

MCCOOK CITY COUNCIL

**Monday, August 3, 2009
7:30 P.M. - City Council Chambers**

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 Kircher, Anderson, Grant, Rogers; City Attorney Schneider; City Manager Fritsch; City Clerk Doak.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on July 30, 2009, 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.

ITEM NO. 1 INVOCATION - THE MCCOOK MINISTERIAL ASSOCIATION - ALLEN JACKSON
- FIRST BAPTIST CHURCH.

Allen Jackson, pastor of the First Baptist Church, was present to give the invocation.

Mayor Berry introduced a motion to consider Agenda Item No. 9 at this time, with the consent of the Council. Councilmember Anderson seconded the motion. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

APPROVE ORDINANCE NO. 2009-2826 AMENDING CHAPTER 6, ARTICLE 1,
ITEM NO. 9 OF THE MUNICIPAL CODE OF THE CITY OF MCCOOK, NEBRASKA RELATING
TO DOGS, CATS, AND HYBRID ANIMALS UPON ITS SECOND READING.

Councilmember Grant introduced a motion to approve Ordinance No. 2009-2826 amending Chapter 6, Article 1, of the Municipal Code of the City of McCook, Nebraska relating to Dogs, Cats, and Hybrid Animals upon its second reading. Councilmember Rogers seconded the motion.

Mayor Berry introduced a motion to amend Section 6-107 by adding "three (3)

licensed cats, for a total of six (6), including hybrid animals". Motion was seconded by Councilmember Grant.

Considerable discussion was held concerning the limit of the number of cats per household, what should the number of cats per household be, limiting the number of dogs per household, can current pets be grandfathered in if over the limit set, the suggested license fees are too high, licensing of the animals is not necessary, the need for laws regarding vicious animals, the feral cat issue and taking care of the feral cats, the need to enforce current laws, the use of a tranquilizer instead of a gun when impounding a vicious dog, and the necessity of making the animals wear a collar.

Citizen's addressing the Council were Ann Frost, Fred Petsch, Christine Propes, Roger Wilson, Brenda Peters, Jennifer Propes, Penny Beverlin, Scott Propes, Joan Walter, Justin Mass, Gigi Sattler, Robert Yost, Jerry Neiman, Bridget Matson, Lewis Hayes, Josh Relph, Keith Delano, Lawrence Hiller, Tasha Ellis, Rebecca Hiller, Tom Lynch, Annette Bruening, Randy Goltl, Ann Dowd, Roger Keene, and Tony Spilinek.

Councilmember Anderson stated that he did not want to limit the number of cats per residence, but did want to address the feral cat issue.

Councilmember Kircher realized the reason for limiting the number of cats was for control and to help address health issues concerning feral cats, but he was against setting a limit, what is a reasonable number? Could it be at the discretion of the Animal Control Officer?

City Attorney Schneider stated that the Council would have to pick a number or do nothing at all, adding that without a set number, any challenge in court would be hard to defend.

Mayor Berry and Councilmember Grant supported limiting the number of cats per household.

The Mayor then stated the question: "Shall the motion on the floor setting the limit of three (3) licensed dogs, and three (3) licensed cats, for a total of six (6), including hybrid animals per household be approved?" The motion failed upon the following roll call vote: YEA: Grant, Rogers. NAY: Berry, Kircher, Anderson.

Upon a motion by Mayor Berry, seconded by Councilmember Kircher, the Council voted to amend Section 6-107 by striking the word "cats", thereby setting the limit of three (3) licensed dogs, and/or hybrid dogs per household. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

Upon a motion by Councilmember Kircher, seconded by Councilmember Grant, the Council voted to amend Section 6-118 by inserting after authority to kill any animals "presenting vicious behavior that presents an eminent threat to the officer," and after capture "and presents a threat to the public." The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

Councilmember Rogers called for the questions. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

The Mayor then stated the question: "Shall Ordinance No. 2009-2826 be approved upon its second reading as amended?" Upon roll call vote the following

Councilmembers voted YEA: Berry, Kircher, Grant, Rogers. NAY: Anderson.
Motion carried.

ITEM NO. 2 CITIZEN'S FORUM.

No one was present for Citizen's Forum.

ITEM NO. 3 MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Fritsch informed the Council that the City had received the architectural drawing of the new Guard and Readiness Center to be constructed at the McCook Regional Airport. The drawing is at the City Office for all to review.

ITEM NO.

ADVERTISED PUBLIC HEARINGS:

4

FY 2009/2010 ANNUAL BUDGET

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed FY 2009/2010 Annual Budget with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published; Exhibit #2 - proposed Ordinance No. 2009-2827; and the 2009-10 Proposed Budget document.

There being no one else present to comment, upon a motion by Mayor Berry, seconded by Councilmember Rogers, 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, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM NO. INTRODUCE AND APPROVE ORDINANCE NO. 2009-2827 PROVIDING FOR

5

THE ADOPTION OF THE BUDGET FOR FY 2009-2010 UPON ITS FIRST READING.

Councilmember Kircher introduced Ordinance No. 2009-2827 entitled:

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR AN EFFECTIVE DATE.

The motion was made by Councilmember Kircher, seconded by Councilmember Rogers, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

Ordinance No. 2009-2827 was read by title only. Motion was made by Councilmember Kircher, seconded by Councilmember Grant, to approve Ordinance No. 2009-2827 on its first reading.

City Manager Fritsch informed the Council that the Red Willow County Commissioners agreed to increase their annual payment for cost of dispatching by \$11,000 for the coming year.

Upon a motion by Mayor Berry, seconded by Councilmember Grant, the Council voted to include in the budget funds in the amount of \$72,000 for Animal Control. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Grant, Rogers. NAY: Anderson.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to set the three streets to be resurfaced from Sales Tax Funds in the amount of \$150,000 as "F" the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

Councilmember Kircher introduced a motion remove \$250,000 from the Municipal Facility Proposed Sales Tax Project and earmark it as a payment of the Water Debt for Land Acquisition. Motion died for lack of second.

The Mayor then stated the question: "Shall Ordinance No. 2009-2827 be approved upon its second reading and amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None. Motion carried.

City Attorney Schneider noted that the second hearing of Agenda Item No. 4 was not held.

ITEM NO. 4 PUBLIC HEARING:

SET FINAL TAX REQUEST AT A DIFFERENT AMOUNT THAN THE PRIOR YEAR

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on setting the Final Tax Request at a different amount than the prior year with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published.

There being no one else present to comment, upon a motion by Mayor Berry, seconded by Councilmember Anderson, 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, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM NO. 6 INTRODUCE AND APPROVE ORDINANCE NO. 2009-2828 PROVIDING FOR THE ADOPTION OF THE 2009/2010 FISCAL YEAR EMPLOYEE CLASSIFICATION PAY PLAN UPON ITS FIRST READING.

Mayor Berry introduced Ordinance No. 2009-2828 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE ADOPTION OF THE 2009/2010 FISCAL YEAR EMPLOYEE CLASSIFICATION AND PAY PLAN; PROVIDING FOR AN EFFECTIVE DATE FOR THE IMPLEMENTATION OF THE CLASSIFICATION AND PAY PLAN; REPEALING ANY AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

The motion was made by Mayor Berry, seconded by Councilmember Grant, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

Ordinance No. 2009-2828 was read by title only. Motion was made by Mayor Berry, seconded by Councilmember Kircher, to approve Ordinance No. 2009-2828 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None. Motion carried. Whereupon the Mayor declared said Ordinance No. 2009-2828 approved on its first reading.

ITEM NO. 7 APPROVE INCREASE OF RESTRICTED FUNDS LIMIT BY AN ADDITIONAL 1% FOR UNUSED RESTRICTED FUNDS AUTHORITY.

Upon a motion by Councilmember Grant, seconded by Councilmember Grant, the Council voted to approve the increase of Restricted Funds Limit by an additional 1% for Unused Restricted Funds Authority. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM NO. 8 CONSENT AGENDA:

ITEM A APPROVE THE MINUTES OF THE JULY 20, 2009 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to approve the minutes of the July 20, 2009 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM B RECEIVE AND FILE THE MINUTES OF THE JULY 7, 2009 SENIOR CENTER ADVISORY BOARD MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to receive and file the minutes of the July 7, 2009 Senior Center Advisory Board meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM C RECEIVE AND FILE THE FINANCIAL REPORT FOR THE QUARTER ENDING JUNE 30, 2009.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to receive and file the Financial Report for the quarter ending June 30, 2009. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM D

APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT WITH THE STATE OF NEBRASKA DEPARTMENT OF ROADS FOR PUBLIC TRANSPORTATION ASSISTANCE FOR THE CITY OF MCCOOK FY 2009/2010.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to approve and authorize the Mayor to sign the agreement with the State of Nebraska Department of Roads for Public Transportation Assistance for the City of McCook FY 2009/2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM E

APPROVE THE REQUEST FROM THE ST. PATRICK CHURCH TO CLOSE 4TH STREET EAST FROM "F" STREET TO "G" STREET AND EAST "G" STREET FROM 3RD STREET EAST TO 4TH STREET EAST ON SUNDAY, SEPTEMBER 13, 2009 FROM 10:00 A.M. TO 6:00 P.M. AND TO UTILIZE CITY PROPERTY FOR THEIR ANNUAL FALL FESTIVAL ON SEPTEMBER 12 AND 13, 2009.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to approve the request from the St. Patrick Church to close 4th Street East from "F" Street to "G" Street and East "G" Street from 3rd Street East to 4th Street East on Sunday, September 13, 2009 from 10:00 A.M. to 6:00 P.M. and to utilize City property for their Annual Fall Festival on September 12 and 13, 2009. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

REGULAR AGENDA

ITEM NO. 10 APPROVE ORDINANCE NO. 2009-2825, AMENDING SECTION 5-308, SPEED LIMITS; SPECIAL, OF THE MCCOOK MUNICIPAL CODE; ESTABLISHING THE SPEED LIMIT AT 25 MILES PER HOUR BETWEEN THE 900 BLOCK AND THE 1200 BLOCK OF EAST "H" STREET UPON ITS THIRD AND FINAL READING.

Ordinance No. 2009-2825 now came up for third and final reading. Ordinance No. 2009-2825 was read by title only and thereafter Councilmember Grant moved for final passage of the Ordinance, which motion was seconded by Councilmember Anderson.

Councilmember Kircher introduced a motion to amend by changing the speed limit from 25 to 30 mph. Motion died for lack of second.

The Mayor then stated the question: "Shall Ordinance No. 2007-2825 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor signed and approved the Ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto.

Upon a motion by Mayor Berry, seconded by Councilmember Rogers, the Council voted to publish Ordinance No. 2009-2825 in the McCook Daily Gazette, a legal newspaper, one time as required by law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM NO. 11 ACCEPT THE GIFT OF PROPERTY DESCRIBED AS ALL OF LOT 6 AND THE SOUTH 115' OF LOT 7, TENTH ADDITION TO THE CITY OF MCCOOK, FROM MRS. DOROTHY BURNS TO BE USED AS A PARK IN THE CITY OF MCCOOK.

Upon a motion by Councilmember Grant, seconded by Councilmember Anderson, the Council voted to accept the gift of property described as all of Lot 6 and the South 115' of Lot 7, Tenth Addition to the City of McCook, from Mrs. Dorothy Burns to be used as a park in the City of McCook. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Grant, Rogers. NAY: None.

ITEM NO. APPROVE AGREEMENT WITH THE NEBRASKA COMMUNITY FOUNDATION
12 ACCEPTING A GIFT OF \$70,000 FOR THE PURCHASE OF ART WORK "ON MY HONOR" OF SENATOR NELSON AND ACCEPT THE WORK ONCE COMPLETED.

Upon a motion by Councilmember Grant, seconded by Councilmember Anderson, the Council voted to approve agreement with the Nebraska Community Foundation accepting a gift of \$70,000 for the purchase of Art Work "On My Honor" of Senator Nelson and accept the work once completed. The motion passed upon the following roll call vote: YEA: Berry, Anderson, Grant, Rogers. NAY: Kircher.

ITEM NO. COUNCIL COMMENTS.

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Mayor Berry congratulated Senior Services Director Sue Chipman on receiving the Pioneer Spirit Award due to building the new garage.

ITEM NO.

14

ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 10:35 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk

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