 ARMOR COATING AND SET THE DATE AND TIME TO RECEIVE BIDS AS MAY 23, 2012 AT 2:30 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the plans and specifications for the 2012 Armor Coating and set the date and time to receive bids as May 23, 2012 at 2:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E RECEIVE AND FILE MINUTES OF THE AIRPORT ADVISORY COMMISSION MEETING DATED FEBRUARY 9, 2012 AND THE SENIOR CENTER ADVISORY BOARD MEETING DATED APRIL 3, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file minutes of the Airport Advisory Commission meeting dated February 9, 2012 and the Senior Center Advisory Board meeting dated April 3, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE SECOND AMENDMENT TO THE 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 Second Amendment to the 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, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

ITEM 6D APPROVE THE REQUEST FROM COMMUNITY HOSPITAL AND THE ED THOMAS YMCA TO HOST A HALF-MARATHON AND 5K RACE ON SATURDAY, MAY 19, 2012.

Councilmember Gonzales noted that he would abstain from consideration of this item because of his involvement with the YMCA.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the request from Community Hospital and the Ed Thomas YMCA to host a Half-Marathon and 5K race on Saturday, May 19, 2012. The motion passed upon the following roll call vote: YEA: Berry, Calvin, Hepp, McDowell. NAY: None. ABSTAIN: Gonzales.

- (7) APPROVE THE DRAWINGS AND SPECIFICATION FOR VESTIBULE ADDITION TO THE MCCOOK PUBLIC LIBRARY AND SET THE DATE TO RECEIVE BIDS FOR MAY 23, 2012 AT 2:00 P.M.

Councilmember Gonzales introduced a motion to approve the drawings and specification for Vestibule Addition to the McCook Public Library and set the date to receive bids for May 23, 2012 at 2:00 P.M. Councilmember Calvin seconded the motion.

Library Director Jody Crocker stated this project consists of constructing a vestibule addition to the north. The addition of the vestibule is necessary to provide access during the installation of the elevator. A fire wall is currently being installed in the basement as required by the State Fire Marshal. All three of these projects are being funded through the Library Foundation.

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.

- (8) INTRODUCE AND APPROVE UPON ITS FIRST READING ORDINANCE NO. 2012-2872 AMENDING CHAPTER 96 OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES PERTAINING TO TREES AND SHRUBS; ADDING SECTION 96.28 - ARBORIST LICENSE, REQUIRING ANY PERSON OR FIRM ENGAGED IN THE BUSINESS OF PRUNING OR REMOVING TREES TO PROCURE A LICENSE; AND ADDING SECTION 96.29 - PENALTY, AND PROVIDING FOR A PENALTY FOR ANY PERSON VIOLATING THIS CHAPTER.

Mayor Berry introduced Ordinance No. 2012-2872 by title. The Clerk read the Ordinance by title:

AN ORDINANCE AMENDING CHAPTER 96 OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES PERTAINING TO TREES AND SHRUBS; ADDING SECTION 96.28 - ARBORIST LICENSE, REQUIRING ANY PERSON OR FIRM ENGAGED IN THE BUSINESS OF PRUNING OR REMOVING TREES TO PROCURE A LICENSE; ADDING SECTION 96.29 - PENALTY, PROVIDING FOR A PENALTY FOR ANY PERSON VIOLATING THIS CHAPTER; TO PROVIDE FOR THE REPEAL OF THE CURRENT CHAPTER 96 AND ANY OTHER CONFLICTING ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

Ordinance No. 2012-2872 was introduced and read by title only. Motion was made by Councilmember McDowell, seconded by Councilmember Calvin, to approve Ordinance No. 2012-2872 on its first reading.

Public Works Director Kyle Potthoff stated that in recent weeks, it has been brought to the City's attention that there are some concerns with some of the tree work being completed within the City. These concerns have been brought up by residents, utility companies as well as City staff. The change in the ordinance will require any person or firm engaging in the business or occupation of

pruning or removing trees within the city limits to be required to apply for and procure a license from the City. As part of the license, the person or firm will be required to furnish the City Clerk a certificate or certificates of insurance showing possession of liability insurance in the minimum amounts of \$500,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage. The policy shall list the City of McCook as an additional insured. The license fee will be \$75.00 annually and shall be effective from May 1 to April 30 of each year, and such fee shall not be prorated. Licenses will not be required of any public service company or any municipal employee doing such work in the pursuit of their public service endeavors. This change is being proposed to protect not only the consumer, but also the individual or firm performing the work. Under some circumstances, the consumer can be held financially responsible if an uninsured worker is hurt on their property or if the worker damages a neighbor's property.

Brian Buhr, local Nebraska Public Power Manager, presented a slide show of a recent incident involving a tree being trimmed improperly that was too close to a power line. The safety of the individuals was a concern, as well as the potential for a three to five hour power outage if the branches had fallen onto the line.

Councilmember Calvin questioned the need to permit each time a tree is removed.

The Mayor then stated the question: "Shall the Ordinance No. 2012-2872 be approved upon its first reading?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None. Motion carried. Whereupon the Mayor declared said Ordinance No. 2011-2361 approved on its first reading.

- (9) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2012-2873 AMENDING CHAPTER 34 OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES PERTAINING TO PURCHASING REGULATIONS; AMENDING THE PURCHASING LIMIT TO \$30,000 TO HARMONIZE WITH STATE LAW; AND ADDING A PROVISION FOR NEGOTIATION.

Mayor Berry introduced Ordinance No. 2012-2873 by title. The Clerk read the Ordinance by title:

AN ORDINANCE AMENDING CHAPTER 34 OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES PERTAINING TO PURCHASING REGULATIONS; AMENDING THE PURCHASING LIMIT TO \$30,000 TO HARMONIZE WITH STATE LAW; ADDING A PROVISION FOR NEGOTIATION; TO PROVIDE FOR THE REPEAL OF THE CURRENT CHAPTER 34 AND ANY OTHER CONFLICTING ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

Ordinance No. 2012-2873 was introduced and read by title only. Councilmember Calvin moved that the statutory rule requiring reading on three different days be suspended. Councilmember Gonzales seconded the motion to suspend the rule.

City Staff recommends approval of this ordinance under suspension of the rule since the proposed changes were due to recent changes at the legislative level.

The Mayor then stated the question: "Shall the motion to suspend the rule be approved?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. 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.

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

voted to amend Section 34.31 (B) by striking \$1,000 and inserting \$2,500. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

Councilmember Calvin moved for final passage of the Ordinance, as amended in Section 34.31 (B) by striking \$1,000 and inserting \$2,500, which was seconded by Councilmember Hepp. The Mayor then stated the question: "Shall Ordinance No. 2012-2873 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. 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 lawfully passed and adopted upon publication as required by law.

(10) MUNICIPAL FACILITIES UPDATE.

City Manager Hancock and Councilmember Gonzales reviewed the construction calendar. Work continues on the block wall and the bay area should be started within the next couple of weeks. The monthly construction meeting was held today and discussion continues regarding the value engineering request from Sampson Construction, the Construction Manager.

(11) APPROVE THE 2012-2013 CITY BUDGET CALENDAR AND SET THE DATE FOR A BUDGET RETREAT.

Upon a motion by Mayor Berry, seconded by Councilmember Hepp, the Council voted to approve the 2012-2013 City Budget Calendar and set the date for a Budget Retreat as June 5, 2012, at the Heritage Senior Center starting at 4:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(12) COUNCIL COMMENTS.

Councilmember Hepp stated that she was glad to be able to represent the City at the recent McCook Eagles Club Charity Banquet.

Mayor Berry acknowledged the presence of County Commissioner Earl McNutt.

Mr. McNutt stated that he appreciates what we all do as public servants to make life easier for our residents.

Mayor Berry thanked Police Chief Brown and members of the McCook Police Department and the Red Willow County Sheriffs Department who participated in the Special Olympics Torch Run this afternoon.

(13) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR A STRATEGY SESSION WITH RESPECT TO A POTENTIAL REAL ESTATE PURCHASE FOR THE CATION WASTE DISPOSAL SYSTEM.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to move into executive session for a strategy session with respect to a potential real estate purchase for the cation waste disposal system at 8:45 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. 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 real estate purchase for the cation waste disposal system. The Council will reconvene in public session

following this closed session.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to move out of executive session at 9:05 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(14) AUTHORIZE CITY STAFF/CITY ATTORNEY TO ENTER INTO NEGOTIATIONS FOR THE PURCHASE OF REAL ESTATE FROM THE ESTATE OF LEO RANDEL.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to authorize City Staff/City Attorney to enter into negotiations for the purchase of real estate from the Estate of Leo Randel. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(15) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:08 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk