

MCCOOK CITY COUNCIL
May 21, 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 17, 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 - STEVE BALES, 1ST CONGREGATIONAL CHURCH.

Steve Bales, pastor of the 1st Congregational 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.

No one was present for Citizen's Forum.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Hancock stated that the City received a Letter of Intent from the Red Willow County Commissioners to use the existing City Police, Fire, and Jail Facility for future use and requesting that the City prepare an agreement for the County to use the facility until the County's Law Enforcement Center is completed.

(5) APPROVE THE PROCLAMATION DESIGNATING MAY 20 - 26, 2012 AS "EMERGENCY MEDICAL SERVICES WEEK" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the proclamation designating May 20 - 26, 2012 as "Emergency Medical Services 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) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - CONSIDER THE FINAL PLAT TO BE KNOWN AS THE ELIZABETH LANE CHURCH SUBDIVISION.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, 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 the Elizabeth Lane Church Subdivision 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 - City Manager's Report prepared for the May 21, 2012 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - map of the area; Exhibit #4 - listing of property owners notified for public hearing; Exhibit #5 - proposed Resolution No. 2012-12; Exhibit #6 - Land Use Action Request Form - 9 pages; Exhibit #7 -minutes of the May 14, 2012 Planning Commission meeting.

Gary Dicenta, Miller & Associates, representing the Church of Latter-day Saints, presented the proposed plat to the Council. The Church has occupied this location for many years. The area is already developed as a residential area. The reason for submitting the Minor Subdivision is to remove existing property lines so that they will be able to apply for a building permit for an addition to the church. Utilities and streets have already been constructed and are not an issue.

City Manager Hancock stated that the Planning Commission unanimously recommended approval of the proposed plat and that City Staff also recommends its approval.

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 B ADOPT RESOLUTION NO. 2012-12 PROVIDING FOR THE APPROVAL OF THE FINAL PLAT TO BE KNOWN AS ELIZABETH LANE CHURCH SUBDIVISION OF THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to adopt Resolution No. 2012-12 providing for the approval of the final plat to be known as Elizabeth Lane Church Subdivision of the City of McCook, Red Willow County, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C PUBLIC HEARING - PROPOSED REZONE OF LOTS FOUR (4), FIVE (5), AND SIX (6), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC).

Upon a motion by Councilmember McDowell, 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 proposed rezone of Lots Four (4), Five (5), and Six (6), Fairacres Addition to the City of McCook, Red Willow County, Nebraska from Residential Medium Density Mobile Home District (RM-M) to Business Commercial District (BC) 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 - City Manager's Report prepared for the May 21, 2012 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - listing of property owners notified for public hearing; Exhibit #4 - map of the area; Exhibit #5 - proposed Ordinance No. 2012-2874; Exhibit #6 - Land Use Action Request Form - 5 pages; Exhibit #7 -minutes of the May 14, 2012 Planning Commission meeting.

City Manager Hancock stated that the Planning Commission unanimously recommended approval and that City Staff also recommends approval of the requested zone change.

Councilmember McDowell stated that the area is surrounded by like businesses and that the home to the south is isolated by a row of trees.

Councilmember Calvin expressed concerns with drainage in the area.

City Manager Hancock stated that the City is currently addressing a petition from the owners to the west for paving of West 14th Street and the alley which abuts this property to the west which should address these concerns.

There being no one else present to comment, upon a motion by Councilmember McDowell, seconded by Councilmember Hepp, 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 INTRODUCE AND APPROVE UPON ITS FIRST READING ORDINANCE NO. 2012-2874 APPROVING THE REQUEST TO REZONE OF LOTS FOUR (4), FIVE (5), AND SIX (6), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC).

Mayor Berry introduced Ordinance No. 2012-2874 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING ORDINANCE NO. 1580 BY CHANGING THE ZONING CLASSIFICATION OF LOTS FOUR (4), FIVE (5), AND SIX (6), FAIRACRES ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA FROM RESIDENTIAL MEDIUM DENSITY MOBILE HOME DISTRICT (RM-M) TO BUSINESS COMMERCIAL DISTRICT (BC); PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2012-2874 was introduced and read by title only. Motion was made by

Councilmember Gonzales, seconded by Councilmember McDowell, to approve Ordinance No. 2012-2874 on 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. 2012-2874 approved on its first reading.

(7) CONSENT AGENDA:

Councilmember McDowell requested that Item G be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE MAY 7, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the minutes of the May 7, 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 APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET, INC., LICENSE # ID-84561, FOR A WEDDING RECEPTION TO BE HELD AT THE MCCOOK MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON JULY 21, 2012 FROM 3:00 P.M. TO 11:59 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., License # ID-84561, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on July 21, 2012 from 3:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET, INC., LICENSE # ID-84561, FOR A WEDDING RECEPTION TO BE HELD AT THE MCCOOK MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON AUGUST 4, 2012 FROM 3:00 P.M. TO 11:59 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., License # ID-84561, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on August 4, 2012 from 3:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM D APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET, INC., LICENSE # ID-84561, FOR A WEDDING RECEPTION TO BE HELD AT THE MCCOOK MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON AUGUST 18, 2012 FROM 3:00 P.M. TO 11:59 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick's Market,

Inc., License # ID-84561, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on August 18, 2012 from 3:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) CONTRACT FOR CONGREGATE MEALS, HOME DELIVERED MEALS, AND TRANSPORTATION SERVICES FOR PERSONS UNDER 60 YEARS OF AGE AND OVER 60 YEARS OF AGE.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve and authorize the Mayor to sign the Nebraska Department of Health and Human Services (DHHS) contract for congregate meals, home delivered meals, and transportation services for persons under 60 years of age and over 60 years of age. 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 CONTRACT WITH AMR (AMERICAN MEDICAL RESPONSE) FOR TRANSPORTATION OF DHHS CLIENTS.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve and authorize the Mayor to sign the contract with AMR (American Medical Response) for transportation of DHHS clients. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM H APPROVE THE ENGINEERING AGREEMENT WITH MILLER AND ASSOCIATES FOR THE EAST 9TH STREET AND "G" STREET DRAINAGE IMPROVEMENTS AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the Engineering Agreement with Miller and Associates for the East 9th Street and "G" Street Drainage Improvements and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM I RECEIVE AND FILE THE MINUTES OF THE MAY 14, 2012 PLANNING COMMISSION MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to receive and file the minutes of the May 14, 2012 Planning Commission meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM J RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF APRIL 2012 AS PUBLISHED ON MAY 16, 2012.

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

ITEM K APPROVE THE REQUEST FROM THE LOCAL INTERACT CLUB FROM MCCOOK HIGH SCHOOL TO HOLD A FUN RUN EVENT ON THE EVENING OF JUNE 17, 2012, UTILIZING CITY OF MCCOOK STREETS, SIDEWALKS, AND WALKING TRAIL.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the request from the Local Interact Club from McCook High School to hold a Fun Run Event on the evening of June 17, 2012, utilizing City of McCook streets, sidewalks, and Walking Trail. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

ITEM 4G APPROVE THE SELECTION OF W DESIGN ASSOCIATES FOR ENGINEERING SERVICES FOR PHASE III - SOUTHVIEW WALKING TRAIL AND APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE CONSULTANT AGREEMENT FOR SUCH PROJECT.

Upon a motion by Councilmember McDowell, seconded by Councilmember Gonzales, the Council voted to approve the selection of W Design Associates for engineering services for Phase III - Southview Walking Trail and approve and authorize the Mayor to sign the Consultant Agreement for such project. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(8) COMMUNITY HOUSING REPORT BY MCCOOK ECONOMIC DEVELOPMENT CORPORATION (MEDC) EXECUTIVE DIRECTOR REX NELSON.

City Manager Hancock stated that at the November 7 City Council meeting the Council gave him direction to proceed with working to improve the McCook housing situation. He has been working with the staff of the McCook Economic Development Corporation (MEDC) and the MEDC Housing Committee to develop a framework and community foundation to begin a successful community housing initiative. Some of the recent positive items include: Funding for an update to the Community's Housing Study and the City Comprehensive Plan, visits from potential housing developers, strategic planning sessions with the MEDC Housing Committee; and authorization by the McCook Housing Agency to complete the East Ward Housing project.

Rex Nelson, MEDC Executive Director, and Mary Kircher, MEDC Housing Director reviewed the McCook Housing Initiative 2012 Five Year Goals. The Initiative consists of seven segments.

- 1) Rehab Older Homes - Goal: 4 per year for a total of 20
- 2) Infill Homes - Goal: 2 per year for a total of 20 units
- 3) Multi Family Apartments - Goal: 75 units
- 4) Single Family - Goal: 75 units
- 5) 55+ Age Housing - East Ward Village - Goal: 27 units
- 6) New Subdivision - Goal: Infrastructure for 20 new homes - potential site has been identified with a willing land owner
- 7) Market Rate Homes - Create For-Profit LLC - Goal: 2 homes per year, total 10 units

City Manager Hancock noted that several of the areas use Tax Increment Financing (TIF) as an incentive to developer and to support infrastructure cost. Staff will continue to work with Michael Bacon, legal expert on use of TIF in Nebraska, to consider all of the options available to the City.

- (9) APPROVE 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 UPON ITS SECOND READING.

Motion was made by Councilmember Gonzales, seconded by Councilmember Calvin, to approve Ordinance No. 2012-2872 on its second 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. 2012-2872 approved on its second reading.

- (10) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2012-2875 AMENDING THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES, SECTION 31.60 - PUBLIC WORKS CONSTRUCTION; ARCHITECT OR PROFESSIONAL ENGINEER REQUIRED; EXCEPTIONS; TO REVISE THE THRESHOLD FOR PUBLIC WORKS PROJECTS REQUIRING ARCHITECTURE OR ENGINEERING; TO HARMONIZE WITH STATE LAW.

Mayor Berry introduced Ordinance No. 2012-2875 by title. The Clerk read the Ordinance by title:

AN ORDINANCE AMENDING THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES, SECTION 31.60 - PUBLIC WORKS CONSTRUCTION; ARCHITECT OR PROFESSIONAL ENGINEER REQUIRED; EXCEPTIONS; TO REVISE THE THRESHOLD FOR PUBLIC WORKS PROJECTS REQUIRING ARCHITECTURE OR ENGINEERING; TO HARMONIZE WITH STATE LAW; TO PROVIDE FOR THE REPEAL OF THE CURRENT SECTION 31.60 AND ANY OTHER CONFLICTING ORDINANCE; AND TO PROVIDE FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

Ordinance No. 2012-2875 was introduced and read by title only. Motion was made by Councilmember McDowell, seconded by Councilmember Hepp, to approve Ordinance No. 2012-2875 on 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. 2012-2875 approved on its first reading.

- (11) STRATEGIC PLAN DISCUSSION, REVIEW, AND AMENDMENT.

City Manager Hancock presented a color coded summary of the Strategic Planning Session held on May 7, 2012 along with a proposed strategic plan for Council review. Further discussion and possible adoption will be planned for the June 4, 2012 meeting.

- (12) MUNICIPAL FACILITIES UPDATE.

Councilmember Gonzales stated that the block wall has been completed, work should start on the bays within the next couple of days, and some of the office spaces have been studded in. Neighbors have expressed some concern with blowing dirt which has been addressed by Sampson. Sampson

has requested to extend the closing of "C" Street. They would like to continued use of "C" Street for staging to the end of the project which would allow them to do the exterior of the building work without having to move all the materials onto the site which has very limited space.

Their request will be on the June 4, 2012 agenda for consideration.

(13) COUNCIL COMMENTS.

There were no Council comments.

(14) 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 Councilmember Hepp, seconded by Councilmember Gonzales, the Council voted to move into an executive session for a strategy session with respect to a potential real estate purchase for the cation waste disposal system at 8:55 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

The Mayor 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 Gonzales, seconded by Councilmember Calvin, the Council voted to move out of executive session at 9:15 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

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

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to move into executive session for a strategy session with respect to potential litigation at 9:16 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

The Mayor 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 executive session may for a strategy session with respect to potential litigation. The Council will reconvene in public session following this closed session.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to move out of executive session at 9:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(16) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:31 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk