

MCCOOK CITY COUNCIL
September 17, 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 September 13, 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 - BRIAN BOWMAN - FIRST NAZARENE CHURCH.

No one 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.

Cathy McDowell, Program Director for Prairie Plains CASA, informed the Council that their third annual Disc Golf Tournament held this past weekend was a success. She thanked the City of McCook and its employees who take care of the course. Many of the out-of-town participants complimented the City on having such a nice course.

Public Works Director Potthoff stated that the two employees responsible for maintenance of the parks are Ron Marris and Matt Coulter.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Hancock recognized Larry Kinne and Kevin Hodgson, who serve as Detectives for the City of McCook Police Department. The City is fortunate to have them and thanked them for the excellent job they did on the recent murder case.

Mr. Hancock informed the Council that the Downtown Planning Steering Committee is scheduled to meet on October 2 with a public forum to be held on October 3, the City Wide Steering Committee for update of the Comprehensive Plan and Housing Study are scheduled to meet on

October 18, the contract with the County for temporary use of the City's Jail facility is moving ahead and is planned for the October 1 Council meeting, and progress is being made on the bid specifications for entrance signs.

(5) PUBLIC HEARING:

ITEM A CONDUCT A PUBLIC HEARING ON THE APPLICATION OF JBN, INC., DBA "HIGH TIMES LIQUOR MART 1", FOR A CLASS "D" (BEER, WINE & DISTILLED SPIRITS, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 502 EAST "B" STREET, MCCOOK, NEBRASKA.

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 application of JBN, Inc., dba "High Times Liquor Mart 1", for a Class "D" (Beer, Wine & Distilled Spirits, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 502 East "B" Street, McCook, Nebraska 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 - Notice of Hearing published and Exhibit #2 - the application filed with the Nebraska Liquor Control Commission.

John Nothnagel, representing the applicants, informed the Council that the request changes the license from CT Jewell to JBN, Inc, which is a corporation that stands on its own. All owners and partners remain the same.

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, Hepp, McDowell. NAY: None.

ITEM B RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF JBN, INC., DBA "HIGH TIMES LIQUOR MART 1", FOR A CLASS "D" (BEER, WINE & DISTILLED SPIRITS, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 502 EAST "B" STREET, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of JBN, Inc., dba "High Times Liquor Mart 1", for a Class "D" (Beer, Wine & Distilled Spirits, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 502 East "B" Street, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(6) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE SEPTEMBER 4, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to

approve the minutes of the September 4, 2012 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

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

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

ITEM C RATIFY THE MAYOR'S APPOINTMENTS TO THE:

- ECONOMIC DEVELOPMENT PLAN CITIZEN'S ADVISORY REVIEW COMMITTEE - REAPPOINT TROY BRUNTZ AND JERDA GAREY - TERMS EXPIRE JULY 2015,
- BOARD OF HEALTH - REAPPOINT JEFF HANCOCK, IKE BROWN, DENNIS BERRY, DR. RICHARD KLUG, AND MARY BETH EISENMENGER - TERMS EXPIRE JUNE 2013,
- PLANNING COMMISSION - REAPPOINT CHAD LYONS AND DALE DUELAND - TERMS EXPIRE SEPTEMBER 2015 AND APPOINT JESSE STEVENS AS ALTERNATE TO REPLACE BECKY KILPATRICK - TERM EXPIRES MARCH 2015.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to ratify the Mayor's appointments to the Economic Development Plan Citizen's Advisory Review Committee - reappointing Troy Bruntz and Jerda Garey - terms expire July 2015, the Board of Health - reappointing Jeff Hancock, Ike Brown, Dennis Berry, Dr. Richard Klug, and Mary Beth Eisenmenger - terms expire June 2013, and the Planning Commission - reappointing Chad Lyons and Dale Dueland - terms expire September 2015 and appointing Jesse Stevens as alternate to replace Becky Kilpatrick - term expires March 2015. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM D ADOPT RESOLUTION NO. 2012-15 AMENDING RESOLUTION NO. 2007-07 ESTABLISHING CROSSWALKS AT THE INTERSECTION OF WEST CIRCLE DRIVE AND WEST "Q" STREET; NEAR THE INTERSECTION OF PARK ROAD IN KELLEY PARK AND FIFTH STREET EAST; ON PARK ROAD IN KELLEY PARK IMMEDIATELY SOUTH OF THE LOWER SHELTER HOUSE; AND AT THE INTERSECTION OF THIRD STREET EAST AND EAST "M" STREET.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to adopt Resolution No. 2012-15 amending Resolution No. 2007-07 establishing crosswalks at the intersection of West Circle Drive and West "Q" Street; near the intersection of Park Road in Kelley Park and Fifth Street East; on Park Road in Kelley Park immediately south of the lower shelter house; and at the intersection of Third Street East and East "M" Street. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E RECEIVE AND FILE THE MINUTES OF THE SENIOR CENTER ADVISORY BOARD DATED AUGUST 7, 2012 AND SEPTEMBER 4, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to

receive and file the minutes of the Senior Center Advisory Board dated August 7, 2012 and September 4, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F **ADOPT RESOLUTION NO. 2012-16 SETTING THE PROPERTY TAX REQUEST FOR FY2012/2013 AT A DIFFERENT AMOUNT THAN THE PROPERTY TAX REQUEST FOR THE PRIOR YEAR.**

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to adopt Resolution No. 2012-16 setting the property tax request for FY2012/2013 at a different amount than the property tax request for the prior year. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

(7) **APPROVE ORDINANCE NO. 2012-2881 PROVIDING FOR THE AMENDMENT OF FEE SCHEDULE - APPENDIX D, SEWER DEPARTMENT RATES AND FEES UPON ITS THIRD AND FINAL READING.**

Councilmember Gonzales moved for final passage of the Ordinance No. 2012-2881, which motion was seconded by Councilmember McDowell. The Mayor then stated the question: "Shall Ordinance No. 2012-2881 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 the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

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

Councilmember Calvin moved for final passage of the Ordinance No. 2012-2882, which motion was seconded by Councilmember McDowell. The Mayor then stated the question: "Shall Ordinance No. 2012-2882 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 the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

(9) **INTRODUCE AND APPROVE, UNDER SUSPENSION OF THE RULE, ORDINANCE NO. 2012-2884 AMENDING CHAPTER 73, SCHEDULE I - SPEED LIMITS, OF THE CITY OF MCCOOK CODE OF ORDINANCES PERTAINING TO TRAFFIC SCHEDULES; CHANGING THE 20 MPH SCHOOL SPEED ZONE ALONG SEVENTH STREET WEST FROM WEST "D" STREET TO SUNSET ROAD.**

Mayor Berry introduced Ordinance No. 2012-2884 by title. The Clerk read the Ordinance by title:

AN ORDINANCE TO AMEND CHAPTER 73, TRAFFIC SCHEDULES; SCHEDULE I. SPEED LIMITS, OF THE MCCOOK MUNICIPAL CODE; TO PROVIDE FOR THE REPEAL OF THE CURRENT CHAPTER 73, TRAFFIC SCHEDULES; SCHEDULE I. SPEED LIMITS AND ANY OTHER CONFLICTING ORDINANCES; AND TO PROVIDE FOR AN EFFECTIVE

DATE OF THIS ORDINANCE.

Ordinance No. 2012-2884 was introduced and read by title only. Councilmember McDowell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Calvin seconded the motion to suspend the rule and 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.

John Hanson questioned the need for a reduced speed zone on the south side of what was the Armory.

Mayor Berry moved for final passage of the Ordinance, which was seconded by Councilmember Calvin. The Mayor then stated the question: "Shall Ordinance No. 2012-2884 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) COMMUNITY HOUSING REPORT BY MCCOOK ECONOMIC DEVELOPMENT CORPORATION (MEDC) EXECUTIVE DIRECTOR REX NELSON AND DISCUSSION OF TAX INCREMENT FINANCING PROGRAM AND THE METHOD OF FUNDING SAID PROGRAM.

McCook Economic Development Corporation (MEDC) Executive Director Rex Nelson gave an update regarding the Housing Initiative, the Community Housing report, proposed Redevelopment Area #3, and the proposed use of Tax Increment Financing (TIF) as a method of funding needed infrastructure for new housing development and possibly Down Payment Assistance.

Gregg Hepp expressed concerns that using TIF funds to build homes could hurt the housing market for others attempting to sell a home. He felt that connection costs for water and sewer could be reduced and that the building codes needed to be reviewed, adding that some of the required construction standards have made new construction not profitable for home builders.

It was the consensus of the Council to have this item brought back as an action item on a future agenda.

(11) MUNICIPAL FACILITIES UPDATE.

The proposed three week construction schedule was reviewed.

(12) COUNCIL COMMENTS.

Mayor Berry stated that currently the City's Building Code is in the process of being reviewed. Hopefully some of Mr. Hepp's concerns will be addressed during that process. The Building Code Review Committee meets the fourth Wednesday of each month at noon in the City Council Chambers.

(13) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR A STRATEGY SESSION WITH RESPECT TO POTENTIAL LITIGATION REGARDING SOLID WASTE DISPOSAL.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to move into executive session for a strategy session with respect to potential litigation regarding Solid Waste disposal at 8:49 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 potential litigation regarding Solid Waste disposal. 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 9:07 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(14) 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