

MCCOOK CITY COUNCIL
June 18, 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, Hepp, McDowell; City Manager Hancock; City Attorney Schneider; City Clerk-Treasurer Doak.

Absent: Councilmember Calvin.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on June 14, 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 - LANCE CLAY, UNITED METHODIST CHURCH.

Lance Clay, pastor of the United Methodist 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.

Utilities Director Jesse Dutcher informed the Council that the Water Treatment Plant was pumping at nearly double the rate for this time of year. He asked citizens to voluntarily avoid outside watering between the hours of 10:00 A.M. and 6:00 P.M. to help alleviate some of the strain on the water system.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Hancock informed the Council that at the July 2, 2012 City Council meeting the contract document with the Nebraska Department of Economic Development for the Downtown Revitalization project will be considered and that the first meeting of the committee for the update of the building is scheduled for June 26, 2012.

(5) PUBLIC HEARINGS:

ITEM A CONDUCT A PUBLIC HEARING ON THE APPLICATION OF LOOP BREWING COMPANY, LLC, DBA "LOOP BREWING COMPANY", 404 WEST "A" STREET, LIQUOR LICENSE #L-93351, FOR A CATERING LICENSE.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the application of Loop Brewing Company, LLC, dba "Loop Brewing Company", 404 West "A" Street, Liquor License #L-93351, for a Catering License with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published and Exhibit #2 - the application received from the Nebraska Liquor Control Commission containing three pages.

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

ITEM B RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF LOOP BREWING COMPANY, LLC, DBA "LOOP BREWING COMPANY", 404 WEST "A" STREET, FOR A CATERING LICENSE.

Upon a motion by Councilmember McDowell, seconded by Councilmember Hepp, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of Loop Brewing Company, LLC, dba "Loop Brewing Company", 404 West "A" Street, for a Catering License. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

ITEM C CONDUCT A PUBLIC HEARING FOR THE PURPOSE OF ACQUIRING PROPERTY OWNED BY LEO RANDEL OR THE ESTATE OF LEO RANDEL FOR THE CONSTRUCTION OF A PROPOSED CATION WASTE DISPOSAL SITE; THE CITY OF MCCOOK DESIRES TO PURCHASE A TEN (10) ACRE TRACT OF LAND LOCATED IN THE EAST HALF OF THE NORTHWEST QUARTER (A/K/A LOT 2) OF SECTION THIRTY-THREE (33), TOWNSHIP THREE NORTH, RANGE TWENTY-NINE (29) WEST OF THE 6TH P.M., IN RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Hepp, 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 acquiring property owned by Leo Randel or the Estate of Leo Randel for the construction of a proposed cation waste disposal site; the City of McCook desires to purchase a ten (10) acre tract of land located in the East Half of the Northwest Quarter (a/k/a Lot 2) of Section Thirty-three (33), Township Three North, Range Twenty-Nine (29) West of the 6th P.M., in Red Willow County, Nebraska with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published and stated that the City of McCook desires to acquire a ten (10) acre tract of land located in the East Half of the Northwest Quarter (a/k/a Lot 2) of Section Thirty-three (33), Township Three North, Range Twenty-Nine (29) West of the 6th P.M., in Red Willow County, Nebraska owned by Leo Randel or the Estate of Leo Randel for the construction of a proposed cation waste disposal site.

Utilities Director Jesse Dutcher stated this project has been in the works for over a year now. One of the questions he is often asked is if the lagoons will smell. This is not sewage, but is brine (salt) which does not have an odor and is a nonhazardous material. The ten acres are large enough to meet current needs, as well as future needs. The project consists of two lagoons which will be lined. Testing will be required to monitor for seepage to insure that brine (salt) is not going to the river. This site has been selected because it is adjacent to the Wastewater Treatment facility, electricity is currently available, and this area is out of the flood plain.

City Attorney Schneider stated that the City has been in touch with the law firm in Oregon who is handling the estate matters in order to keep the family of Leo Rand informed of the City's intent. The family has the right to be represented by an attorney during this process and the right to negotiate and accept or reject offers for damages which will be sustained by the proposed acquisition.

There being no one present to speak either in support or in opposition, 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, Hepp, McDowell. NAY: None. ABSENT: Calvin.

(6) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE JUNE 4, 2012 REGULAR CITY COUNCIL MEETING AND THE JUNE 5, 2012 SPECIAL CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the June 4, 2012 regular City Council meeting and the June 5, 2012 special City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

ITEM B RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF MAY 2012 AS PUBLISHED ON JUNE 14, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to receive and file the claims for the month of May 2012 as published on June 14, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

ITEM C APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE 2013 CONTRACT WITH THE WEST CENTRAL NEBRASKA AREA AGENCY ON AGING (WCNAAA) FOR THE PURPOSE OF DEFINING AND SPECIFYING THE SEPARATE AND MUTUAL RESPONSIBILITIES OF EACH IN THE MANAGEMENT, OPERATION, SUPPORT, MONITORING, AND EVALUATION OF THE MCCOOK HERITAGE SENIOR CENTER.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve and authorize the Mayor to sign the 2013 contract with the West Central Nebraska Area Agency on Aging (WCNAAA) for the purpose of defining and specifying the separate and mutual responsibilities of each in the management, operation, support, monitoring, and evaluation of the McCook Heritage Senior Center. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

ITEM D APPROVE THE REQUEST FROM SOURCEGAS TO CLOSE EAST "G" STREET

BETWEEN EAST 6TH STREET AND EAST 7TH STREET ON JUNE 19, 2012 THROUGH JUNE 21, 2012, IN ORDER TO REPLACE A NATURAL GAS LINE.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the request from Sourcegas to close East "G" Street between East 6th Street and East 7th Street on June 19, 2012 through June 21, 2012, in order to replace a natural gas line. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

ITEM E APPROVE THE REQUEST FROM THE PEACE LUTHERAN CHURCH TO CLOSE THE ALLEY IN THE 400 BLOCK OF EAST 6TH STREET FROM 8:30 A.M. TO 12:30 P.M. ON JULY 9, 2012 THROUGH JULY 11, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the request from the Peace Lutheran Church to close the alley in the 400 block of East 6th Street from 8:30 A.M. to 12:30 P.M. on July 9, 2012 through July 11, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin.

REGULAR AGENDA

(7) APPROVE 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 UPON ITS THIRD AND FINAL READING.

Mayor Berry moved for final passage of Ordinance No. 2012-2875, which motion was seconded by Councilmember Gonzales. The Mayor then stated the question: "Shall Ordinance No. 2012-2875 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Hepp, McDowell. NAY: None. ABSENT: Calvin. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

(8) INTRODUCE AND APPROVE, UNDER SUSPENSION OF THE RULE, ORDINANCE NO. 2012-2877 PROVIDING FOR THE CREATION OF PAVING DISTRICT NO. 392 FOR THE PAVING OF 14TH STREET WEST FROM WEST "O" STREET NORTH TO WEST "Q" STREET.

Mayor Berry introduced Ordinance No. 2012-2877 by title. The Clerk read the Ordinance by title:

AN ORDINANCE CREATING AN IMPROVEMENT DISTRICT WITHIN THE CORPORATE LIMITS OF THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, TO BE KNOWN AS "PAVING DISTRICT NO. 392" OF THE CITY OF MCCOOK, NEBRASKA, AND AUTHORIZING AND PROVIDING FOR THE EXERCISE OF SUCH ACTIONS AND PREROGATIVES AS ARE BY LAW REQUIRED OR PERMITTED TO EFFECTUATE AND CONCLUDE SAID IMPROVEMENT DISTRICT IN ALL RESPECTS.

Ordinance No. 2012-2877 was introduced and read by title only. Mayor Berry moved that the statutory rule requiring reading on three different days be suspended. Councilmember Hepp seconded the motion to suspend the rule.

City Attorney Schneider informed the Council that the suggestion of suspending the rule was not made by staff to hurry the project along. In the past Council has approved ordinances for creations of improvement districts upon the first reading which begins the process. Once the ordinance is approved, the City Clerk publishes a notice of creation. This notice is also sent to all benefitting property owners. If the owners of record title representing more than fifty percent (50%) of the front footage of the property abutting the proposed street and who were such owners at the time the ordinance creating such District was published, shall file with the City Clerk within twenty (20) days of the first publication of that notice, written objections to the improvements of said District, said work shall not be done in said District under said ordinance and said ordinance shall be repealed. If no objections are filed against said District in such time and manner, the Mayor and Council shall forthwith proceed to construct such improvements.

The Mayor then stated the questions: "Shall the motion to suspend the rule be approved?" Upon roll call vote the following Councilmembers voted YEA: None. NAY: Berry, Gonzales, Hepp, McDowell. ABSENT: Calvin. The motion to suspend the rule failed.

Motion was made by Mayor Berry, seconded by Councilmember Gonzales, to approve Ordinance No. 2012-2877 on its first reading.

Area property owners, Bill Mathies, Steve Walter, and Steve Lyne spoke in opposition of the project stating that the improvements would be a financial burden, it would not provide any benefit to them, and that water runoff is the big issue. The runoff starts much further to the west and those property owners should share in the expense of solving the issue.

Brett Robuck agreed that there was a large drainage issue and felt that maybe the City was taking no responsibility to remedy the problem. Certain areas of his property are being destroyed by water runoff from property to the west. He supported the project feeling that it would be a first step in solving the drainage issue and that he would benefit from having an improved street to his property.

Public Works Director Kyle Potthoff stated that the City had worked to resolve the problem by investing in a drainage study and coordinate meetings with the property owners involved. Three options resulted from the study ranging in cost from \$21,000 to \$74,000. At that time the agreement was that the property owners would cover the expense of the drainage improvements.

Loren Brown stated that he concurred with Mr. Walter. He has worked with Mr. Robuck to construct a ditch along his property for the water to drain to the north to West "Q" Street. He would be willing to give land for a drainage pipe.

Mark Wilcox spoke in support of the project and had presented the signed petitions to the City. His property is on the receiving end of all the water and he has been working with the City for several years trying to address the issue.

Councilmember McDowell agreed that we do have a water issue which needs to be addressed, he was not in favor of the street improvement project.

The Mayor then stated the questions: "Shall Ordinance No. 2012-2877 be approved upon its first reading?" Upon roll call vote the following Councilmembers voted YEA: None. NAY: Berry, Gonzales, Hepp, McDowell. ABSENT: Calvin. Motion failed.

(9) INTRODUCE AND APPROVE, UNDER SUSPENSION OF THE RULE, ORDINANCE NO. 2012-2878 PROVIDING FOR THE CREATION OF PAVING DISTRICT NO. 393 FOR THE PAVING OF THE ALLEY BETWEEN 14TH STREET WEST AND WEST FAIR ACRES FROM WEST "O" STREET NORTH TO WEST "Q" STREET.

Mayor Berry introduced Ordinance No. 2012-2878 by title. The Clerk read the Ordinance by title:

AN ORDINANCE CREATING AN IMPROVEMENT DISTRICT WITHIN THE CORPORATE LIMITS OF THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, TO BE KNOWN AS "PAVING DISTRICT NO. 393" OF THE CITY OF McCOOK, NEBRASKA, AND AUTHORIZING AND PROVIDING FOR THE EXERCISE OF SUCH ACTIONS AND PREROGATIVES AS ARE BY LAW REQUIRED OR PERMITTED TO EFFECTUATE AND CONCLUDE SAID IMPROVEMENT DISTRICT IN ALL RESPECTS.

Ordinance No. 2012-2878 was introduced and read by title only. Mayor Berry moved that the statutory rule requiring reading on three different days be suspended. Motion died for lack of a second.

Motion was made by Mayor Berry, seconded by Councilmember Gonzales, to approve Ordinance No. 2012-2878 on its first reading.

Don Hagen spoke in opposition of the proposed district.

Todd Baker stated that his property receives all of the water, asked if this alley improvement would address this issue and if the cost of the proposed retaining wall would be shared by all property owners involved in the project.

The Mayor then stated the questions: "Shall Ordinance No. 2012-2878 be approved upon its first reading?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, McDowell. NAY: Hepp. ABSENT: Calvin. Motion carried.

(10) DISCUSSION OF DRAFT 2012-2013 STRATEGIC PLAN.

City Manager Hancock reviewed the more refined plan included in the Council packet. He informed the Council that the staff has received information from a bonding institution that by refinancing the Water SRF loan and maintaining the same annual payments, the bond could be paid off four years sooner with an estimated cost savings of around \$1,000,000 and the Sewer SRF loans could be paid back one year sooner with an estimated savings of around \$120,000.

(11) MUNICIPAL FACILITIES UPDATE.

Councilmember Gonzales stated brick facing, decking and stud work should begin on the second level and that drainage needs to be finalized before work can begin on the bay floor.

Utilities Director Dutcher noted during the tour that a lot of the plumbing rough-ins were completed.

Police Chief Brown stated that the Data Cabling contractor will be out yet this week to tour the site to being the process of coordinating their installation.

(12) COUNCIL COMMENTS.

Councilmember McDowell gave a kudos to the Water Department Staff on addressing the recent

leak on Norris Avenue, adding that the area businesses were amazed it went so well.

Mayor Berry requested that staff proceed with refinancing of the water and sewer loans and to continue to address the drainage issue discussed at tonight's meeting.

(13) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:40 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk