

MCCOOK CITY COUNCIL
October 21, 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 Attorney Schneider, City Manager Hancock, City Clerk-Treasurer Doak, Utilities Director Jesse Dutcher, 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 October 17, 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 - DAVE AND JOANNE WILSON, MCCOOK HARVEST CHURCH.

No one 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 CONCERNING AN APPLICATION TO THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED) FOR A GRANT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT ("CDBG") PROGRAM; THE CITY IS REQUESTING \$105,000 FOR THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION, OWNER OF THE MCCOOK BUSINESS PARK, TO PAVE AN EXISTING GRAVEL ROAD "INDUSTRIAL

PARK DRIVE" IN THE MCCOOK BUSINESS PARK TO FACILITATE NEW BUSINESS CREATION AND JOBS.

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 application to the Nebraska Department of Economic Development (DED) for a grant under the Community Development Block Grant ("CDBG") program; the City is requesting \$105,000 for the McCook Economic Development Corporation, owner of the McCook Business Park, to pave an existing gravel road "Industrial Park Drive" in the McCook Business Park to facilitate new business creation and jobs 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 Report prepared for the October 21, 2013 City Council meeting; Exhibit #2 - the Notice of Public Hearing published on October 10, 2013; Exhibit #3 - the 2013 Application for Economic Development Category Community Development Block Grant (CDBG) Nebraska Department of Economic Development (DED); Exhibit #4 - proposed Resolution No. 2013-32; Exhibit #5 - Environmental Review Record, Project Name - McCook Business Park Paving District; Exhibit #6 - the Industrial Site Map; Exhibit #7 - maps of the City - 3 pages; Exhibit #7 - Protective Covenants McCook Business Park - 8 pages; Exhibit #8 - Counties Designated "Nonattainment" or "Maintenance" for Clean Air Act's National Ambient Air Quality Standards (NAAQS); Exhibit #9 - Google Earth Map, Airport Hazards; Exhibit #10 - email Dave Lehnert, Nebraska Department of Aeronautics - 3 pages; Exhibit #11 - Above Ground Storage Tanks (AST) Petroleum; Exhibit #12 - All Active Underground Storage Tanks (UST); Exhibit #13 - Floodplain Map designation; Exhibit #14 - a letter from the Nebraska State Historical Society; Exhibit #15 - Designated Sole Source Aquifers in EPA Region; and Exhibit #15 - U.S. Fish and Wildlife Service, National Wetlands Inventory.

Rex Nelson, McCook Economic Development Corporation Executive Director, was present to answer questions from the Council. The City of McCook is requesting \$105,000 for the McCook Economic Development Corporation (MEDC), owner of the McCook Business Park, to pave an existing gravel road in the Business Park to facilitate new business creation and jobs. Booe Machinery & Salvage, LLC intends to establish a metal transfer station on Lots 5 & 6 in the northeast corner of the Business Park. The company would add three jobs, \$250,000 in equipment and build a 40 x 60 building valued at \$275,000 with site purchase and improvements. There should be no residential displacement of people. Mr. Nelson noted that after completion of an Environmental Assessment it has been determined that the project will have no significant impact on the human environment.

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 THE APPLICATION TO THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT (DED) FOR A GRANT UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT ("CDBG") PROGRAM; THE CITY IS REQUESTING \$105,000 FOR MCCOOK ECONOMIC DEVELOPMENT CORPORATION, OWNER OF THE MCCOOK BUSINESS PARK, TO PAVE AN EXISTING GRAVEL ROAD "INDUSTRIAL PARK DRIVE" IN THE MCCOOK BUSINESS PARK TO FACILITATE NEW BUSINESS CREATION AND JOBS.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to approve the application to the Nebraska Department of Economic Development (DED) for a grant under the Community Development Block Grant ("CDBG") program; the City is requesting \$105,000 for McCook Economic Development Corporation, owner of the McCook Business Park, to pave an existing gravel road "Industrial Park Drive" in the McCook Business Park to facilitate new business creation and jobs. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM C ADOPT RESOLUTION NO. 2013-32 AUTHORIZING THE MAYOR TO SIGN ALL GRANT RELATED DOCUMENTS FOR FUNDS DISTRIBUTED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION, OWNER OF THE MCCOOK BUSINESS PARK, TO PAVE AN EXISTING GRAVEL ROAD "INDUSTRIAL PARK DRIVE" IN THE MCCOOK BUSINESS PARK TO FACILITATE NEW BUSINESS CREATION AND JOBS.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to adopt Resolution No. 2013-32 authorizing the Mayor to sign all grant related documents for funds distributed by the Department of Economic Development through the Community Development Block Grant program for the McCook Economic Development Corporation, owner of the McCook Business Park, to pave an existing gravel road "Industrial Park Drive" in the McCook Business Park to facilitate new business creation and jobs. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM D ACCEPT THE ENVIRONMENTAL ASSESSMENT FINDING OF NO SIGNIFICANT IMPACT (FONSI) PREPARED BY REX NELSON, PROGRAM ADMINISTRATOR/EXECUTIVE DIRECTOR OF THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION, FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION, OWNER OF THE MCCOOK BUSINESS PARK, TO PAVE AN EXISTING GRAVEL ROAD "INDUSTRIAL PARK DRIVE" IN THE MCCOOK BUSINESS PARK TO FACILITATE NEW BUSINESS CREATION AND JOBS.

Upon a motion by Councilmember Gonzales, seconded by Councilmember McDowell, the Council voted to accept the Environmental Assessment Finding of No Significant Impact (FONSI) prepared by Rex Nelson, Program Administrator/Executive Director of the McCook Economic Development Corporation, for Community Development Block Grant funding for the McCook Economic Development Corporation, owner of the McCook Business Park, to pave an existing gravel road "Industrial Park Drive" in the McCook Business Park to facilitate new business creation and jobs. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E CONDUCT A PUBLIC HEARING ON THE APPLICATION OF VAL D. FULLER, DBA "FULLER'S RESTAURANT", FOR A CLASS "IB" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY AND BEER, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 110 NORRIS AVENUE, MCCOOK, 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 application of Val D. Fuller, dba "Fuller's Restaurant", for a Class "IB" - (Beer,

Wine & Distilled Spirits, On Sale Only and Beer, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 110 Norris Avenue, McCook, Nebraska, 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 - the City Manager's Report prepared for the October 21, 2013 City Council meeting; Exhibit #2 - the Notice of Public Hearing published; Exhibit #3 - the Application and Police Department Report, 34 pages.

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

ITEM F RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF VAL D. FULLER, DBA "FULLER'S RESTAURANT", FOR A CLASS "IB" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY AND BEER, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 110 NORRIS AVENUE, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of Val D. Fuller, dba "Fuller's Restaurant", for a Class "IB" - (Beer, Wine & Distilled Spirits, On Sale Only and Beer, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 110 Norris Avenue, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM G CONDUCT A PUBLIC HEARING ON THE APPLICATION OF BLAINE M. BUDKE, DBA "CLUB PARADISE", FOR A CLASS "IB" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY AND BEER, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 1006 WEST "B" STREET, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, 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 on the application of Blaine M. Budke, dba "Club Paradise", for a Class "IB" - (Beer, Wine & Distilled Spirits, On Sale Only and Beer, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 1006 West "B" Street, McCook, Nebraska, 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 - the City Manager's Report prepared for the October 21, 2013 City Council meeting; Exhibit #2 - the Notice of Public Hearing published; Exhibit #3 - the Application and Police Department Report, 21 pages.

Blaine Budke, applicant, was present to answer questions from the Council. Parking will be provided around the building, he also owns the lot to the south which could be expanded into parking, and he has contacted the owners of the business to the west about using their lot for overflow parking in exchange he would provide snow removal. He did not feel the use of their lot would cause any issues because his hours of business would be 3:00 P.M. until midnight and they close at 5:00 P.M.

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 H RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE APPLICATION OF BLAINE M. BUDKE, DBA "CLUB PARADISE", FOR A CLASS "IB" - (BEER, WINE & DISTILLED SPIRITS, ON SALE ONLY AND BEER, OFF SALE ONLY) LICENSE UNDER THE NEBRASKA LIQUOR CONTROL COMMISSION, TO BE LOCATED AT 1006 WEST "B" STREET, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to recommend approval to the Nebraska Liquor Control Commission the application of Blaine M. Budke, dba "Club Paradise", for a Class "IB" - (Beer, Wine & Distilled Spirits, On Sale Only and Beer, Off Sale Only) License under the Nebraska Liquor Control Commission, to be located at 1006 West "B" Street, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM I PUBLIC HEARING - REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A BED AND BREAKFAST IN A RESIDENTIAL MEDIUM DENSITY (RM) DISTRICT, LOCATED IN LOT SEVEN (7) AND THE S THIRTY-FIVE FEET (35') OF LOT EIGHT (8), BLOCK SIX (6), SECOND ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; APPLICANT - CRAIG AND ERIN MERRIHEW, 1001 NORRIS AVENUE.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the request for a special exception to allow a Bed and Breakfast in a Residential Medium Density (RM) District, located in Lot Seven (7) and the S thirty-five feet (35') of Lot Eight (8), Block Six (6), Second Addition, to the City of McCook, Red Willow County, Nebraska; Applicant - Craig and Erin Merrihew, 1001 Norris Avenue 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 21, 2013 City Council meeting; Exhibit #2 - Notice of Public Hearing published; Exhibit #3 - ownership listing of those receiving notice of said public hearing; Exhibit #4 - Land Use application filed by the applicant, 8 pages; and Exhibit #5 - minutes of the October 14, 2013 Planning Commission meeting.

Craig Merrihew and his wife Erin were present to address questions from the Council. They have been living in McCook since 2004 and are interested in buying the home at this location to turn it into a Bed and Breakfast. This would be a small business and would add value to the community. They will be starting out with three rooms.

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 J APPROVE THE REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A BED

AND BREAKFAST IN A RESIDENTIAL MEDIUM DENSITY (RM) DISTRICT, LOCATED IN LOT SEVEN (7) AND THE S THIRTY-FIVE FEET (35') OF LOT EIGHT (8), BLOCK SIX (6), SECOND ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; APPLICANT - CRAIG AND ERIN MERRIHEW, 1001 NORRIS AVENUE; THAT THE GRANTING OF THE SPECIAL EXCEPTION WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST; AND THAT SATISFACTORY PROVISIONS AND ARRANGEMENTS HAVE BEEN MADE BY THE APPLICANT CONCERNING SPECIAL EXCEPTION CONSIDERATIONS A - H.

Councilmember Calvin introduced a motion to approve the Special Exception request from Craig and Erin Merrihew to allow a Bed and Breakfast in a Residential Medium Density (RM) District, located in Lot Seven (7) and the S thirty-five feet (35') of Lot Eight (8), Block Six (6), Second Addition, to the City of McCook, Red Willow County, Nebraska, 1001 Norris Avenue; that the Council is empowered to grant this special exception; that the granting of the special exception will not adversely affect the public interest; and that satisfactory provisions and arrangements have been made by the applicant concerning the following issues:

- a) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- b) off-street parking and loading areas where required, with particular attention to the items in (a) above, and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district;
- c) refuse and service areas, with particular reference to the items in (a) and (b) above;
- d) utilities, with reference to locations, availability and compatibility;
- e) screening and buffering with reference to type, dimensions and character;
- f) signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- g) required yards and other open space;
- h) general compatibility with adjacent properties and other property in the district.

The motion was seconded by Councilmember Hepp, and passed by the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM K PUBLIC HEARING - PROPOSED REZONE FROM AGRICULTURAL (AG) TO RESIDENTIAL MEDIUM DENSITY (RM), A TRACT OF LAND LOCATED IN PART OF THE NE1/4 SECTION 19-T3N-R29W OF THE 6TH P.M. IN RED WILLOW COUNTY, NEBRASKA, AND WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; PROJECT SPONSOR - NICHOLAS CURL; LAND OWNER - DAVE MCCARTY; 1900 WEST 7TH STREET.

ITEM L INTRODUCE AND APPROVE, UNDER SUSPENSION OF THE RULE, ORDINANCE NO. 2013-2896 AUTHORIZING THE REZONE FROM

AGRICULTURAL (AG) TO RESIDENTIAL MEDIUM DENSITY (RM), A TRACT OF LAND LOCATED IN PART OF THE NE1/4 SECTION 19-T3N-R29W OF THE 6TH P.M. IN RED WILLOW COUNTY, NEBRASKA, AND WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; PROJECT SPONSOR - NICHOLAS CURL; LAND OWNER - DAVE MCCARTY; 1900 WEST 7TH STREET.

Consideration of Item 5K and Item 5L have been withdrawn upon the request of Nicholas Curl and Dave McCarty.

ITEM M PUBLIC HEARING - REQUEST TO CONSIDER THE REPLAT OF A PORTION OF THE VILLAS AT HERITAGE HILLS, DESCRIBED AS FOLLOWS: THE REPLAT OF LOTS NINE (9), TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), SIXTEEN (16), SEVENTEEN (17), AND EIGHTEEN (18) OF THE VILLAS AT HERITAGE HILLS, IN THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; NOW TO BE KNOWN AS REPLATTED LOT SIX (6) OF THE VILLAS AT HERITAGE HILLS, IN THE CITY OF MCCOOK, 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 replat a portion of the Villas at Heritage Hills, described as follows: The replat of Lots Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), and Eighteen (18) of the Villas at Heritage Hills, in the City of McCook, Red Willow County, Nebraska; now to be known as Replatted Lot Six (6) of the Villas at Heritage Hills, in the City of McCook, Red Willow County, Nebraska, 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 for the October 21, 2013 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - proposed Resolution No. 2013-33; Exhibit #4 - City Manager's Report for the October 14, 2013 Planning Commission meeting; Exhibit #5 - ownership listing of those receiving notice of said public hearing; Exhibit #6 - Land Use Application and attachment filed by the applicants, 10 pages; Exhibit #7 - minutes of the October 14, 2013 Planning Commission meeting; Exhibit #8 - maps of the existing subdivision and the proposed replat.

City Manager Hancock stated that staff's recommendation at the Planning Commission was to modify the application to include the National Fire Code requirements, that..."dead-end streets more than ninety-one and one-half (91.5) meters, or three hundred (300) feet in length shall be provided with a turnaround not less than thirty-six and one-half (36.5) meters, or one hundred twenty (120) feet outside diameter of traveled way." After discussion, the Planning Commission approved the plat subject to staff and the applicant agreeing to appropriate language either on the plat or in a separate agreement. City staff came to an agreement with the applicant that the radius of the a cull-de-sac will be 100 feet in diameter and that the owner will provide for an easement for a public safety turn around and that the owner will maintain an all weather surface with a minimum of rock and gravel. The prospective buyer has concerns with the proposed replat. Mr. Hancock requested that action on this item be postponed until the November 4, 2013 City Council meeting to allow staff to work with the owners and prospective buyer to reach an agreeable solution.

Michael and Valerie Kircher were present to address their request for a replat. Mr. Kircher reviewed

the history of the development in the subdivision. The property that they acquired was to be Phase II of that development. They currently have the property under contract and the buyer desires to make the 10 lots into one large lot. The buyer was out of town when they made the decision on the easement for Public Safety access and turnaround as presented on the replat for Council approval. The buyer has concerns with the proposal, feeling that it takes away too much of the land to be developed. They request to continue discussion with City staff to reach a solution that is agreeable to all.

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: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM N ADOPT RESOLUTION NO. 2013-33 PROVIDING FOR THE REPLAT OF LOTS NINE (9), TEN (10), ELEVEN (11), TWELVE (12), THIRTEEN (13), FOURTEEN (14), FIFTEEN (15), SIXTEEN (16), SEVENTEEN (17), AND EIGHTEEN (18) OF THE VILLAS AT HERITAGE HILLS, IN THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; NOW TO BE KNOWN AS REPLATTED LOT SIX (6) OF THE VILLAS AT HERITAGE HILLS, IN THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp, the Council voted to postpone consideration of Item 5N until the November 4, 2013 City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM O PUBLIC HEARING - PROPOSED ZONING ORDINANCE, INCLUDING THE TEXT, SCHEDULES OF DISTRICT REGULATIONS, AND THE OFFICIAL ZONING MAP FOR THE CITY OF MCCOOK.

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 Zoning Ordinance, including the text, schedules of district regulations, and the official zoning map for the City of McCook 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 Report prepared for the October 21, 2013 City Council meeting; Exhibit #2 - proposed Ordinance No. 2013-2897; Exhibit #3 - letter from A.M. Bishop Trustee dated October 11, 2013; Exhibit #4 - Changes made at the October 14, 2013 Planning Commission meeting; Exhibit #5 - proposed Zoning Ordinance, 154 pages; Exhibit #6 - Notice of Hearing published; and Exhibit #7 - minutes of the October 21, 2013 Planning Commission meeting.

City Manager Hancock reviewed his report prepared for the October 21, 2013 City Council meeting. City staff recommends consideration of this ordinance on three readings to allow for input from the Council and the public.

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: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM P INTRODUCE AND APPROVE UPON ITS FIRST READING ORDINANCE NO. 2013-2897 PROVIDING FOR THE APPROVAL AND ADOPTION OF THE OFFICIAL ZONING ORDINANCE FOR THE CITY OF MCCOOK.

Mayor Berry introduced Ordinance No. 2013-2897 by title. The Clerk read the Ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA ADOPTING THE OFFICIAL ZONING ORDINANCE FOR THE CITY OF MCCOOK, NEBRASKA; REPEALING ZONING ORDINANCE NO. 1580; 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. 2013-2897 was introduced and read by title only. Motion was made by Mayor Berry, seconded by Councilmember Gonzales, to approve Ordinance No. 2013-2897 on its first reading.

Councilmember McDowell comments concerned why the definition for a Bed and Breakfast only allowed for the serving of breakfast to the renters; in the definition for a Jail it refers to a Detention Facility which has been removed; Kennels, does that cover boarding and breeding kennels too?; and had questions concerning the definitions for Manufactured Home, Modular Home, and Parking Space.

The Mayor then stated the question: "Shall Ordinance No. 2013-2897 approved upon its first reading?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None. Motion carried.

(6) CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE OCTOBER 7, 2013 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the October 7, 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 GRANT OF LICENSE WITH MCCOOK COMMUNITY HOSPITAL FOR THE USE OF RIGHT-OF-WAY ON THE EAST SIDE OF EAST 11TH STREET, JUST SOUTH OF EAST "H" STREET FOR OFF STREET PARKING AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve the Grant of License with McCook Community Hospital for the use of right-of-way on the east side of East 11th Street, just south of East "H" Street for off street parking 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 DECLARE THE LISTED VEHICLES AND BICYCLES AS SURPLUS CITY PROPERTY TO BE DISPOSED OF IN THE APPROPRIATE LEGAL MANNER.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to declare the listed vehicles and bicycles as surplus city property to be disposed of in the

appropriate legal manner. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM D RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF SEPTEMBER 2013 AS PUBLISHED ON OCTOBER 10, 2013.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to receive and file the claims for the month of September 2013 as published on October 10, 2013. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM E RECEIVE AND FILE THE MINUTES OF THE LIBRARY ADVISORY BOARD DATED APRIL 10, 2013 AND OF THE SENIOR CENTER ADVISORY BOARD DATED OCTOBER 1, 2013.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to receive and file the minutes of the Library Advisory Board dated April 10, 2013 and of the Senior Center Advisory Board dated October 1, 2013. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM F ADOPT RESOLUTION NO. 2013-34 GRANTING A WAIVER OF PAYMENT IN LIEU OF TAXES TO THE MCCOOK HOUSING AGENCY.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to adopt Resolution No. 2013-34 granting a Waiver of Payment in Lieu of Taxes to the McCook Housing Agency. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM G OFFER A CONTRACT TO INDUSTRIAL PROCESS TECHNOLOGY (IPT) WITH A BID OF \$179,341.00 AS THE LOWEST RESPONSIBLE BIDDER FOR EAST GOLF COURSE LIFT STATION RENOVATIONS, WHICH INVOLVES THE REPLACEMENT OF THE EXISTING DRY PIT PUMPS, VALVES, AND PIPING, CONTROLS AND ELECTRICAL SYSTEM, SITE WORK, CONCRETE SLAB AND RELATED APPURTENANCES 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 Golf Course Lift Station Renovation. The following bids were received:

BSB Construction - Curtis, Nebraska
\$184,627.00
Industrial Process Technology - Mitchell, South Dakota
\$179,341.00
Myers Construction - Broken Bow, Nebraska
\$184,627.00

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to offer a contract to Industrial Process Technology (IPT) with a bid of \$179,341.00 as the lowest responsible bidder for East Golf Course Lift Station Renovations, which involves the replacement of the existing dry pit pumps, valves, and piping, controls and electrical system, site work, concrete slab and related appurtenances and authorize the Mayor to execute the necessary

paperwork to award the contract. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

ITEM H APPROVE RESOLUTION NO. 2013-35 AMENDING THE RATES FOR THE AMBULANCE SERVICE OPERATED BY THE CITY OF MCCOOK, NEBRASKA.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to approve Resolution No. 2013-35 amending the rates for the ambulance service operated by the City of McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

REGULAR AGENDA

(7) APPROVE THE AMENDMENT TO A SUBDIVISION AGREEMENT BETWEEN THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION AND THE CITY OF MCCOOK, NEBRASKA.

Councilmember Gonzales introduced a motion to approve the Amendment to a Subdivision Agreement between the McCook Economic Development Corporation and the City of McCook, Nebraska. Councilmember Hepp seconded the motion.

Rex Nelson, McCook Economic Development Corporation Executive Director, addressed two issues that he felt were discussed and that he believed agreed upon that were not included in the presented agreement for council consideration. On page 7 of the original agreement, Item 5 should have been deleted and also on page 7, Item 2 of the Additional Provisions, Conditions, and Requirements should have been deleted.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Hepp the Council voted to amend by deleting "Phase II, Item 5" from the original agreement. The motion passed upon the following roll call vote: YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None.

In response to Councilmember Calvin's question regarding water and sewer service to the area, Utility Director Dutcher stated that a new 8" water main had been installed along Ravenswood Road to a point east of the Wastewater Treatment Plant and a new 21" sewer and a 12" water main were installed across the Business Park.

The Mayor then stated the question: "Shall the Amendment to Subdivision Agreement be approved as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Gonzales, Calvin, Hepp, McDowell. NAY: None. Motion carried.

(8) COUNCIL COMMENTS.

Mayor Berry complimented Councilmember Hepp and her group on their excellent play production this past weekend. He has heard only good things about it. He also recognized Sue Chipman for the all that she has done for the Senior Center, it is appreciated, the folks love her, and she will be greatly missed upon her retirement.

Councilmember Gonzales complimented the Ambulance personnel on their excellent response to the YMCA this morning when a gentlemen was suffering chest pains.

(9) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 8:50 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk