

MCCOOK CITY COUNCIL
November 19, 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: Councilmembers Gonzales, Calvin, Hepp, McDowell; City Manager Hancock; City Attorney Schneider; City Clerk-Treasurer Doak.

Absent: Mayor Berry.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on November 15, 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.

Council Vice President Gonzales 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.

Councilmember Calvin lead the Council and audience in the Pledge of Allegiance.

(3) CITIZEN'S FORUM.

Lloyd Benjamin, representing the Fox Theatre, thanked the City for accepting the grant that allowed them to renovate the facility. The project is completed and it is now a place for first class performances.

(4) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Hancock informed that the contract with the County regarding use of the Public Safety Center may now need to be amended as they desire the use of a portion of the west bay area for their washer and dryer.

(5) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE NOVEMBER 5, 2012 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the minutes of the November 5, 2012 regular City Council meeting. The motion passed

upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM B AWARD THE BID TO BSB CONSTRUCTION, INC. FOR THE EAST 9TH AND “G” STREET DRAINAGE PROJECT IN THE AMOUNT OF \$49,290.00, THAT BEING THE LOWEST RESPONSIBLE BID, AND AUTHORIZE THE MAYOR TO EXECUTE THE NECESSARY PAPERWORK TO AWARD THE CONTRACT.

Pursuant to instruction given by the City Council a Notice to Bidders was published asking for sealed bids for the East 9th and “G” Street drainage. The following bids were received:

BSB Construction, Inc. - Curtis, Nebraska
Total Bid - \$49,827.00

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to award the bid to BSB Construction, Inc. for the East 9th and “G” Street drainage project in the amount of \$49,290.00, that being the lowest responsible bid, and authorize the Mayor to execute the necessary paperwork to award the contract. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM C ADOPT RESOLUTION NO. 2012-18 APPROVING THE AWARD OF BID TO PAULSEN, INC. IN THE AMOUNT OF \$1,648,734.38, THAT BEING THE LOWEST RESPONSIBLE BID, FOR THE EAST “H” STREET PAVING PROJECT FROM NORRIS AVENUE TO AIRPORT ROAD AND AUTHORIZE THE MAYOR TO SIGN THE ASSOCIATED CONTRACT(S).

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to adopt Resolution No. 2012-18 approving the award of bid to Paulsen, Inc. In the amount of \$1,648,734.38, that being the lowest responsible bid, for the East “H” Street Paving project from Norris Avenue to Airport Road and authorize the Mayor to sign the associated contract(s). The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM D APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK’S MARKET, INC., LICENSE #ID-86907, FOR A RECEPTION TO BE HELD AT THE RED WILLOW COUNTY FAIRGROUNDS COMMUNITY BUILDING, 1412 WEST 5TH STREET, ON DECEMBER 1, 2012 FROM 5:00 P.M. TO 11:59 P.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick’s Market, Inc., License #ID-86907, for a reception to be held at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on December 1, 2012 from 5:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM E APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET, INC., LICENSE #ID-86907, FOR A RECEPTION TO BE HELD AT THE KEYSTONE BUSINESS CENTER, 402 NORRIS AVENUE, ON DECEMBER 8, 2012 FROM 5:00 P.M. TO 11:59 P.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick's Market, Inc., License #ID-86907, for a reception to be held at the Keystone Business Center, 402 Norris Avenue, on December 8, 2012 from 5:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM F RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF OCTOBER 2012 AS PUBLISHED ON NOVEMBER 7, 2012.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to receive and file the claims for the month of October 2012 as published on November 7, 2012. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM G APPROVE CHANGE ORDER NO. ONE (1) TO THE CONTRACT WITH MCCOOK CONTRACTING, LLC, IN THE AMOUNT OF \$11,744.51, FOR THE FOX THEATRE RENOVATION PROJECT, COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT NO. 10-TD-006.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve Change Order No. One (1) to the contract with McCook Contracting, LLC, in the amount of \$11,744.51, for the Fox Theatre Renovation Project, Community Development Block Grant (CDBG) Project No. 10-TD-006. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

REGULAR AGENDA

(6) APPROVE 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 UPON ITS THIRD AND FINAL READING.

Ordinance No. 2012-2886 entitled:

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,

now comes up for third and final reading.

Ordinance No. 2012-2886 was read by title only and thereafter Councilmember Calvin moved for final passage of the Ordinance, which motion was seconded by Councilmember McDowell. The Council Vice President then stated the question: "Shall Ordinance No. 2012-2886 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Council Vice President declared the Ordinance lawfully passed and adopted upon publication as required by law.

- (7) APPROVE ORDINANCE NO. 2012-2887 AMENDING CHAPTER 114, TELEPHONE COMPANIES, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES, SECTION 114.01, OCCUPATION TAX IMPOSED; EXCEPTIONS; REDUCING THE OCCUPATION TAX TO THE CITY FROM 3% TO 1½% OF GROSS RECEIPTS UPON ITS SECOND READING.

Ordinance No. 2011-2887 entitled:

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,

now comes up on its second reading.

Ordinance No. 2011-2887 was read by title only. Motion was made by Councilmember Calvin, seconded by Councilmember Hepp, to approve Ordinance No. 2011-2887 on its second reading. Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry. Motion carried. Whereupon the Council Vice President declared said Ordinance No. 2011-2887 approved on its second reading.

- (8) RECEIVE AND FILE INFORMATION REGARDING PURCHASE OF 80KW GENERATOR SYSTEM FOR THE MCCOOK MUNICIPAL CENTER.

City Staff informed the Council of the need to purchase an 80kW generator system for the new Municipal Center. Up until a couple of weeks ago the plan was to use the generator located at the municipal auditorium to provide backup power to the administration and police department portions of the new facility. Its use was included in design and had tentative approval from the state. During a recent inspection from the State it was determined through its UL rating and the fact that it is a portable generator, we would not be able to use the generator in the proposed manner. The City has received two proposals. One from Steve's Electric for a Cummins Generator in the amount of \$29,994.00, with an estimated delivery date of six to ten weeks, and one from Nebraska Machinery for a Caterpillar generator in the amount of \$29,793.00 with an estimated delivery date of two weeks. Both would have additional costs for installation and delivery.

City Attorney Schneider stated that City Staff has obtained two proposals, with the equipment purchase being under \$30,000, and noted that timing was a serious concern. The building is scheduled for completion in four weeks, we do not have time to complete the traditional bid process. Noting that one of the bids takes six to eight weeks and the other only requires two. Because of the E911 services provided through the McCook Dispatch Center, it becomes a life safety issue. The facility cannot be opened without it. City Staff wants to be as transparent with the purchase as possible and will present the emergency purchase to the Council to confirm at a later date.

The purchase will be funded through sales tax dollars with any contingency left at the end of the project used to replenish the funds used.

(9) MUNICIPAL CENTER UPDATE.

City Staff gave a brief update on the progress of the facility.

City Manager Hancock informed the Council that the cement board (the green portion of the building) was painted in semi-gloss and should have been a flat finish. The contractor will be repainting it to apply the proper paint. During that process the color will be changed from the green to a gray to match the louvers that have been installed.

(10) COUNCIL COMMENTS.

There were no council comments.

(11) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR THE ANNUAL EVALUATION OF THE JOB PERFORMANCE OF CITY MANAGER J. JEFF HANCOCK.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to move into executive session for the annual evaluation of the job performance of City Manager J. Jeff Hancock at 8:13 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

Council Vice President Gonzales 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 the annual evaluation of the job performance of City Manager J. Jeff Hancock. 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 9:28 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

(12) APPROVE EMPLOYMENT AGREEMENT WITH CITY MANAGER J. JEFF HANCOCK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the Employment Agreement with City Manager J. Jeff Hancock and authorize the Mayor to sign.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to amend the presented agreement in Section 3 by striking "\$85,000.00" and inserting "\$87,125.00" and striking "August 15, 2012" and inserting "August 15, 2013, and in Section 14 by striking "11%"

and inserting "13½%". The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

The Council Vice President then stated the question: "Shall the motion on the floor be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry. Motion carried.

(13) INTRODUCE AND APPROVE UNDER SUSPENSION OF THE RULE ORDINANCE NO. 2012-2888 SETTING THE SALARY AND COMPENSATION OF CITY MANAGER J. JEFF HANCOCK.

Councilmember Gonzales introduced Ordinance No. 2012-2888 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA SETTING THE SALARY AND COMPENSATION OF THE CITY MANAGER OF THE CITY OF MCCOOK; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2012-2888 was introduced and read by title only. Councilmember Calvin moved that the statutory rule requiring reading on three different days be suspended. Councilmember McDowell seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry. 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.

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

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to amend the presented ordinance by setting the 12 month salary at \$87,125.00 The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

The Council Vice President then stated the question: "Shall Ordinance No. 2012-2888 be passed and adopted as amended?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry. Motion carried. The passage and adoption of said Ordinance, having been concurred in by a majority of all members of the Council, the Council Vice President declared the Ordinance lawfully passed and adopted upon publication as required by law.

(14) ADJOURNMENT.

There being no further business to come before the Council, Council Vice President Gonzales declared the meeting adjourned at 9:37 P.M.

Mike Gonzales
Council Vice President

ATTEST:

Lea Ann Doak, City Clerk
