

MCCOOK CITY COUNCIL
May 4, 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 7:30 o'clock P.M. in the City Council Chambers.

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

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion; City Clerk/Treasurer Doak, Police Chief Brown, Utilities Director Dutcher, Fire Chief Harpham, Public Works Director Potthoff, and Deputy City Clerk Lori Schmidt.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 30, 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 - BRUCE LESTER, MCCOOK EVANGELICAL FREE CHURCH.

Bruce Lester, pastor of the McCook Evangelical Free Church, 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.

There were no citizen's comments.

(4) ANNOUNCEMENTS & RECOGNITIONS.

City Manager Schneider provided updates of the Downtown Revitalization project, the paving in Industrial Park, and that staff is gathering information regarding building permits as requested by McCook Community College.

(5) PROCLAMATIONS:

ITEM A APPROVE THE PROCLAMATION DESIGNATING MAY 3 - 9, 2015 AS "DRINKING WATER WEEK" IN THE CITY OF MCCOOK AND AUTHORIZE

THE MAYOR TO SIGN.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to approve the proclamation designating May 3 - 9, 2015 as "Drinking Water Week" in the City of McCook and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

ITEM B APPROVE THE PROCLAMATION DESIGNATING MAY 15 AS "POLICE OFFICERS' MEMORIAL DAY" AND THE WEEK OF MAY 10 - 16, 2015 AS "NATIONAL POLICE WEEK" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Hepp, seconded by Councilmember McDowell, the council voted to approve the proclamation designating May 15 as "Police Officers' Memorial Day" and the week of May 10 - 16, 2015 as "National Police Week" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

Upon a motion by Councilmember Calvin, seconded by Councilmember Weedin, the Council voted to recess as a City Council and to convene as the McCook Community Development Agency for consideration of CDA Agenda Items No. 1 and 2. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

Sitting as the McCook Community Development Agency the Council considered CDA Agenda Items No. 1 and 2.

Upon a motion by Agency Member Calvin, seconded by Agency Member Hepp, the Community Development Agency voted to recess as the McCook Community Development Agency and reconvene as the City Council. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

(6) PUBLIC HEARINGS:

ITEM A PUBLIC HEARING - REVIEW THE PROPOSED REDEVELOPMENT PLAN FOR THE COBBLESTONE HOTEL PROJECT AREA 2015 AS TO ITS CONFORMITY WITH THE GENERAL PLAN OF THE DEVELOPMENT OF THE CITY AS A WHOLE.

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 Redevelopment Plan for the Cobblestone Hotel Project Area 2015 as to its conformity with the general plan of the development of the City as a whole 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 dated May 4, 2015; Exhibit #2 - Notice of Hearing published; Exhibit #3 - the letter of notification to McCook Community College; Exhibit #4 - letter of notification to Chairman of the Board, Education Service Unit No. 15; Exhibit #5 - letter of notification to Chairman of the Board, Middle Republican NRD; Exhibit #6 - letter of notification to Vesta Dack, Chairperson, Red Willow County Commissioners; Exhibit #7 - letter of notification to Tom Bredvick, President, McCook School District; Exhibit #8 -

listing of notices mailed to; Exhibit #9 - aerial photo of the proposed area; Exhibit #10 - Alta Survey - Cobblestone Hotels; Exhibit #11 - Preliminary Drawing, Option 1 Site Plan; Exhibit #12- proposed Resolution No. 2015-12; and Exhibit #13 - proposed Development Contract with the McCook Hotel Group, LLC.

City Manager Schneider noted that the review of the plan was conducted during the meeting of the Community Development Agency. Cobblestone Hotel desires to develop a 54 room hotel on the site. In order to complete the project, they are requesting Tax Increment Financing (TIF) to be a part of the financing. Cobblestone Hotel will be securing its own loan to pay the up front costs. No public funds will be utilized and the City will not be assuming any obligations.

Jason Houghtelling, representing Cobblestone Hotels, stated that they have been working for over a year to find property to construct on, adding that they are very excited to be in McCook. He noted that they get overflow from McCook at their location in Wray, Colorado.

Rex Nelson, McCook Economic Development Director, stated that when the Hotel Study was completed, it indicated the need for additional rooms during peak times of the year.

Phyllis Ogg, Dale Cotton, and Dale Stewart, questioned the use of TIF for this project, what do we gain by losing other businesses; and the need for a plan for tourism.

There being no one else present to comment, upon a motion by Councilmember Calvin, seconded by Councilmember Weedon, 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 ADOPT RESOLUTION NO. 2015-12 APPROVING A REDEVELOPMENT PLAN OF THE CITY OF MCCOOK, NEBRASKA, APPROVING A REDEVELOPMENT PROJECT OF THE CITY OF MCCOOK, NEBRASKA; AND APPROVAL OF RELATED ACTIONS FOR THE PURPOSE OF DEVELOPMENT OF THE COBBLESTONE HOTEL PROJECT AREA 2015.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to adopt Resolution No. 2015-12 approving a Redevelopment Plan of the City of McCook, Nebraska, approving a Redevelopment Project of the City of McCook, Nebraska; and approval of related actions for the purpose of development of the Cobblestone Hotel Project Area 2015. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

Council comments included the awareness of the concerns from current businesses; that the Hotel Study indicated a need for additional rooms; that after completing their own market analysis Cobblestone approached the City, they are taking the risk; and the need for a tourism plan.

Upon a motion by Councilmember Hepp, seconded by Councilmember Weedon, the Council voted to recess as a City Council and to convene as the McCook Community Development Agency for consideration of CDA Agenda Items No. 3 and 4. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

Sitting as the McCook Community Development Agency the Council considered CDA Agenda Items No. 3 and 4.

Upon a motion by Agency Member Calvin, seconded by Agency Member Weed in the Community Development Agency voted to recess as the McCook Community Development Agency and reconvene as the City Council. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weed in. NAY: None.

(7) CONSENT AGENDA:

Upon the request of Cliff Schwink, Item E was removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE APRIL 20, 2015 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Gonzales, seconded by Councilmember McDowell, the Council voted to approve the minutes of the April 20, 2015 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weed in. NAY: None.

ITEM B RECEIVE AND FILE THE CLAIMS FOR THE MONTH OF MARCH 2015 AS PUBLISHED APRIL 24, 2015.

Upon a motion by Mayor Gonzales, seconded by Councilmember McDowell, the Council voted to receive and file the claims for the month of March 2015 as published April 24, 2015. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weed in. NAY: None.

ITEM C AWARD THE BID FOR THE 2015 ARMOR COATING TO FIGGINS CONSTRUCTION IN THE AMOUNT OF \$3.70 PER GALLON OF ARMOR COAT OIL AND TO BE COMPLETED BY AUGUST 15, 2015.

Upon a motion by Mayor Gonzales, seconded by Councilmember McDowell, the Council voted to award the bid for the 2015 Armor Coating to Figgins Construction in the amount of \$3.70 per gallon of armor coat oil and to be completed by August 15, 2015. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weed in. NAY: None.

ITEM D APPROVE THE REQUEST FROM THE MCCOOK E-FREE CHURCH TO HOST THEIR 5K RACE UTILIZING CITY STREETS ON SATURDAY, JUNE 13, 2015 BEGINNING AT 4:00 P.M.

Upon a motion by Mayor Gonzales, seconded by Councilmember McDowell, the Council voted to approve the request from the McCook E-Free Church to host their 5K race utilizing city streets on Saturday, June 13, 2015 beginning at 4:00 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weed in. NAY: None.

ITEM F APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET INC., LIQUOR LICENSE #IDK-084561, FOR A RECEPTION TO BE HELD AT THE MCCOOK MUNICIPAL AUDITORIUM, 302 WEST 5TH STREET, ON JUNE 20, 2015 FROM 5:00 P.M. TO 11:59 P.M.

Upon a motion by Mayor Gonzales, seconded by Councilmember McDowell, the Council voted to

approve the application for a Special Designated Liquor License submitted by Schmick's Market Inc., Liquor License #IDK-084561, for a reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on June 20, 2015 from 5:00 P.M. to 11:59 P.M. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

REGULAR AGENDA

ITEM 7E APPROVE A REQUEST BY CLIFF SCHWINK, AGENT FOR SCHAMEL'S NAPA, LOCATED AT THE INTERSECTION OF "B" STREET AND WEST 2ND STREET, TO POTENTIALLY CLOSE THE NORTHBOUND LANE OF WEST 2ND STREET ADJACENT TO ITS BUILDING FOR DEMOLITION PURPOSES FOR A PERIOD OF TWO WEEKS RUNNING FROM MAY 4 THROUGH MAY 18.

Mr. Schwink apologized to the Council for not seeking permission to close the street before starting demolition. His plans are to start early Thursday, maybe even Wednesday night, on taking the building down and to have that completed Friday.

Councilmember Calvin introduced a motion to close the northern half of the 100 Block of West 2nd Street adjacent to its building for demolition purposes for a period of two weeks running from May 4 through May 18. Mayor Gonzales seconded the motion.

Upon a motion by Councilmember Calvin, seconded by Mayor Gonzales, the Council voted to amend the motion giving staff discretion to only close the north bound lane if that is all that is needed. 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) ACCEPT INDUSTRIAL PROCESS TECHNOLOGY BASE BID OF \$324,800 AS THE LOWEST RESPONSIBLE BIDDER FOR RENOVATION OF THE HEAT EXCHANGER AND DIGESTER GAS PIPING; ACCEPT INDUSTRIAL PROCESS TECHNOLOGY BID B OF \$75,450 AS THE LOWEST RESPONSIBLE BIDDER FOR REPLACEMENT OF THE MOTOR CONTROL CENTER (MCC) AT THE WASTE WATER TREATMENT PLANT; PROCESS BOTH CONTRACTS AS A SINGLE CONTRACT AND ACCEPT CHANGE ORDER #1 FOR A DEDUCT OF \$61,243 FOR A TOTAL CONTRACT AMOUNT OF \$339,007 AND AUTHORIZE THE MAYOR TO EXECUTE THE NECESSARY PAPERWORK TO AWARD THE CONTRACT.

Utilities Director Dutcher and Chris Miller of Miller and Associates, addressed the Council stating the bids were received and opened on March 27, 2015 for the Digester Gas System Upgrade and Motor Control Center Replacement, RCB Building. Two different Base Bids and two alternates were provided in the specifications. The bids exceeded the budget for the work to be performed. An onsite meeting was held to look for equipment or potential cost saving ideas. Utilizing these ideas a savings of \$61,243 could be realized. This savings although still over the budget was

acceptable to staff and would allow the project to be awarded and the work to proceed.

Upon a motion by Councilmember Calvin, seconded by Councilmember Hepp, the Council voted to accept Industrial Process Technology base bid of \$324,800 as the lowest responsible bidder for renovation of the Heat Exchanger and Digester Gas Piping; accept Industrial Process Technology Bid B of \$75,450 as the lowest responsible bidder for replacement of the Motor Control Center (MCC) at the Waste Water Treatment Plant; process both contracts as a single contract and accept Change Order #1 for a deduct of \$61,243 for a total contract amount of \$339,007 and authorize the Mayor to execute the necessary paperwork to award the contract. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedon. NAY: None.

- (9) DISCUSS THE MEMORANDUM FROM CITY ATTORNEY, NATHANIEL J. MUSTION, REGARDING THE CITY OF MCCOOK ORDINANCE ON DISCHARGING FIREARMS IN THE CITY LIMITS.

City Attorney Mustion addressed the question as to whether the City's ordinance regarding whom may discharge firearms in the city limits and where is similar to other municipalities our size. He contacted North Platte, Grand Island, Kearney, and Gothenburg. No city in the sampling allows the discharge of firearms by private citizens on private property with the exception of North Platte which only allows it inside a private enclosure (i.e., a private gun range).

- (10) REVIEW UPDATES AND MAKE AN ACTION RECOMMENDATION TO STAFF REGARDING THE DAN AND LIZANN MILLER SPECIAL EXCEPTION MODIFICATION MATTER.

City Manager Schneider stated that at the last meeting, the Dan and Lizann Miller special exception modification matter was discussed. At the meeting, Mr. Miller expressed a desire to attempt to mediate the matter. Contact was made with Bob Reynold's office, the attorney for adjacent property owners, to determine if there was interest in mediation. Staff was told that there was no interest during the phone conversation. Staff also contacted B-2 Engineering regarding the measurement of noise and odor. Brenda Finter explained that their company does measurements of this type. Ms. Finter stated that typically B-2 Engineering will remain on site during the measurement. Ms. Finter recommended a day and evening measurement that would be done at the same time. She did not state that measurements would be taken over a longer period of time. B-2 Engineering bills out at \$100/hour. Travel is billed out at the same rate. B-2 is an Omaha firm. Ms. Finter estimated the cost would be between \$1,500 and \$2,000 to conduct the testing.

Other options discussed included the use of staff to do the monitoring; monitoring over a longer period of time could be completed that way; is there a need to collect additional data; and that the Miller's have not lived up to what they said they would do.

City Attorney Mustion recommended that the City gather more data. If we end up back in court, it would be a benefit to the City.

The Council authorized City Staff to develop a plan for gathering data to be brought back to the Council for consideration.

- (11) APPROVE ORDINANCE NO. 2015-2916 AMENDING THE MUNICIPAL CODE OF THE CITY OF MCCOOK, NEBRASKA; AMENDING SECTION 31.23 - MEETING DAY AND TIME - QUORUM - CALL TO ORDER; SETTING THE TIME FOR REGULAR

CITY COUNCIL MEETINGS AT 6:30 P.M., UPON ITS SECOND READING.

Upon a motion by Councilmember Weedin, seconded by Councilmember Hepp, the Council voted to approve Ordinance No. 2015-2916 amending the Municipal Code of the City of McCook, Nebraska; amending Section 31.23 - Meeting Day and Time - Quorum - Call to Order; setting the time for Regular City Council meetings at 6:30 P.M., upon its second reading. The motion passed upon the following roll call vote: YEA: Gonzales, Hepp, Calvin, McDowell, Weedin. NAY: None.

(12) COUNCIL COMMENTS.

Council comments included congratulations to Councilmember Calvin on the graduation of his daughter from the Nebraska State Patrol, the successful High School rodeo held at the Kiplinger Arena, birthday wishes to Councilmembers Calvin and McDowell, reminded all to vote by 5:00 P.M. on May 12 on the sales tax and LB840 ballot questions, and congratulations to the graduates and their parents of the McCook High School, McCook Community College, and the St. Pat's 8th grade class.

(13) ADJOURNMENT.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 9:10 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk