

MCCOOK CITY COUNCIL
March 16, 2015
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 7:35 o'clock P.M. in the City Council Chambers after the adjournment of the Community Development Agency meeting.

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

Absent: None.

City Officials present: City Manager/City Attorney Schneider, City Clerk/Treasurer Doak, Police Sergeant Ortiz, Police Chief Brown (arrived 8:15 P.M.), Utilities Director Dutcher, Fire Chief Harpham.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on March 12, 2015, 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 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 - BRAD BRAUER - OUR SAVIOR LUTHERAN CHURCH AND THE ST. ALBAN'S EPISCOPAL 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 COMMENTS.

Andy Long, Vice President of McCook Community College, stated they recently purchased a building permit for expansion and the college and requested that the City review their procedures on determining the cost of a permit. Specifically, what is an alteration, what is new construction, and that new equipment should not be included in the cost of new construction.

- (4) ANNOUNCEMENTS & RECOGNITIONS.

There were no announcements or recognitions.

- (5) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A COMMERCIAL TESTING LABORATORY IN A BUSINESS COMMERCIAL (BC) DISTRICT, LOCATED IN THE WEST ½ OF BLOCK TWO (2), KELLEY'S HILLTOP ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; PROJECT SPONSOR - SEA VIEW PROPERTIES, LLC; LAND OWNER - LYRA ANN MONASEE ("ETAL"), DUCKWALL-ALCO STORE; 700 WEST "D" STREET.

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 a request for a special exception to allow a commercial testing laboratory in a Business Commercial (BC) District, located in the West ½ of Block Two (2), Kelley's Hilltop Addition to the City of McCook, Red Willow County, Nebraska; Project Sponsor - Sea View Properties, LLC; Land owner - Lyra Ann Monasee ("Etal"), Duckwall-Alco Store; 700 West "D" Street with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the March 16, 2015 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - ownership mailing list receiving Notice of Hearing; Exhibit #4 - Land Use Action Request Form (6 pages); Exhibit #5 - Findings and Determinations of McCook City Council, Special Exceptions Considerations a - i; Exhibit 6 - minutes of the March 9, 2015 Planning Commission meeting.

City Manager Schneider stated that the City received an application for a special exception from Sea View Properties to allow for a testing laboratory in a Business Commercial (BC) District. The name of the business to be relocated is American Agricultural Laboratories. The proposed site is the former Alco building located at 700 West D Street. American Agricultural Laboratories is currently located at 210 East 1st Street, which is also zoned as a Business Commercial (BC) District. The 210 East 1st Street site has been utilized for laboratory purposes for years. Due to the proposed move (and despite the same zoning designation), it is necessary for a special exception to be granted. The reason for the special exception request is that the stated prospective use is not a permitted principal use according to Article 13 of the McCook Zoning Ordinance. When Staff reviewed the application, it was determined that the request satisfies special exception provision Section 1304 (2) as "other trade, service and light industrial uses which are similar to the permitted principal uses and which are in harmony with the intent of the district." A purchase agreement has been executed by Sea View Properties and the agreement is contingent on the approval of this special exception request. At the March 9, 2015 Planning Commission meeting, the Planning Commission unanimously voted on recommending approval of the special exception application to the City Council. Kevin Grooms, the applicant's representative, presented to the Planning Commission and testified that there should be no concerns regarding American Agricultural Laboratories ability to comply with the special exception requirements.

Kevin Grooms, Lab Director and co-owner of the applicant, was present to address questions from the Council. Their purchase agreement is contingent on approval of this special exception. This location and building will allow for the continued growth of their commercial testing laboratory business in McCook. They serve almost every state and their client base continues to grow. Any odors created are limited and they have had no issues with the residents in downtown apartments located next to their current location. The parking lot more than meets the requirements for their staff and clients and they would be willing to negotiate with Hillcrest Nursing Home and the school to help them address their parking needs. Noise and traffic will be the same as current trucks that

have served Alco. They have no issues or problems in regards to special exception considerations a - i. They currently have thirteen full-time employees and twenty-five seasonal temporary employees.

Rex Nelson, McCook Economic Development Director, and Jesse Dutcher, McCook Utilities Director, spoke in support of the request.

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

ITEM B APPROVE THE REQUEST FOR A SPECIAL EXCEPTION TO ALLOW A COMMERCIAL TESTING LABORATORY IN A BUSINESS COMMERCIAL (BC) DISTRICT, LOCATED IN THE WEST ½ OF BLOCK TWO (2), KELLEY'S HILLTOP ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; PROJECT SPONSOR - SEA VIEW PROPERTIES, LLC; LAND OWNER - LYRA ANN MONASEE ("ETAL"), DUCKWALL-ALCO STORE; 700 WEST "D" STREET; 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 SPECIAL EXCEPTION CONSIDERATIONS A - I.

Councilmember Calvin introduced a motion to approve the Special Exception request to allow a commercial testing laboratory in a Business Commercial (BC) District, located in the West ½ of Block Two (2), Kelley's Hilltop Addition to the City of McCook, Red Willow County, Nebraska; Project Sponsor - Sea View Properties, LLC; Land owner - Lyra Ann Monasee ("Etal"), Duckwall-Alco Store; 700 West "D" Street; 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:

- 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.
- i) Compatibility with existing and future land use plan in the McCook Comprehensive Plan.

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

ITEM C PUBLIC HEARING - REQUEST FOR A SPECIAL EXCEPTION TO ALLOW EDUCATIONAL SERVICES RELATED TO THE CONSTRUCTION OF MODULAR HOUSING IN A BUSINESS COMMERCIAL (BC) DISTRICT, LOCATED IN E 100' OF LOT 16 EXCEPT THE NE 20' X 60', W 85' OF LOT (17), AND W 35' OF LOT 18, BLOCK NINE (9), NINTH ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; PROJECT SPONSOR - PRAIRIE GOLD HOMES, INC.; LAND OWNER - CITY OF MCCOOK; 526 WEST "B" STREET.

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 a request for a special exception to allow educational services related to the construction of modular housing in a Business Commercial (BC) District, located in E 100' of Lot 16 except the NE 20' x 60', W 85' of Lot (17), and W 35' of Lot 18, Block Nine (9), Ninth Addition to the City of McCook, Red Willow County, Nebraska; Project Sponsor - Prairie Gold Homes, Inc.; Land owner - City of McCook; 526 West "B" Street with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the March 16, 2015 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - ownership mailing list of those receiving advanced Notice of Hearing; Exhibit #4 - the Land Use Action Request Form; Exhibit #5 - Findings and Determinations of McCook City Council, Special Exception Considerations a - i; Exhibit #6 - minutes of the March 9, 2015 Planning Commission meeting; Exhibit #7 - Plat and Survey showing correction location of property.

City Manager Schneider stated that the City received an application for a special exception submitted by Prairie Gold Homes to allow for education services and on-site training related to home construction in a Business Commercial (BC) District. The proposed site is the old public safety center at 526 West B Street. Prairie Gold Homes is a non-profit corporation that provides education services to incarcerated inmates. Specifically, the inmates involved with the program learn how to construct and provide ancillary services to residential homes. Prairie Gold Homes is based out of Lincoln and already operates a similar project site near the Nebraska State Penitentiary. Representatives of the City have had an opportunity to view the Lincoln site and were impressed by the orderly condition of the property. There was some construction occurring outside of the shop, but the construction was limited in space to 60 feet in length and the build site was neat and orderly. Most of the materials used for the projects were stored inside the main building in an orderly fashion. The reason for the special exception request is that the stated prospective use is not a permitted principal use according to Article 13 of the McCook Zoning Ordinance. When Staff reviewed the application, it was determined that the request satisfies special exception provision Section 1304 (2) as "other trade, service and light industrial uses which are similar to the permitted principal uses and

which are in harmony with the intent of the district.” Staff believes that Prairie Gold Homes can meet the Industrial Light performance standards established in Section 1606 of the McCook Zoning Ordinance. A lease agreement has been approved by City Council for the rental of the property. The lease agreement is contingent upon the granting of this special exception. The lease approval by the City Council gives Prairie Gold Homes standing to bring this request to the Planning Commission. At the March 9, 2015 Planning Commission meeting, the Planning Commission unanimously voted on recommending approval of the special exception application to the City Council. Dennis Berry, the applicant’s representative, presented to the Planning Commission and testified that there should be no concerns regarding Prairie Gold Home’s ability to comply with the special exception requirements.

Representatives of Prairie Gold Homes addressed questions and concerns from the Council.

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

ITEM D APPROVE THE REQUEST FOR A SPECIAL EXCEPTION TO ALLOW EDUCATIONAL SERVICES RELATED TO THE CONSTRUCTION OF MODULAR HOUSING IN A BUSINESS COMMERCIAL (BC) DISTRICT, LOCATED IN E 100' OF LOT 16 EXCEPT THE NE 20' X 60', W 85' OF LOT (17), AND W 35' OF LOT 18, BLOCK NINE (9), NINTH ADDITION TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; PROJECT SPONSOR - PRAIRIE GOLD HOMES, INC.; LAND OWNER - CITY OF MCCOOK; 526 WEST "B" STREET; 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 SPECIAL EXCEPTION CONSIDERATIONS A - I.

Councilmember Calvin introduced a motion to approve the request for a special exception to allow educational services related to the construction of modular housing in a Business Commercial (BC) District, located in E 100' of Lot 16 except the NE 20' x 60', W 85' of Lot (17), and W 35' of Lot 18, Block Nine (9), Ninth Addition to the City of McCook, Red Willow County, Nebraska; Project Sponsor - Prairie Gold Homes, Inc.; Land owner - City of McCook; 526 West "B" Street; 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.
- i) Compatibility with existing and future land use plan in the McCook Comprehensive Plan.

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

ITEM E PUBLIC HEARING - CONSIDER THE PLANNED DEVELOPMENT DISTRICT TO BE KNOWN AS CLARY VILLAGE, FOR REPLATTED LOT TWO A (2A), BLOCK ONE (1), INCLUDING WEST 8½ STREET; CLARY SUBDIVISION OF THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, INCLUDING A PLANNED UNIT DEVELOPMENT AGREEMENT.

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 proposed Planned Development District to be known as Clary Village, for Replatted Lot Two A (2A), Block One (1), including West 8½ Street; Clary Subdivision of the City of McCook, Red Willow County, Nebraska, including a Planned Unit Development Agreement with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the March 16, 2015 City Council meeting; Exhibit #2 - Notice of Hearing published; Exhibit #3 - ownership mailing list of those receiving advanced Notice of Public Hearing; Exhibit #4 - proposed Ordinance No. 2015-2915; Exhibit #5 - the Planned Unit Development Agreement; Exhibit #6 - minutes of the March 9, 2015 Planning Commission meeting; and Exhibit #7 - Clary Subdivision Replat No. 2.

City Manager Schneider stated that the developer desires to create eight total duplex units on the above described plot of land. It is directly to the west of the old bus barn located on "Q" Street. The proposed plan includes improvements such as sanitary sewer, water, sidewalk, and drainage improvements. The streets adjacent to the property meet city standards, although West 8½ Street will have to be dedicated as City property. Since the City has not done many planned unit developments, staff contacted Craig Bennet, Land Development and Planning with Miller and Associates for input regarding this request. The location of the property is in a Residential Medium Density District. Due to the fact that eight structures are being located on the lot, it is necessary to do a planned unit development. The planned unit development allows for more flexibility with respect to our specific zoning requirements. The planned unit development would be consistent with the proposed future land use of the Comprehensive Plan. A preliminary approval for recommendation of the Planned Unit Development was given by the Planning Commission at the February 9, 2015 meeting and the City Council gave preliminary approval at the February 16, 2015

meeting. The Planning Commission gave final approval for recommendation of the Planned Unit Development on March 9, 2015.

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

ITEM F APPROVE ORDINANCE NO. 2015-2915, UNDER SUSPENSION OF THE RULE, APPROVING THE PLANNED DEVELOPMENT DISTRICT TO BE KNOWN AS "CLARY VILLAGE", FOR REPLATTED LOT TWO A (2A), BLOCK ONE (1), INCLUDING WEST 8½ STREET; CLARY SUBDIVISION OF THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, INCLUDING A PLANNED UNIT DEVELOPMENT AGREEMENT.

Mayor Gonzales introduced Ordinance No. 2015-2915 by title. The Clerk read the Ordinance by title:

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 2013-2897 BY DESIGNATING A TRACT OF LAND AS A PLANNED DEVELOPMENT DISTRICT TO BE KNOWN AS "CLARY VILLAGE"; REPEALING CONFLICTING ORDINANCES OR PARTS OF ORDINANCES; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2015-2915 was introduced and read by title only. Mayor Gonzales moved that the statutory rule requiring reading on three different days be suspended. Councilmember Calvin seconded the motion to suspend the rule and upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell, Weedin. NAY: None. 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.

Mayor Gonzales moved for final passage of the Ordinance, which was seconded by Councilmember Calvin. The Mayor then stated the question: "Shall Ordinance No. 2015-2915 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell, Weedin. NAY: None. Motion carried. The passage and adoption of said Ordinance, having been concurred in by a majority of all members of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

(6) CONSENT AGENDA:

Councilmember Hepp requested that Item A be removed from the Consent Agenda and placed on the Regular Agenda.

Councilmember Weedin requested that Item F and Item G be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM B RECEIVE AND FILE THE MINUTES OF THE MARCH 9, 2015 PLANNING COMMISSION MEETING.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted

to receive and file the minutes of the March 9, 2015 Planning Commission meeting. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM C APPROVE THE REQUEST FROM GARY PARKS TO REMOVE THE STREET LIGHT LOCATED IN FRONT OF 203 WEST 2ND STREET.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted to approve the request from Gary Parks to remove the street light located in front of 203 West 2nd Street. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM D APPROVE THE REQUEST FROM THE YMCA AND THE KNIGHTS OF COLUMBUS TO HOST THEIR SECOND ANNUAL SHAMROCK SHUFFLE 5K RUN/WALK UTILIZING CITY STREETS AND WALKING TRAIL ON SATURDAY, MARCH 28, 2015 BEGINNING AT 4:00 P.M.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted to approve the request from the YMCA and the Knights of Columbus to host their Second Annual Shamrock Shuffle 5K Run/Walk utilizing city streets and walking trail on Saturday, March 28, 2015 beginning at 4:00 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM E RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF FEBRUARY 2015 AS PUBLISHED MARCH 11, 2015.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted to receive and file the claims for the month of February 2015 as published March 11, 2015. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

REGULAR AGENDA

ITEM 6A APPROVE THE MINUTES OF THE MARCH 2, 2015 REGULAR CITY COUNCIL MEETING AND THE FEBRUARY 26, 2015, THE MARCH 1, 2015, AND THE MARCH 5, 2015 SPECIAL CITY COUNCIL MEETINGS.

Upon a motion by Councilmember Hepp, seconded by Councilmember McDowell, the Council voted to approve the minutes of the March 2, 2015 regular City Council meeting and the February 26, 2015 and the March 1, 2015 special City Council meetings as printed and the March 5, 2015 special City Council meeting correcting the roll call and roll call vote to reflect Councilmember Hepp as present. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM 6F APPROVE THE DISABILITY PENSION ANNUITY DISTRIBUTION FOR SHANNON BROWN.

Upon a motion by Councilmember Weedin, seconded by Councilmember McDowell, the Council

voted to approve the Disability Pension Annuity Distribution for Shannon Brown. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM 6G RECEIVE AND FILE INFORMATION REGARDING ACE, THE PUBLIC ALLIANCE FOR COMMUNITY ENERGY DISTRIBUTION OF \$7,915.67 TO THE CITY AS ITS SHARE OF \$150,000 BEING DISTRIBUTED TO 72 NEBRASKA MEMBER COMMUNITIES OF THE NOT-FOR-PROFIT, COMMUNITY-OWNED NATURAL GAS SUPPLIER.

Upon a motion by Councilmember Weedin, seconded by Councilmember Calvin, the Council voted to receive and file information regarding ACE, the Public Alliance for Community Energy distribution of \$7,915.67 to the City as its share of \$150,000 being distributed to 72 Nebraska member communities of the not-for-profit, community-owned natural gas supplier. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

(7) APPROVE AND EQUITY LOAN TO CLARY VILLAGE, L.L.C IN THE AMOUNT OF \$120,000 FOR A GAP FUNDING LOAN FOR THE CLARY VILLAGE DUPLEX PROJECT.

Councilmember Calvin introduced a motion to approve and equity loan to Clary Village, L.L.C in the amount of \$120,000 for a gap funding loan for the Clary Village duplex project. Councilmember McDowell seconded the motion.

Upon a motion by Councilmember Calvin, seconded by Councilmember McDowell, the Council voted to amend the presented documents by changing the rate of interest as 4%. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

The Mayor 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, Weedin. NAY: None. Motion carried.

(8) APPROVE THE \$196,750 LOAN FROM THE MCCOOK ECONOMIC DEVELOPMENT FUND TO THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION PER THE LB840 PLAN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted to approve the \$196,750 loan from the McCook Economic Development Fund to the McCook Economic Development Corporation per the LB840 Plan. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

(9) APPROVE THE CONTRACT WITH MOUSEL, BROOKS, GARNER, AND SCHNEIDER, P.C., L.L.O., WITH NATHANIEL J. MUSTION TO SERVE AS THE CONTRACTED CITY ATTORNEY FOR THE CITY OF MCCOOK.

Councilmember Calvin introduced a motion to approve the contract with Mousel, Brooks, Garner, and Schneider, P.C., L.L.O., with Nathaniel J. Mustion to serve as the contracted City Attorney for the City of McCook. Councilmember Weedin seconded the motion.

City Manager Schneider stated that he negotiated a contract with Mousel, Brooks, Garner and Schneider, P.C., L.L.O., to provide legal services as City Attorney, with Nathaniel J. Mustion to serve as the primary City Attorney. The contract keeps the City Attorney as a contracted laborer. The nature of employment lists the expectations and duties of the parties. The compensation schedule accounts for a monthly retainer fee of \$2,200. As part of that retainer Mr. Mustion will attend twenty-four (24) City Council meetings and twelve (12) Planning Commission and Board of Zoning Adjustment Meetings. Certain incidental expenses are also included in the retainer fee. The non-retainer services shall be compensated at the rate of \$125/hour. Additional expenses to be paid for by the City include a Westlaw subscription with McQuillan Municipal Corporation program included as well as the enrollment fee for one League of Municipalities Conference per year. Typically, the City Attorney contract is not subject to City Council approval. In this case, it is believed to be important to bring it before the Council for its approval. As part of this item, City Manager, Nate Schneider, discloses that Mr. Mustion is an employee of Mousel, Brooks, Garner and Schneider, P.C., L.L.O. Nate Schneider is a one-third member of Law 101, L.L.C. which owns the building Mousel, Brooks, Garner and Schneider, P.C., L.L.O is located and a partner in Mousel, Brooks, Garner and Schneider, P.C., L.L.O. This agreement will not serve to profit Mr. Schneider, as the expenses of Mr. Schneider are paid by him individually.

The Mayor then stated the question: "Shall the motion on the floor be approved?" Upon roll call vote the following Councilmembers voted YEA: Gonzales, Calvin, Hepp, McDowell, Weedon. NAY: None. Motion carried.

(10) COUNCIL COMMENTS.

Council comments included extending condolences to Public Works Director Potthoff and his family on the loss of his father; request for the public to let the Council know their concerns and issues; welcoming Nathaniel Mustion as City Attorney; and thanking the Rex Nelson and the MEDC staff for all they have done recently for the benefit of the community.

It was noted that a special meeting has been scheduled for the Wednesday, March 18, 2015 for consideration of the two ballot questions for the special election to be held in May.

(11) ADJOURNMENT.

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

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk