

MCCOOK CITY COUNCIL
August 20, 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 Attorney Schneider; City Clerk-Treasurer Doak.

Absent: Councilmember Hepp.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on August 16, 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.

No one was present for Citizen's Forum.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

Police Chief Ike Brown introduced Patrol Officer Shannon Brown who recently graduated from the Nebraska Law Enforcement Center. She had the honor of being the first woman to receive their class Marksmanship award.

City Manager Hancock informed the Council that work continues on the Comprehensive Plan, the Downtown Revitalization Plan, and the Housing Study and that he is seeking individuals to serve on these various committees.

(5) ADVERTIZED PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - REQUEST TO CONSIDER A PLANNED DEVELOPMENT DISTRICT REQUEST FROM HCC LEASING, LLC AND THE REZONING FROM RESIDENTIAL MEDIUM DENSITY DISTRICT (RM) TO BUSINESS

COMMERCIAL DISTRICT (BC), FOR THE FOLLOWING DESCRIBED PROPERTY:

A TRACT OF LAND LOCATED IN MISCELLANEOUS MCCOOK, PART OF THE SW/4NE OF SECTION 19, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6TH P.M., RED WILLOW COUNTY, NEBRASKA; GENERALLY DESCRIBED AS A LOT ON THE NORTH SIDE OF “Q” STREET WEST, COMMONLY KNOWN AS THE “SCHOOL BUS BARN”.

Upon a motion by Councilmember Calvin, 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 request for a Planned Development District from HCC Leasing, LLC and the rezoning from Residential Medium Density District (RM) to Business Commercial District (BC), for the following described property:

A tract of land located in Miscellaneous McCook, part of the SW/4NE of Section 19, Township 3 North, Range 29 West of the 6th P.M., Red Willow County, Nebraska; generally described as a lot on the north side of “Q” Street West, commonly known as the “School Bus Barn”.

with the City Attorney 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 Attorney offered and received into evidence Exhibit #1 - the City Manager’s Report prepared for the August 20, 2012 City Council meeting - Exhibit #2 - Notice of Hearing published on August 3, 2012; Exhibit #3 - Ownership list for mailing; Exhibit #4 - the Land Use Action Request Form, nine pages, including four area maps and diagrams; Exhibit #5 - letter from Brent and Bev Klein dated August 13, 2012; and Exhibit #6 - proposed Ordinance No. 2012-2883.

Dr. Rick Klug, representing HCC Leasing, LLC presented the request and answered questions from the Council. Other members present were Bill Davis and Terry McCorkle. Their plan is to remove the existing concrete structure, leaving the building on the very southeast corner and the current bus barn and construct seven additional storage structures. The structures will be 40' x 100' and will have a side lot set back of 20'. The existing bus barn has a 29' setback and they plan to maintain that with the new structure to the north. They plan to build homes on the three proposed lots to the north. These homes will be in the price range of \$150,000 to \$180,000. Because of this, they will want to make the storage area as user friendly as possible. If they do not, they will not be able to see these homes.

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

ITEM B INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2012-2883 APPROVING THE REQUEST FROM HCC LEASING, LLC FOR A PLANNED DEVELOPMENT DISTRICT AND THE REZONING FROM RESIDENTIAL MEDIUM DENSITY DISTRICT (RM) TO BUSINESS COMMERCIAL DISTRICT (BC), FOR THE FOLLOWING DESCRIBED PROPERTY:

A TRACT OF LAND LOCATED IN MISCELLANEOUS MCCOOK, PART OF THE SW/4NE OF SECTION 19, TOWNSHIP 3 NORTH, RANGE 29 WEST OF THE 6TH P.M., RED WILLOW COUNTY, NEBRASKA; GENERALLY DESCRIBED AS A LOT ON THE NORTH SIDE OF "Q" STREET WEST, COMMONLY KNOWN AS THE "SCHOOL BUS BARN".

Councilmember Gonzales introduced Ordinance No. 2012-2883 by title. The Clerk read the Ordinance by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF MCCOOK ZONING ORDINANCE NO. 1580 BY DESIGNATING A TRACT OF LAND AS A PLANNED DEVELOPMENT DISTRICT AND BY CHANGING THE ZONING CLASSIFICATION OF SAID TRACT OF LAND FROM RESIDENTIAL MEDIUM DENSITY DISTRICT (RM) TO BUSINESS COMMERCIAL DISTRICT (BC); PROVIDING FOR THE REPEAL OF 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. 2012-2883 was introduced and read by title only. Mayor Berry moved that the statutory rule requiring reading on three different days be suspended. Councilmember McDowell seconded the motion to suspend the rule.

Dr. Klug stated that there is a need to expedite the process because the school would like to close on the sale in September so that they can move forward with the development of the former Armory facility.

City Manager Hancock stated that a Planned Development District is an overlay to existing zoning and that the Planning Commission recommended approval with condition that they be required to place two fences (privacy fence of some type) on the east between the two proposed structures.

Utilities Director Jesse Dutcher stated that sewer is available from the Kelley Creek Trunk line which is located to the north of this area.

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

Mayor Berry moved for final passage of the Ordinance, which was seconded by Councilmember Calvin.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the applicants were instructed to provide an accurate legal description for inclusion in the ordinance. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

The Mayor then stated the question: "Shall Ordinance No. 2012-2883 be passed and adopted as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp. 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.

(6) CONSENT AGENDA:

Councilmember Gonzales requested that Item B be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE AUGUST 6, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the minutes of the August 6, 2012 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM C RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF JULY 2012 AS PUBLISHED ON AUGUST 13, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to receive and file the claims for the month of July 2012 as published on August 13, 2012. 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 ROCK N HORSE LOUNGE, LICENSE #CK-77614, FOR A BEER GARDEN AT THE MCCOOK FARM & RANCH EXPO TO BE HELD AT THE KIPLINGER ARENA, 1412 WEST 5TH STREET, ON NOVEMBER 14, 2012 FROM 10:00 A.M. TO 1:00 A.M. AND NOVEMBER 15, 2012 FROM 9:00 A.M. TO 10:00 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 Rock N Horse Lounge, License #CK-77614, for a beer garden at the McCook Farm & Ranch Expo to be held at the Kiplinger Arena, 1412 West 5th Street, on November 14, 2012 from 10:00 A.M. to 1:00 A.M. and November 15, 2012 from 9:00 A.M. to 10:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM E APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE AMENDMENT TO AGRICULTURAL FARM LEASE - AIRPORT LAND WITH MEYERS BROTHERS.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve and authorize the Mayor to sign the Amendment to Agricultural Farm Lease - Airport Land with Meyers Brothers. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

ITEM F APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH, LLC, LICENSE #IK-57785, FOR A RECEPTION TO BE HELD AT THE KEYSTONE BUSINESS CENTER, 402 NORRIS AVENUE, ON OCTOBER 13, 2012 FROM 1:00 P.M. TO 1:00 A.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 MO Dough, LLC, License #IK-57785, for a reception to be held at the Keystone Business Center, 402 Norris Avenue, on October 13, 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 G APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH, LLC, LICENSE #IK-57785, FOR A RECEPTION TO BE HELD AT THE KEYSTONE BUSINESS CENTER, 402 NORRIS AVENUE, ON SEPTEMBER 11, 2012 FROM 1:00 P.M. TO 1:00 A.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 MO Dough, LLC, License #IK-57785, for a reception to be held at the Keystone Business Center, 402 Norris Avenue, on September 11, 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 H RECEIVE AND FILE THE MINUTES OF THE PLANNING COMMISSION MEETING DATED AUGUST 13, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to receive and file the minutes of the Planning Commission meeting dated August 13, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

REGULAR AGENDA

ITEM 6B APPROVE THE REQUEST FROM THE UNITED WAY TO USE CITY STREETS FOR THEIR 12TH ANNUAL UNITED WAY FUN RUN AND 5K RACE ON SATURDAY, SEPTEMBER 29, 2012.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the request from the United Way to use city streets for their 12th Annual United Way Fun Run and 5K race on Saturday, September 29, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

Councilmember Gonzales questioned if requests of this type could be handled by the Staff in the future.

(7) PRESENTATION BY SERGEANT KEVIN DARLING AND THE CITY SIGN COMMITTEE AND REQUEST FOR CITY COUNCIL INPUT AND DIRECTION ON CITY ENTRANCE SIGN DESIGN.

City Manager Hancock informed the Council that since the spring of this year the City Sign Committed made up of Police Sergeant Kevin Darling, Fire Chief Marc Harpham, Library Director Jody Crocker, Senior Services Director Sue Chipman, and himself have been working on a design for city entrance signs. Sales tax funds in the amount of \$25,000 have been designated in the budget for a number of years for this project.

Sergeant Darling presented several proposals for entrance signs, the proposed messaging sign at the northeast corner of Norris and "B" Street, and directional signs.

City Manager Hancock thanked Sergeant Darling for all of his work on this project, adding that he is a very talented individual and the City is very lucky to have him as an employee.

It was the consensus of the Council to continue with the project as presented.

- (8) RECEIVE AND FILE THE ANNUAL CASHFLOW ANALYSES FOR THE WATER AND SEWER UTILITY FUND, AS PREPARED BY PUBLIC FINANCIAL MANAGEMENT, INC.

A telephone conference call was held with Jenny Blankenship, CPA for Public Financial Management (PFM) for review of the cashflow analyses for the Water and Sewer Utility funds. Some of the key points were the Debt Coverage Ratios, the Ending Cash Balance, Cash Balance as a % of O & M, and Net Operating Income. Her recommendation is for a 3.5% rate increase for both Water and Sewer.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin the Council voted to receive and file the annual cashflow analyses for the Water and Sewer Utility Fund, as prepared by Public Financial Management, Inc. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

- (9) INTRODUCE AND APPROVE ORDINANCE NO. 2012-2881 PROVIDING FOR THE AMENDMENT OF FEE SCHEDULE - APPENDIX D, SEWER DEPARTMENT RATES AND FEES UPON ITS FIRST READING.

Mayor Berry introduced Ordinance No. 2012-2881 by title. The Clerk read the Ordinance by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF FEE SCHEDULE - APPENDIX D, SEWER DEPARTMENT RATES AND FEES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2011-2864 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2012-2881 was introduced and read by title only. Motion was made by Mayor Berry, seconded by Councilmember Calvin, to approve Ordinance No. 2012-2881 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. 2012-2881 approved on its first reading.

- (10) INTRODUCE AND APPROVE ORDINANCE NO. 2012-2882 PROVIDING FOR THE AMENDMENT OF FEE SCHEDULE - APPENDIX E, WATER DEPARTMENT RATES AND FEES UPON ITS FIRST READING.

Councilmember Gonzales introduced Ordinance No. 2012-2882 by title. The Clerk read the Ordinance by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF SECTION A OF THE FEE SCHEDULE - APPENDIX E OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR WATER BY THE MCCOOK WATER DEPARTMENT; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2011-2863 AND ANY AND ALL 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. 2012-2882 was introduced and read by title only. Motion was made by Councilmember Calvin, seconded by Councilmember McDowell, to approve Ordinance No. 2012-2882 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. 2012-2882 approved on its first reading.

(11) APPROVE ORDINANCE NO. 2012-2879 PROVIDING FOR THE ADOPTION OF THE BUDGET FOR FY 2012/2013 UPON ITS SECOND READING.

Motion was made by Councilmember Gonzales, seconded by Councilmember McDowell, to approve Ordinance No. 2011-2879 on its second reading.

Mayor Berry introduced a motion to eliminate the proposed cell phone occupation tax and to drop the current land line occupation tax from 3% to 1½%. Councilmember Calvin seconded the motion.

Councilmembers stated they had heard from citizens stating they did not want the cell phone tax, did not want any tax increase at all, services could be cut, and that the budget could be tightened up more.

Aaron Kircher and John Hanson did not feel there was any reason to reduce the land line tax, leave it where it is.

Councilmember Gonzales raised the issue of the county moving dispatch services away from the City, which could result in lost revenue.

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

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to remove \$220,000 from uncommitted sales tax dollars and designate \$80,000 for Kelley Park restrooms/storage, \$35,000 for Karrer Park shower house renovations, \$5,000 for Cemetery trees, and \$100,000 to buy down the Sewer SRF loan (4% interest rate). The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

Councilmember Gonzales stated that it maybe a better option to not refinance the current SRF loans, instead, utilize sales tax dollars to buy down those loans, or maybe more should be used for street improvements.

In response to the City Staff request for the addition of \$3,500 for Wildlife Services, Mayor Berry stated that may be one of the services that has to go, not funded.

The Mayor then stated the question: "Shall Ordinance No. 2012-2879 be approved upon its second reading as amended?" 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. 2011-2879 approved on its second reading.

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

SECOND READING.

Ordinance No. 2011-2880 was read by title only. Motion was made by Councilmember McDowell, seconded by Councilmember Gonzales, to approve Ordinance No. 2011-2880 on its second 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. 2011-2880 approved on its second reading.

Councilmember Calvin noted that the City through the union contracts with both Police and Fire are tied to a merit increase of at least 2.5% and that it would not be fair to not give the regular employees the same increase.

(13) APPROVE INCREASE OF RESTRICTED FUNDS LIMIT BY AN ADDITIONAL 1% FOR UNUSED RESTRICTED FUNDS AUTHORITY.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the increase of Restricted Funds Limit by an additional 1% for Unused Restricted Funds Authority. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, McDowell. NAY: None. ABSENT: Hepp.

(14) MUNICIPAL FACILITIES UPDATE.

A brief update was given, the storm drainage at the front of the building has been addressed and completed and to date all change orders are within the budgeted contingency.

(15) COUNCIL COMMENTS.

Mayor Berry noted that there is one more reading of the budget and encouraged citizens to let the Councilmembers know their concerns.

Councilmember Gonzales wished a speedy recovery to McCook Daily Gazette editor Bruce Crosby following his motorcycle accident.

(16) 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 9:35 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 Mayor Berry, seconded by Councilmember Calvin, the Council voted to move out of executive session at 9:40 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 9:41 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk