

MCCOOK CITY COUNCIL
April 24, 2013
7:30 P.M.

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, special, and public session at 6:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Berry, Councilmembers Gonzales, Calvin, Hepp, McDowell.

Absent: None.

City Officials present: City Manager Hancock, City Attorney Schneider, City Clerk-Treasurer Doak, Public Works Director Kyle Potthoff, Chief of Police Isaac Brown, and Utilities Director Jesse Dutcher.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 18, 2013, 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) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR A STRATEGY SESSION WITH RESPECT TO POTENTIAL LITIGATION REGARDING THE SOLID WASTE HAULING CONTRACT WITH STEVE FRITZ, DOING BUSINESS AS FRITZ TRUCKING.

Councilmember Calvin introduced a motion to move into an executive session for a strategy session with respect to potential litigation regarding the Solid Waste Hauling contract with Steve Fritz, doing business as Fritz Trucking at 6:30 P.M. Councilmember Hepp seconded the motion.

Point of order by Bob Reynolds, attorney representing Mr. Fritz, moving into an executive session at this time does not meet the requirements of the opening meetings act as posted on the Council Chambers wall, closed sessions may be called with respect to pending litigation which is imminent as evidenced by a communication of a claim or threat. Also representing Mr Fritz was attorney James Korth.

City Attorney Schneider stated that a letter was sent to Mr. Fritz on April 9, 2013, advising him that the terms of his contract are not being met and that the City would be initiating the liquidated damages clause of his contract. Also, indications had been presented by city staff from agents of Fritz Trucking, Inc. that litigation may be imminent.

Since it was advertized as an executive session, City Attorney Schneider recommended that consideration of this item be postponed at this time.

Upon consent of the second, motion was withdrew.

- (2) PURSUANT TO THE TERMS OF THE CONTRACT, DIRECT THE CITY MANAGER TO TAKE ACTION REGARDING THE CONTRACT FOR SOLID WASTE HAULING WITH STEVE FRITZ, DOING BUSINESS AS FRITZ TRUCKING.
- (3) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 6:38 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk