

MCCOOK CITY COUNCIL
August 6, 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, McDowell; City Manager Hancock; City Clerk-Treasurer Doak.

Absent: Councilmember Hepp; City Attorney Schneider.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on August 2, 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 - MARY HENDRICKS, ST. ALBAN'S EPISCOPAL CHURCH.

Mary Hendricks, pastor of the St. Alban's Episcopal 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 reviewed highlights of his August 3, 2012 City Manager Newsletter. He noted that the 2012 July building activity was up \$4.75 million from the 2011 July figures and that the interview team will be recommending the approval of RDG/Miller & Associates for the CDBG Downtown Planning Grant.

(5) ADVERTIZED PUBLIC HEARINGS:

- ▶ FY 2012/2013 ANNUAL BUDGET

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 proposed FY 2012/2013 Annual Budget with the City Manager to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin,

McDowell. NAY: None. ABSENT: Hepp.

The City Manager read, offered, and received into evidence Exhibit #1 - Notice of Budget Hearing and Budget Summary statement published July 31, 2012.

City Manager Hancock read his City Manager's Memo prepared for the August 6, 2012 City Council meeting:

"At the last City Council meeting the City Council reviewed the Preliminary 2012-2013 Budget and requested additional information on the proposed mobile occupation tax and other possibilities on funding specific capital equipment within the proposed budget.

Included within the 2012-2013 budget was a recommended increase of 3% to 6% in the telephone land line occupation tax and a new 6% mobile telephone occupation tax. With decreases in land line telephone usage, the proposed increase from 3% to 6% in the telephone land line occupation tax, additional revenues for 2012-13 were estimated to increase \$9,000 from this year's estimated 2011-2012 figure of \$25,500. The proposed 6% occupation tax on mobile telephone service would generate approximately \$52,000 in new 2012-2013 revenues. Combined together, these additional revenues would total approximately \$61,000 and would lessen the blow from the loss of approximately \$70,000 previously received in State Aid each year before 2011.

These additional revenues were to assist in financing some needed operating capital equipment that were discussed at the Budget Retreat on June 5, 2012. This equipment included two Police cars, Street mower, Cemetery mower and utility vehicle, Parks mower, and Airport utility vehicle and used mower.

There were two sales tax issues that were approved by the voters in November 13, 2007. The ballot language for the first one cent sales tax is as follows:

Yes () (for the tax for property tax relief and funding of capital infrastructure improvements)

No () (against the tax for property tax relief and funding of capital infrastructure improvements)

The City Attorney in his legal opinion has indicated that:

"One half of the proceeds of the sales and use tax have been utilized to maintain the City's reduced request for the property tax. On the average, the City generates \$730,000 on the one half of the one percent (1%) sales and use tax. While the majority of the 1/2 of the one percent (1%) sales tax dollars goes to direct the above described property tax relief, the remainder assists with property tax reduction through indirect means. The ballot language did not state that all proceeds from the one-half of the one percent sales and use tax would go to direct property tax relief. Relief also comes in the form of the City not having to increase its levy due to the use of sales and use tax for certain capital expenditures. The City of McCook has maintained its levy at .32. The City has not increased this levy in over 10 years, and the sales and use tax is one of the main reasons. The City will continue to use one-half of the one percent (1%) sales tax to maintain the City's reduced request for property tax."

The other sales tax was a 1/2 cent sales tax that was approved "for the purpose of expanding improvements of city-wide projects such as water and sewer improvements, streets, parks, buy down of water and sewer debt and an Economic Development Program." Generally 1/2 of the 1/2 cent sales tax, with the exception of motor vehicle sales, goes for economic development programs. The other

1/2 of the 1/2 cent sales tax can be used for the "purpose of expanding improvements of city-wide projects such as water and sewer improvements, streets, parks, and buy down of water and sewer debt." In the budget that was proposed we included from these sales tax revenues a major piece of equipment (front end loader) that would definitely improve the citywide street improvement program.

Councilman Gonzales has prepared an excellent summary of the language for both sales tax issues which is attached to this memo.

The Council at its last meeting, indicated a concern about increasing the occupational tax on landlines and creating a new telephone on occupation tax on mobile phones. The Council requested that we review where other funding could come from to finance needed capital operating equipment. We have again reviewed the budget and believe that there are two funding expenditures that are presently being used for infrastructure that could be used, instead from the General Fund, from the additional 1/2 cent sales tax capital projects. This includes \$150,000 for street improvements and \$40,000 for street drainage improvements. We are changing the budget to note that these funds would come from the sales tax funds and the additional 1 /2 cent capital project list. This would free up funds in the general fund to finance the previously mentioned capital operating equipment. This equipment would not be financed by an increase in telephone occupation taxes.

Attached to this memo is additional information and a survey from the Nebraska League of Municipalities that was done in 2011. It notes that out of the 38 cities surveyed, 22 of the cities have an occupation tax on both the land lines and the mobile phones. Eleven have no telephone occupation taxes and only three communities, including McCook, have only an occupation tax on solely land lines. Generally speaking one could argue that individuals in those three cities that only have land line phones are paying a tax that mobile phone users are not currently paying.

At both the previous strategic planning session and the budget retreat, there were a few of the proposed action steps within the strategic plan that is included in this year's budget that should be highlighted. These include:

1. Increase Municipal Revenue
2. Develop, Finance, and Implement an Equipment Replacement Program
3. Develop and implement a long term Financial Plan.
4. Review and update the City's financial management policies.

Over the last few years, annual audits of the City's finances have noted that the City's general fund balance was continuing to decline and that the City should begin a process to begin increasing this fund balance. Over at least the last five years City Departments, other than capital equipment that was not included, have basically maintained individual account items. As indicated at both this year's Strategic Planning Session and the Budget Retreat, over recent years the City has continued to not replace needed capital operating equipment to reduce the continued trend of a declining General Fund balance. In the proposed budget, and with the proposed increased revenues, staff provided a mechanism to fund needed capital operating equipment and also increase the General Fund's ending fund and County Treasurer balance \$205,906 from last year's budgeted figure.

Regardless of whether the City Council elects to implement additional revenues within this budget, it is important that the City review and implement a three-year General Financial Plan, review its financial management polices, in the case of an emergency, and to maintain adequate service level to our citizens, the City should implement specific targets as to what General Fund balances should be and what the City should do to increase them.”

John Hubert questioned if the City had funded a depreciation fund in years past.

John E. Hanson spoke in opposition of the proposed cell phone occupation tax and was glad to hear that provisions were made to drop it. He also addressed longevity, adding that he thought that had went out the window a long time ago.

Keith Delano questioned the total amount of pay increase included in the budget; Cost of Living at 2½%, merit at 2½%, and longevity and asked if each employee received that amount.

Kristine Eckhardt asked what would not be included in the budget by including these additional street maintenance items in sales tax dollars and by not including the proposed occupation tax increases.

Wayne Michaelis expressed concerns with the raises in income; that employees have a very generous medical plan; giving a lot away to low income housing, in particular the loan to East Ward Village; and spending \$25,000 on a housing study. Adding that in years past when the city had a need for housing private individuals have stepped forward and developed them.

Gene Morris asked why the need for a fire pumper, pagers, fire equipment, and elevator at the Library and encouraged the Council to look at what we can do to reduce the budget.

Don Klein questioned how much the City's valuation has went up over the past ten years and what that additional valuation has generated in tax dollars to the City, with the proposed pay increases is the City paying more than industry, adding that the City could cut 10% out of the budget.

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, McDowell. NAY: None. ABSENT: Hepp.

- ▶ SET FINAL TAX REQUEST AT A DIFFERENT AMOUNT THAN THE PRIOR YEAR

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 setting the Final Tax Request at a different amount than the prior year with the City Manager to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

The City Manager read, offered, and received into evidence Exhibit #1 - Notice of Special Hearing to set final tax request published July 31, 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, McDowell. NAY: None. ABSENT: Hepp.

- (6) INTRODUCE AND APPROVE ORDINANCE NO. 2012-2879 PROVIDING FOR THE ADOPTION OF THE BUDGET FOR FY 2012/2013 UPON ITS FIRST READING.

Mayor Berry introduced Ordinance No. 2012-2879 by title. The Clerk read the Ordinance by title:

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR AN EFFECTIVE DATE.

Ordinance No. 2012-2879 was introduced and read by title only. Motion was made by Councilmember Gonzales, seconded by Councilmember Calvin, to approve Ordinance No. 2012-2879 on its first reading.

For discussion and maybe avoiding the need to raise taxes, adding that he would like to receive input from the citizens, Mayor Berry proposed reducing the land line occupation tax to 1½% and establishing the cell phone occupation tax at 1½%. This way the percent stays the same as the current 3% for land lines.

Councilmember Gonzales stated that more and more are dropping their land lines adding that it would be more fair to reduce the land line, giving a break to businesses and the elderly.

Jerry Reitz questioned how the process works, what all is the tax charged on?

John Hanson stated that he believes there is no question that having the same percentage of tax on cell phones would result in a revenue increase over the land line tax. Again he encouraged the Council to forget about trying to put a tax on cell phones.

Fred Petsch and Darrin Karr spoke in opposition of any cell phone occupation tax.

Mayor Berry introduced a motion to change the current occupation tax on land lines to 1½% and to established a 1½% occupation tax on cell phones in order to receive more public input. Councilmember McDowell seconded the motion.

Councilmember Calvin stated that he felt he had received quality input this last week and that the message was loud and clear that the people do not want any tax on cell phones. He expressed concerns with proposing something after they were told during the budget hearing that we were not going to tax their cell phones.

Mayor Berry stated that he did not hear that specifically and would like the tax proposed in order to receive citizen input.

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, McDowell. NAY: Calvin. ABSENT: Hepp. Motion carried.

Mayor Berry stated that he had a request from Michael Nielsen in order to encourage individuals to fly in and out of McCook to consider utilizing \$90,000 to \$180,000 to provide a rebate to them.

John E. Hanson stated that he did not feel any city tax dollars should be used to subsidize the airport, adding that the airlines should consider using smaller more cost effective planes.

Mayor Berry requested that staff consider putting the \$3,500 into the budget for animal/wildlife control, and that he would possibly like to see provision made for new restrooms in Kelley Park, renovation of the shower/restroom facility in Karrer Park, and the cooler for the Senior Center.

The Mayor then stated the question: "Shall Ordinance No. 2012-2879 be approved upon its first reading?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales,

McDowell. NAY: Calvin. ABSENT: Hepp. Motion carried.

- (7) INTRODUCE AND APPROVE ORDINANCE NO. 2012-2880 PROVIDING FOR THE ADOPTION OF THE 2012/2013 FISCAL YEAR EMPLOYEE CLASSIFICATION PAY PLAN UPON ITS FIRST READING.

Mayor Berry introduced Ordinance No. 2012-2880 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE ADOPTION OF THE 2012/2013 FISCAL YEAR EMPLOYEE CLASSIFICATION AND PAY PLAN; PROVIDING FOR AN EFFECTIVE DATE FOR THE IMPLEMENTATION OF THE CLASSIFICATION AND PAY PLAN; REPEALING ANY AND ALL OTHER ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2012-2880 was introduced and read by title only. Motion was made by Councilmember Gonzales, seconded by Councilmember Calvin, to approve Ordinance No. 2012-2880 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp. Motion carried. Whereupon the Mayor declared said Ordinance No. 2012-2880 approved on its first reading.

- (8) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE JULY 16, 2012 REGULAR CITY COUNCIL MEETING AND THE JULY 30, 2012 SPECIAL CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the July 16, 2012 regular City Council meeting and the July 30, 2012 special City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM B APPROVE THE CLOSURE OF WEST "D" STREET, BETWEEN 5TH STREET WEST AND 7TH STREET WEST, ON AUGUST 8, 2012, FROM 7:00 A.M. TO 8:00 P.M. FOR STREET WORK.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the closure of West "D" Street, between 5th Street West and 7th Street West, on August 8, 2012, from 7:00 A.M. to 8:00 P.M. for street work. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM C APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH, LLC, LICENSE #IK-57785, FOR A WEDDING RECEPTION TO BE HELD AT THE ARMY RESERVE BUILDING, 38709 EAST HIGHWAY 6 & 34, ON SEPTEMBER 29, 2012 FROM 1:00 P.M. TO 1:00 A.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by MO Dough, LLC, License #IK-57785, for a wedding reception to be held at the Army Reserve Building, 38709 East Highway 6 & 34, on September 29, 2012 from 1:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT:

Hepp.

ITEM D APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH, LLC, LICENSE #IK-57785, FOR A WEDDING RECEPTION TO BE HELD AT THE ARMY RESERVE BUILDING, 38709 EAST HIGHWAY 6 & 34, ON OCTOBER 20, 2012 FROM 1:00 P.M. TO 1:00 A.M.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by MO Dough, LLC, License #IK-57785, for a wedding reception to be held at the Army Reserve Building, 38709 East Highway 6 & 34, on October 20, 2012 from 1:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM E APPROVE THE REQUEST FROM THE ST. PATRICK CATHOLIC CHURCH TO CLOSE 4TH STREET EAST FROM EAST “F” STREET, TO EAST “G” STREET AND EAST “G” STREET FROM 3RD STREET EAST, TO 4TH STREET EAST, ON SEPTEMBER 23, 2012 FROM 10:00 A.M. TO 6:00 P.M. AND TO UTILIZE CITY PROPERTY FOR THEIR ANNUAL FALL FESTIVAL ON SEPTEMBER 22 AND 23, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the request from the St. Patrick Catholic Church to close 4th Street East from East “F” Street, to East “G” Street and East “G” Street from 3rd Street East, to 4th Street East, on September 23, 2012 from 10:00 A.M. to 6:00 P.M. and to utilize city property for their Annual Fall Festival on September 22 and 23, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM F AUTHORIZE NEBRASKA PUBLIC POWER DISTRICT TO OCCUPY CITY RIGHT-OF-WAY AROUND THEIR NW SUBSTATION LOCATED AT THE INTERSECTION OF WEST “Q” STREET AND NORTH HIGHWAY 83 FOR THE INSTALLATION OF UNDERGROUND GROUND WIRE AND AUTHORIZE THE MAYOR TO SIGN THE APPLICATION.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to authorize Nebraska Public Power District to occupy city right-of-way around their NW substation located at the intersection of West “Q” Street and North Highway 83 for the installation of underground ground wire and authorize the mayor to sign the application. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM G AUTHORIZE STAFF TO PREPARE AND EXECUTE A CONTRACT WITH MILLER AND ASSOCIATES TO SERVE AS GENERAL ADMINISTRATOR OF THE CITY OF MCCOOK’S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) DOWNTOWN PLANNING GRANT.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to authorize staff to prepare and execute a contract with Miller and Associates to serve as General Administrator of the City of McCook’s Community Development Block Grant (CDBG) Downtown Planning Grant. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM H **ADOPT RESOLUTION NO. 2012-14 APPROVING THE LEASE-PURCHASE AGREEMENT AND SUPPLEMENT NO. 198838-401 WITH WELLS FARGO EQUIPMENT FINANCE, INC. FOR FINANCING THE PURCHASE OF ONE (1) WEIS FIRE RESCUE TRUCK, MODEL 300, ON A DODGE 5500 CHASSIS AND AUTHORIZE THE MAYOR TO SIGN.**

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2012-14 approving the Lease-Purchase agreement and Supplement No. 198838-401 with Wells Fargo Equipment Finance, Inc. for financing the purchase of One (1) Weis Fire Rescue Truck, Model 300, on a Dodge 5500 Chassis and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

REGULAR AGENDA

(9) MUNICIPAL FACILITIES UPDATE.

City Staff gave a short update on the new municipal facility.

(11) COUNCIL COMMENTS.

Mayor Berry moved consideration of Item 11 before the Council moves into executive session.

Mayor Berry thanked the citizens for their input tonight. It is good to have input so that the Council knows what they desire.

Councilmember Calvin agreed adding that it is their government, it is their money.

Councilmember McDowell thanked City Clerk Doak and City Staff for all of their work on preparing the budget.

(10) 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 Calvin, seconded by Councilmember McDowell, 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 9:20 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

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 Gonzales, seconded by Councilmember Calvin, the Council voted to move out of executive session at 9:29 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp

(12) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 9:30 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk