

MCCOOK CITY COUNCIL
October 15, 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 October 11, 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 - BRUCE LESTER - EVANGELICAL FREE CHURCH.

Bruce Lester, pastor of the Evangelical Free 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.

There were no Mayor's announcements or recognitions.

(5) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - REQUEST TO CONSIDER THE FINAL PLAT TO BE KNOWN AS CAPPEL INDUSTRIAL PARK LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK ON DRIVE 716.

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 request to consider the final plat to be known as Cappel Industrial Park located within the two mile extra-territorial jurisdiction of the City of McCook on Drive 716 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 October 15, 2012 City Council meeting; Exhibit #2 - Notice of Public Hearing published; Exhibit #3 - ownership mailing list of those receiving notice of Public Hearing; Exhibit #4 - Land Use Application and all attachments; and Exhibit #5 - Plat map of proposed subdivision.

Gary Dicenta, Miller & Associates, and Dick Cappel, developer, addressed the proposed subdivision. The presented request is for minor subdivision consisting of four lots ranging in size from 5.50 acres to 6.02 acres. It fits in with the current area uses. A feed store to the west, to the north a truck repair service and welding shop, and to the east are storage units.

City Manager Hancock stated that the Planning Commission unanimously recommend approval of the request, as does City Staff.

There being no one else present to comment, upon a motion by Councilmember Calvin, 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 B APPROVE THE FINAL PLAT TO BE KNOWN AS CAPPEL INDUSTRIAL PARK, LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK ON DRIVE 716.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the final plat to be known as Cappel Industrial Park, located within the two mile extra-territorial jurisdiction of the City of McCook on Drive 716. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(6) CONSENT AGENDA:

Councilmember Calvin requested that Item D be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE OCTOBER 1, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve the minutes of the October 1, 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 DRAWINGS AND SPECIFICATIONS FOR THE EAST 9TH STREET & EAST "G" STREET DRAINAGE IMPROVEMENTS AND SET THE DATE TO RECEIVE BIDS FOR NOVEMBER 6, 2012 AT 1:30 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve drawings and Specifications for the East 9th Street & East "G" Street Drainage Improvements and set the date to receive bids for November 6, 2012 at 1:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF SEPTEMBER 2012 AS PUBLISHED ON OCTOBER 11, 2012.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to receive and file the claims for the month of September 2012 as published on October 11, 2012. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E RECEIVE AND FILE THE CITY OF MCCOOK SNOW AND ICE CONTROL AND REMOVAL OPERATION PROCEDURES AND POLICIES.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to receive and file the City of McCook Snow and Ice Control and Removal Operation Procedures and Policies. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH, LLC, LICENSE #IK-57785, FOR A FUND RAISER FOR HOSPICE SERVICES TO BE HELD AT THE MCCOOK COMMUNITY HOSPITAL, 1302 EAST "H" STREET, ON NOVEMBER 18, 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 fund raiser for hospice services to be held at the McCook Community Hospital, 1302 East "H" Street, on November 18, 2012 from 1:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

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 ARMY RESERVE BUILDING, 38709 EAST HIGHWAY 6 & 34, ON DECEMBER 15, 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 Army Reserve Building, 38709 East Highway 6 & 34, on December 15, 2012 from 1:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM H APPROVE INTERCITY BUS AGREEMENT NO. BUS-B732(213) WITH THE NEBRASKA DEPARTMENT OF ROADS AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve Intercity Bus Agreement No. BUS-B732(213) with the Nebraska Department of Roads 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 APPROVE INTERCITY BUS AGREEMENT NO. BUS-B732(213) WITH DASHABOUT ROADRUNNER, INC. AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember McDowell, the Council voted to approve Intercity Bus Agreement No. BUS-B732(213) with Dashabout Roadrunner, Inc. and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

ITEM 6D APPROVE THE AGREEMENT BETWEEN THE CITY OF MCCOOK AND THE UNITED STATES DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES, IN THE AMOUNT OF \$3,500.00, TO HELP CONTROL VARIOUS WILDLIFE SPECIES CAUSING DAMAGE THROUGHOUT THE CITY LIMITS AND AUTHORIZE THE MAYOR TO SIGN.

Councilmember Calvin introduced a motion to approve the agreement between the City of McCook and the United States Department of Agriculture Wildlife Services, in the amount of \$3,500.00, to help control various wildlife species causing damage throughout the city limits and authorize the Mayor to sign. Councilmember McDowell seconded the motion.

Councilmember Calvin questioned how the service would be dispatched and who monitors the hours.

Public Works Director Potthoff explained that the citizens and city staff would contact the Wildlife Service as needed and that the service would monitor the hours used.

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, Calvin, Hepp, McDowell. NAY: None. Motion carried.

(7) INTRODUCE AND APPROVE UPON ITS FIRST READING ORDINANCE NO. 2012-2886 PROVIDING FOR THE AMENDMENT OF CHAPTER 91, FIRE PREVENTION; FIREWORKS; POISONOUS OR FLAMMABLE GAS; EXPLOSIVES, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES, AMENDING SECTION 91.41, BY PROVIDING FOR A TEMPORARY BAN PROHIBITING THE USE OF PERMISSIBLE FIREWORKS IN THE CITY OF MCCOOK.

Mayor Berry introduced Ordinance No. 2012-2886 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING CHAPTER 91, FIRE PREVENTION; FIREWORKS; POISONOUS OR FLAMMABLE GAS; EXPLOSIVES, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES, AMENDING SECTION 91.41, PERMITTED FIREWORKS, PROHIBITED FIREWORKS; PROVIDING FOR A TEMPORARY BAN PROHIBITING THE USE OF PERMISSIBLE FIREWORKS IN THE CITY OF MCCOOK; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM AND FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2012-2886 was introduced and read by title only. Motion was made by Councilmember Gonzales, seconded by Councilmember McDowell, to approve Ordinance No. 2012-2886 on its first reading.

Fire Chief Harpham stated that concerns were raised during the July 4th Holiday about the possibility of banning fireworks due to the extremely dry weather. Although the Fire Department had very few firework related fires within the City, the potential existed and continues to exist for fires due to the dry weather. In Nebraska, the authority to adopt and enforce a temporary fireworks ban rests with the local governmental agency having jurisdiction. Without a local ordinance, a temporary ban on fireworks cannot be enforced. This proposed ordinance would give the City Council the authority to temporarily ban fireworks if the current or forecasted weather conditions create a very high risk of fire within the City and areas surrounding the City that represents an unacceptable risk to the public's health, safety, and welfare. The presented ordinance will not prohibit the sale of fireworks or the annual Fourth of July professional fireworks display that currently takes place in McCook.

Councilmember Calvin questioned why professional fireworks displays should be allowed.

Chief Harpham explained that fire protection services are provided at the annual display and that fire trucks were on site that could extinguish hot spots quickly.

Councilmember Hepp stated that preventive measures used this past summer worked, it maybe better to let the public enforce themselves.

Councilmember Gonzales questioned continuing to allow the sale of fire works during a ban.

The Mayor then stated the questions "Shall Ordinance No. 2012-2886 be approved upon 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. 2012-2886 approved on its first reading.

- (8) SELECT A COUNCIL REPRESENTATIVE; RATIFY THE MAYOR'S APPOINTMENT OF JENNIFER MORGAN, TERRI SHIPSHOCK, CAMY BRADLEY, KEITH DELANO, BECKY DUTCHER, MARY KIRCHER, GREG HEPP, RICHARD HAUXWELL, BRIAN GARCIA, MATT SEHNERT, CLOYD CLARK, JEFF GROSS, CODY DAME, MARK CARMAN, MARK FRIEHE, GREG WOLFORD, BILL BURTON, REX NELSON, WILL MIDKIFF, ANGELA RABY, BILL DAVIS, KATHY EATON, LEON KUHLEN, KYLE POTTHOFF, JESSE DUTCHER, AND CHRIS MILLER AND MEMBERS OF THE PLANNING COMMISSION - KURT VOSBURG, DALE DUELAND, MICHAEL EKLUND, FLORA LUNDBERG, DONALD O. HARPST, LONNIE ANDERSON, TAMMIE HILKER, CHAD LYONS, JERDA GAREY, AND JESSE STEVENS TO THE CITYWIDE PLANNING STEERING COMMITTEE.

Councilmember McDowell stated that he would volunteer as the Council representative.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to appoint Councilmember McDowell as the Council representative and to ratify the Mayor's appointment of Jennifer Morgan, Terri Shipshock, Camy Bradley, Keith Delano, Becky Dutcher, Mary Kircher, Greg Hepp, Richard Hauxwell, Brian Garcia, Matt Sehnert, Cloyd Clark, Jeff Gross, Cody Dame, Mark Carman, Mark Friehe, Greg Wolford, Bill Burton, Rex Nelson, Will Midkiff, Angela Raby, Bill Davis, Kathy Eaton, Leon Kuhlen, Kyle Potthoff, Jesse Dutcher, and Chris Miller and members of the Planning Commission - Kurt Vosburg, Dale Dueland, Michael Eklund, Flora Lundberg, Donald O. Harpst, Lonnie Anderson, Tammie Hilker, Chad Lyons, Jerda Garey, and Jesse Stevens to the Citywide Planning Steering Committee. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

- (9) AUTHORIZE MARK WILCOX, JIM KENNY, AND JOE LEAMON TO CONSTRUCT

A CONCRETE ALLEY WAY THAT MEETS CITY STANDARDS ON CITY RIGHT-OF-WAY ADJACENT TO THEIR PROPERTIES, BETWEEN WEST 14TH STREET AND WEST FAIRACRES AND WEST "O" STREET AND WEST "Q" STREET, CONTINGENT UPON THE OWNERS TRANSFERRING THEIR PROPERTY INTEREST TO THE CITY IN FEE AT COMPLETION OF PROJECT.

Public Works Director Potthoff stated that Mark Wilcox, Jim Kenny, and Joe Leamon have requested permission to construct, at their own cost, a concrete alley way adjacent to their properties that are located between West 14th Street and West Fairacres and West "O" Street and West "Q" Street. This alley will be built to City standards and once the alley is completed, the owners agree to transfer their property interest to the City in fee. A few months ago, drainage concerns in this area were discussed when petitions were brought in front of the City Council for the creation of a street paving district as well as an alley paving district. At the time neither of these districts were created. These property owners have come to the City with this request in order to try and alleviate some of the drainage issues in the area. With this project, approximately the north half of the alley will be paved. The area at the south end of the alley will remain as is. The property owners, if authorized, are wanting to complete this project, yet this fall. If this is authorized, a formal agreement will be created and signed by all parties.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to authorize Mark Wilcox, Jim Kenny, and Joe Leamon to construct a concrete alley way that meets city standards on city right-of-way adjacent to their properties, between West 14th Street and West Fairacres and West "O" Street and West "Q" Street, contingent upon the owners transferring their property interest to the City in fee at completion of project. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(10) MUNICIPAL FACILITIES UPDATE.

Councilmember Gonzales gave a brief update on the progress of the new Municipal Center.

(11) COUNCIL COMMENTS.

Councilmember Gonzales and Mayor Berry encouraged all to get out and vote at the Tuesday, November 6th election and noted that the local candidate forum will be held on October 29.

Councilmember McDowell recognized the Fire Department for working this past week with the local school children addressing fire safety issues in their homes.

(12) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:30 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk