

MCCOOK CITY COUNCIL  
June 17, 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: Councilmembers Gonzales, Calvin, Hepp, McDowell.

Absent: Mayor Berry.

City Officials present: City Manager Hancock, City Attorney Schneider, City Clerk-Treasurer Doak, Police Chief Isaac Brown, Fire Chief Marc Harpham, and Public Works Director Kyle Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on June 13, 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.

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 - MCCOOK HARVEST CHURCH.

No one was present for the invocation.

(2) PLEDGE OF ALLEGIANCE.

Councilmember Calvin 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 informed the Council that the City has received word from the Nebraska Department of Economic Development (NDED) that they are reviewing the Community Development Block Grant (CDBG) Phase II Downtown (Norris & B) grant and that the City has been invited by the NDED to submit the final application for the CDBG Housing grant.

(5) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - PROPOSED REZONE OF A PART OF THE

NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4SE/4) OF SECTION THIRTY (30), TOWNSHIP THREE (3) NORTH, RANGE TWENTY-NINE (29) WEST OF THE 6<sup>TH</sup> P.M., RED WILLOW COUNTY, NEBRASKA FROM AGRICULTURAL DISTRICT (AG) TO INDUSTRIAL HEAVY DISTRICT (IH); PROJECT SPONSOR - RUGGLES LANDS L.P.; 110 SOUTH FEDERAL AVENUE.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed rezone of a part of the Northeast Quarter of the Southeast Quarter (NE/4SE/4) of Section Thirty (30), Township Three (3) North, Range Twenty-nine (29) West of the 6<sup>th</sup> P.M., Red Willow County, Nebraska from Agricultural District (AG) to Industrial Heavy District (IH); Project Sponsor - Ruggles Lands L.P.; 110 South Federal Avenue with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the June 17, 2013 City Council meeting; Exhibit #2 - proposed Ordinance No. 2013-2891; Exhibit #3 - Notice of Public Hearing published on May 30, 2013; Exhibit #4 - listing of adjoining property owners receiving Notice of Public Hearing; Exhibit #5 - applicants Land Use Action Request Form; Exhibit #6 - minutes of the June 11, 2013 Planning Commission meeting; and Exhibit #7 - plat indicating area for zoning change.

Mr. Ruggles and Gary Dicenta of Miller & Associates addressed questions from the Council. The request addresses the fact that the parcel is in two different zoning designations and reduces set back requirements allowing them to put up the building that they desire.

City Manager Hancock stated that the property is presently zoned both Industrial Heavy and Agricultural and the applicant desires to zone the small portion of the property that is outside the city limits to Industrial Heavy. This request would allow the applicant to obtain the Industrial Heavy set back requirements and allow the future construction of a 200' x 100' metal building. The request meets the Comprehensive Plan requirements and city staff supports the request.

There being no one else present to comment, upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, 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: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

**ITEM B** INTRODUCE AND APPROVE ORDINANCE NO. 2013-2891 APPROVING THE REQUEST TO REZONE A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4SE/4) OF SECTION THIRTY (30), TOWNSHIP THREE (3) NORTH, RANGE TWENTY-NINE (29) WEST OF THE 6<sup>TH</sup> P.M., RED WILLOW COUNTY, NEBRASKA FROM AGRICULTURAL DISTRICT (AG) TO INDUSTRIAL HEAVY DISTRICT (IH); PROJECT SPONSOR - RUGGLES LANDS L.P.; 110 SOUTH FEDERAL AVENUE.

Councilmember Gonzales introduced Ordinance No. 2013-2891 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING ORDINANCE NO. 1580 BY CHANGING THE ZONING CLASSIFICATION OF A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE/4SE/4) OF SECTION THIRTY (30), TOWNSHIP THREE (3) NORTH, RANGE TWENTY-NINE (29) WEST OF THE 6<sup>TH</sup> P.M., RED WILLOW COUNTY, NEBRASKA FROM AGRICULTURAL DISTRICT (AG) TO INDUSTRIAL HEAVY DISTRICT (IH); PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2013-2891 was introduced and read by title only. Councilmember Calvin moved that the statutory rule requiring reading on three different days be suspended. Councilmember Hepp 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 McDowell. The Council Vice President then stated the question: "Shall Ordinance No. 2013-2891 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 all members of the Council, the Council Vice President declared the Ordinance lawfully passed and adopted upon publication as required by law.

ITEM C PUBLIC HEARING - REQUEST TO CONSIDER THE REPLAT OF A PORTION OF THE HIGHLAND SUBDIVISION, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, 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 replat of a portion of the Highland Subdivision, Red Willow County, Nebraska with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the June 17, 2013 City Council meeting; Exhibit #2 - proposed Ordinance No. 2013-2891; Exhibit #3 - Notice of Public Hearing published on May 30, 2013; Exhibit #4 - listing of adjoining property owners receiving Notice of Public Hearing; Exhibit #5 - applicants Land Use Action Request Form; Exhibit #6 - minutes of the June 11, 2013 Planning Commission meeting; and Exhibit #7 - the proposed replat of a portion of the Highland Subdivision.

Gary Dicenta, Miller & Associates, was present to address the request for the applicant. The request is taking three residential lots and making them into four lots, which does not meet the requirements for a Lot Line Adjustment. The outlot addresses the natural drainage area that currently runs through the middle of an existing lot and will allow for future extensions of utilities. They currently are in the process of installing a culvert for drainage and then will extend the road that would service the new Lot 16A.

Mr. Hancock informed the Council that this property is located just west of the Heritage Hills

Golf Course. City staff reviewed the application in regards to future utility planning, land use and compliance with the City's subdivision ordinance. This application meets these requirements and also meets the planning concepts within the City's Comprehensive Plan.

There being no one else present to comment, upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, 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: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM D            ADOPT RESOLUTION NO. 2013-19 PROVIDING FOR THE APPROVAL OF THE REPLAT OF A PORTION OF THE HIGHLAND SUBDIVISION, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to adopt Resolution No. 2013-19 providing for the approval of the replat of a portion of the Highland Subdivision, Red Willow County, Nebraska. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

(6)    CONSENT AGENDA:

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

ITEM A            APPROVE THE MINUTES OF THE JUNE 3, 2013 REGULAR CITY COUNCIL MEETING AND THE JUNE 11, 2013 SPECIAL CITY COUNCIL MEETING.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to approve the minutes of the June 3, 2013 regular City Council meeting and the June 11, 2013 special City Council meeting. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM B            RECEIVE AND FILE THE MINUTES OF THE JUNE 11, 2013 PLANNING COMMISSION MEETING.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to receive and file the minutes of the June 11, 2013 Planning Commission meeting. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM C            APPROVE THE ENCROACHMENT AGREEMENT WITH PANHANDLE GEOTECHNICAL & ENVIRONMENTAL, INC., (PG&E) FOR THE PURPOSE OF INSTALLING UNDERGROUND MONITORING WELLS BETWEEN WEST "A" STREET AND WEST "B" STREET AND WEST 7<sup>TH</sup> STREET AND WEST 8<sup>TH</sup> STREET IN THE CITY OF MCCOOK RIGHT OF WAY AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to approve the Encroachment Agreement with Panhandle Geotechnical &

Environmental, Inc., (PG&E) for the purpose of installing underground monitoring wells between West "A" Street and West "B" Street and West 7<sup>th</sup> Street and West 8<sup>th</sup> Street in the City of McCook right of way and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM E APPROVE AN AGREEMENT FOR CLINICAL EXPERIENCE BETWEEN THE MCCOOK FIRE AND EMS DEPARTMENT AND MCCOOK COMMUNITY HOSPITAL.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to approve an agreement for Clinical Experience between the McCook Fire and EMS Department and McCook Community Hospital. 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 MAY 2013 AS PUBLISHED ON JUNE 11, 2013.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to receive and file the claims for the month of May 2013 as published on June 11, 2013. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

ITEM G APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY TASTE OF TEXAS BBQ, LICENSE #IK-054088, FOR A DANCE TO BE HELD AT THE KIPLINGER ARENA, 1412 WEST 5<sup>TH</sup> STREET, ON JULY 26 AND JULY 27, 2013 FROM 5:00 P.M. TO 1:00 A.M. EACH DAY.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to approve the application for a Special Designated Liquor License submitted by Taste of Texas BBQ, License #IK-054088, for a dance to be held at the Kiplinger Arena, 1412 West 5<sup>th</sup> Street, on July 26 and July 27, 2013 from 5:00 P.M. to 1:00 A.M. each day. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

### **REGULAR AGENDA**

ITEM 6D ADOPT RESOLUTION NO. 2013-20 UPDATING AND REVISING THE CITY OF MCCOOK'S POLICY TO INSURE COMPLIANCE OF SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990 AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to adopt Resolution No. 2013-20 updating and revising the City of McCook's Policy to Insure Compliance of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

(7) PRESENTATION BY STAN CLOUSE, NEBRASKA PUBLIC POWER DISTRICT ACCOUNT MANAGER.

Stan Clouse, Cathy Eaton, and Brian Buhr, representatives of the Nebraska Public Power District (NPPD) to give an overview of the NPPD System in Nebraska, their Professional Operating Agreement (Pro Agreement) with the City of McCook, their annual lease payments to the City, the capital investments in McCook, and the services that NPPD provides to the community.

(8) ADOPT RESOLUTION NO. 2013-21 DIRECTING THAT A PUBLIC HEARING BE HELD ON JULY 1, 2013 REGARDING A REDEVELOPMENT PLAN PREPARED FOR NORTH POINTE PROPERTIES, LLC AND DIRECTING THAT PUBLIC NOTICE BE MADE ACCORDING TO THE NEBRASKA COMMUNITY DEVELOPMENT LAW.

Councilmember Calvin introduced a motion to adopt Resolution No. 2013-21 directing that a Public Hearing be held on July 1, 2013 regarding a Redevelopment Plan prepared for North Pointe Properties, LLC and directing that public notice be made according to the Nebraska Community Development Law. Councilmember McDowell seconded the motion.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to amend the presented resolution by striking "and redevelopment contract" in the fifth paragraph. The motion passed upon the following roll call vote: YEA: Gonzales, Calvin, Hepp, McDowell. NAY: None. ABSENT: Berry.

Aaron Kircher had the following procedural questions: 1) the state law requires that all registered neighborhood associates within a one mile radius of the area are to be notified of the public hearing, are there any; 2) have the publication requirements been met for notice of the public hearing by the Council; and 3) has the cost benefit analysis been completed for the proposed project?

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. 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) COUNCIL COMMENTS.

Councilmember McDowell commented that he was glad to see that St. Catherines has been boarded up to address that liability and for the safety of our citizens.

Councilmember Calvin suggested, that since we are in the initial stages of budget preparation, discussions be held regarding a hiring freeze until we are through that process.

(10) ADJOURNMENT.

There being no further business to come before the Council, Council Vice President Gonzales declared the meeting adjourned at 8:35 P.M.

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Mike Gonzales, Council Vice President

ATTEST:

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Lea Ann Doak, City Clerk