

MCCOOK CITY COUNCIL
May 20, 2013
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.

Absent: None.

City Officials present: City Manager Hancock, City Attorney Schneider, City Clerk-Treasurer Doak, Senior Services Director Sue Chipman (dismissed at 8:03 P.M.), Library Director Jody Crocker (dismissed at 8:03 P.M.), Sergeant Kevin Darling, Utilities Director Jesse Dutcher, Fire Chief Marc Harpham, Public Works Director Kyle Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on May 16, 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) INVOCATION - THE MCCOOK MINISTERIAL ASSOCIATION - LANCE CLAY - UNITED METHODIST CHURCH.

Lance Clay, pastor of the United Methodist 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.

City Manager Hancock stated that Linda Hitches recognized Sergeant Darling on a job well done; recognized Library Director Crocker on her state re-certification; noted that no proposals were received for use of the Municipal Auditorium; that the City did not receive the Civic Center grant; that dirt work has begun in the proposed housing development in the Clary Subdivision; that airport boards are up about 30% for the year; and reminded all of the Planning Steering Committee to be held on May 30 in the Municipal Center Training Room at 5:15 P.M.

(5) PUBLIC HEARING:

ITEM A PUBLIC HEARING - FOR THE PURPOSE OF CONSIDERING A PROJECT FOR WHICH FINANCIAL ASSISTANCE IS BEING SOUGHT FROM THE FEDERAL TRANSIT ADMINISTRATION AND BY THE CITY OF MCCOOK PUBLIC TRANSIT, FOR THE PURPOSE OF RAISING TRANSIT FARES FROM \$1.00 TO \$2.00 PER ONE-WAY TRIP; THIS FEE WOULD APPLY TO ALL PERSONS OVER THE AGE OF SIX (6) YEARS, CHILDREN SIX (6) YEARS AND YOUNGER RIDE FREE WHEN ACCOMPANIED BY AN ADULT.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment for the purpose of considering a project for which financial assistance is being sought from the Federal Transit Administration and by the City of McCook Public Transit, for the purpose of raising transit fares from \$1.00 to \$2.00 per one-way trip; this fee would apply to all persons over the age of six (6) years, children six (6) years and younger ride free when accompanied by an adult 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.

Senior Services Director Chipman stated that the last time the fee for the Transit was raised was in June of 2002. At that time the cost of a ride was a suggested \$.50. The fee was raised to \$1.00 per one-way trip. The cost of vehicles, gas, maintenance, and salaries has continued to climb; however, in the past eleven years the fees have remained the same. The Nebraska Department of Roads (NDOR) was considering a 10% fare box recovery rate as part of their transit funding application. This change would have taken place July 1, 2014. Transit systems were going to be required to provide 10% of their operating costs at that time and if they were below the 10% they would have one-half of the requested federal funding and one-half of the requested state funding. The City of McCook Public Transit currently has a fare box recovery of 4%. If rates were not raised, the City's federal and state reimbursement would be cut by 50%. This would have required the City to add an additional \$49,000 to the budget to maintain the transit system. NDOR has removed that stipulation from the current application and it is impossible to know if this stipulation may be added back in the next year when it is time to apply for funding.

Mrs. Chipman stated that she had received one public comment that it was past time to increase the fee.

There being no one else present to comment, upon a motion by Councilmember Gonzales, 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 RESOLUTION NO. 2013-16 ESTABLISHING A FEE OF \$2.00 PER ONE-WAY TRIP FOR USE OF THE CITY OF MCCOOK PUBLIC TRANSIT.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to approve Resolution No. 2013-16 establishing a fee of \$2.00 per one-way trip for use of the City of McCook Public Transit. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(6) APPROVE THE PROCLAMATION DESIGNATING MAY 19 - 25, 2013 AS "EMERGENCY MEDICAL SERVICES WEEK" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve the proclamation designating May 19 - 25, 2013 as "Emergency Medical Services Week" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(7) CONSENT AGENDA:

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

ITEM A APPROVE THE MINUTES OF THE MAY 6, 2013 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to approve the minutes of the May 6, 2013 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM B APPROVE THE 2013 PRE-APPLICATION FOR THE NEBRASKA AFFORDABLE HOUSING PROGRAM THROUGH THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED) AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to approve the 2013 Pre-Application for the Nebraska Affordable Housing Program through the Nebraska Department of Economic Development (DED) and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF SMOKER'S OUTLETS INC., DBA "SMOKER'S OUTLET 1", FOR AN ADDITION TO THEIR LICENSE, CHANGING THEIR DESCRIPTION FROM A "ONE STORY BUILDING APPROXIMATELY 24' X 80'" TO AN "IRREGULAR SHAPED SINGLE STORY BUILDING APPROXIMATELY 24' X 48' X 130'", LOCATED AT 1111 WEST "B" STREET, MCCOOK, NEBRASKA.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of Smoker's Outlets Inc., dba "Smoker's Outlet 1", for an addition to their license, changing their description from a "One story building approximately 24' x 80'" to an "Irregular shaped single story building approximately 24' x 48' x 130'", located at 1111 West "B" Street, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM D APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) CONTRACT FOR CONGREGATE MEALS, HOME DELIVERED MEALS AND TRANSPORTATION SERVICES FOR PERSONS UNDER 60 YEARS OF AGE AND OVER 60 YEARS OF AGE.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to approve and authorize the Mayor to sign the Nebraska Department of Health and Human Services (DHHS) contract for congregate meals, home delivered meals and transportation services for persons under

60 years of age and over 60 years of age. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E APPROVE THE REQUEST FROM THE YOUNG PROFESSIONALS GROUP, AN ORGANIZATION OF THE MCCOOK AREA CHAMBER OF COMMERCE, TO HOST THEIR "COLOR ME CRAZY" FUN RUN UTILIZING CITY STREETS ON SATURDAY, JULY 20, 2013 FROM 6:45 A.M. TO NOON.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to approve the request from the Young Professionals Group, an organization of the McCook Area Chamber of Commerce, to host their "Color Me Crazy" fun run utilizing city streets on Saturday, July 20, 2013 from 6:45 A.M. to Noon. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F RECEIVE AND FILE CLAIM FOR DAMAGES FROM ACCIDENT FUND HOLDINGS, INC. FOR THEIR INSURED SOUTHWEST AREA TRAINING SERVICES, CLAIMANT - NATALIE MICKEY, AND INSTRUCT THAT IT BE SUBMITTED TO THE CITY'S INSURANCE CARRIER FOR REVIEW AND APPROPRIATE ACTION.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to receive and file claim for damages from Accident Fund Holdings, Inc. for their insured Southwest Area Training Services, Claimant - Natalie Mickey, and instruct that it be submitted to the City's insurance carrier for review and appropriate action. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM G RECEIVE AND FILE THE MINUTES OF THE APRIL 17, 2013 BUILDING CODE REVIEW COMMITTEE MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to receive and file the minutes of the April 17, 2013 Building Code Review Committee meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM I RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF APRIL 2013 AS PUBLISHED ON MAY 8, 2013.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to receive and file the claims for the month of April 2013 as published on May 8, 2013. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM J APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY LOOP BREWING COMPANY, LLC, LICENSE # LK-93351, FOR A WEDDING RECEPTION TO BE HELD AT THE MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON JUNE 8, 2013 FROM 4:00 P.M. TO 1:00 A.M.

Upon a motion by Mayor Berry, seconded by Councilmember Berry, the Council voted to approve the application for a Special Designated Liquor License submitted by Loop Brewing Company, LLC, License # LK-93351, for a wedding reception to be held at the Municipal Auditorium, 302 West 5th Street, on June 8, 2013 from 4:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

ITEM 7H AUTHORIZE A CANCELLATION NOTICE OF THE CITY'S CONTRACT WITH FRITZ TRUCKING AND CONFIRM AND APPROVE THE ACTIONS OF CITY STAFF OFFSETTING THE AMOUNTS OWED IN LIQUIDATED DAMAGES BY FRITZ TRUCKING TO THE CITY OF MCCOOK.

Councilmember Gonzales introduced a motion to authorize a cancellation notice of the City's contract with Fritz Trucking and confirm and approve the actions of city staff offsetting the amounts owed in liquidated damages by Fritz Trucking to the City of McCook. Councilmember Hepp seconded the motion.

City Manager Hancock, City Attorney Schneider, and Public Works Director Potthoff addressed this agenda item.

On April 9, 2013, a letter was sent to Fritz Trucking notifying them that they were in violation of the City's contract for hauling trash whereby Fritz Trucking was required to have two trucks and trailers on site each hauling day. In the letter it was noted that, under the terms of the contract, the City would be enforcing the liquidated damages clause agreed to by the parties of \$300 a day for violation of the two trucks and trailers clause. Due to the volume of trash within the Transfer Station, the City began hauling trash to the landfill on Thursday, April 11.

Since receipt of the letter, Fritz Trucking has only had two trailers available at the transfer station on one occasion. On May 8, 2013, Fritz Trucking ceased hauling trash completely without notifying the City. The City has been forced to utilize its resources to haul the trash. Due to Fritz Trucking's failure to perform the contract the City believes that Fritz Trucking has terminated the contract.

Mr. Fritz was to provide the City with a plan to meet the requirements of his contract and a list of possible subcontractors. No response has been received from either Mr. Fritz or his attorney.

Mr. Fritz addressed with the Council regarding damages to his trailers that have occurred on numerous occasions by city employees during loading, that the City denied his request to load after hours, has yet to receive a response from the City regarding the possibility of hiring a subcontractor, that the City towed his truck and blocked him from loading on one occasion, and that he would like an itemization of the liquid damages.

Councilmember Calvin asked Mr. Fritz why he quit hauling, to which Mr. Fritz responded that with the City taking liquidated damages, he would be hauling for nothing.

The Mayor then stated the question: "Shall the motion on the floor be approved?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, McDowell. NAY: Hepp. Motion carried.

(8) PRESENTATION BY MCCOOK ECONOMIC DEVELOPMENT CORPORATION (MEDC) EXECUTIVE DIRECTOR REX NELSON ON MEDC PROGRAMS AND ACTIVITIES.

McCook Economic Development Corporation (MEDC) Executive Director Rex Nelson gave a presentation and updated the Council on MEDC programs and activities.

(9) DIRECT STAFF TO ABATE THE NUISANCE ISSUES AT 1200 WEST 4TH STREET BY RESTRICTING FIRST FLOOR ACCESS AND POSTING THE PROPERTY AGAINST TRESPASS.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to direct Staff to abate the nuisance issues at 1200 West 4th Street by restricting first floor access and posting the property against trespass. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

(10) COUNCIL COMMENTS.

Due to East "H" Street construction, Councilmember Calvin requested additional traffic control of the stop sign at the intersection of East 6th Street and "I". Resident Fred Petsch also stated that the traffic needs to be slowed on Country Club Drive.

Councilmember Hepp stated that her husband is testament to the ability of our excellent EMT paramedic staff. He was able to walk into the facility unaided tonight.

(11) 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