

MCCOOK CITY COUNCIL
April 19, 2010
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 Kircher, Anderson, Calvin, Gonzales; City Attorney Schneider; City Manager Fritsch; City Clerk-Treasurer Doak.

Absent: None.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 15, 2010, 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 - MARY HENDRICKS, ST. ALBAN'S EPISCOPAL CHURCH.

Mary Hendricks, pastor of the St. Alban's Episcopal Church, was present for the invocation.

(2) CITIZEN'S FORUM.

No one was present for citizen's forum.

(3) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

There were no Mayor's announcements or recognitions.

(4) PROCLAMATIONS:

ITEM A APPROVE THE PROCLAMATION DESIGNATING APRIL 30, 2010 AS "ARBOR DAY" IN THE CITY OF MCCOOK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Anderson, seconded by Councilmember Kircher, the Council voted to approve the proclamation designating April 30, 2010 as "Arbor Day" in the City of McCook and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B APPROVE THE PROCLAMATION DESIGNATING THE WEEK OF MAY 2 - 8, 2010 AS "NATIONAL DRINKING WATER WEEK 2010" AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Kircher, the Council voted to approve the proclamation designating the week of May 2 - 8, 2010 as "National Drinking Water Week 2010" and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(5) CONSENT AGENDA:

Councilmember Kircher requested that Item B, Item E, and Item G be removed from the Consent Agenda and placed on the Regular Agenda.

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

ITEM A APPROVE THE MINUTES OF THE APRIL 5, 2010 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the April 5, 2010 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM C APPROVE THE DRAWINGS AND SPECIFICATIONS FOR REPLACEMENT OF KARRER PARK LIFT STATION FORCE MAIN AND SET THE DATE TO RECEIVE BIDS FOR MAY 27, 2010 AT 2:00 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to approve the drawings and specifications for Replacement of Karrer Park Lift Station Force Main and set the date to receive bids for May 27, 2010 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM D RECEIVE AND FILE THE FINANCIAL REPORT FOR THE QUARTER ENDING MARCH 31, 2010.

Upon a motion by Councilmember Anderson, seconded by Councilmember Gonzales, the Council voted to receive and file the Financial Report for the quarter ending March 31, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

REGULAR AGENDA

ITEM 5B APPROVE RESOLUTION NO. 2010-06 WHICH ADOPTS AND BINDS THE CITY OF MCCOOK TO COMPLY WITH ALL APPLICABLE FEDERAL LAW, INCLUDING THE RULES AND REGULATIONS OF THE FEDERAL HIGHWAY ADMINISTRATION, ALL APPLICABLE STATE LAW AND RULES AND REGULATIONS AND THE REQUIREMENTS OF THE LPA GUIDELINES MANUAL OF THE NEBRASKA DEPARTMENT OF ROADS, INCLUDING THE CONSULTANT SELECTION PROCESS, THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA), THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY

ACQUISITION POLICIES ACT (UNIFORM ACT) AND THE MAINTAINING OF ADEQUATE FINANCIAL MANAGEMENT RECORDS FOR FEDERALLY FUNDED PROJECTS AND AUTHORIZE THE MAYOR TO SIGN.

Councilmember Kircher introduced a motion to approve Resolution No. 2010-06 which adopts and binds the City of McCook to comply with all applicable Federal Law, including the rules and regulations of the Federal Highway Administration, all applicable State Law and rules and regulations and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads, including the Consultant Selection Process, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Records for Federally Funded Projects and authorize the Mayor to sign. Councilmember Gonzales seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to amend the presented resolution in the last sentence by striking "Public Works Director" and inserting "Mayor Dennis Berry". The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. 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: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

ITEM 5E APPROVE GRANT OF LICENSE FOR ENCROACHMENT OF PROPERTY AT #10 SOUTH STREET OWNED BY JASON AND ANNE KENNEDY FOR A PORTION OF A GARAGE BUILT IN CITY RIGHT -OF-WAY.

Councilmember Kircher noted that he would abstain from the vote on this request since his firm has done some work regarding this proposed sale.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to approve the Grant of License for encroachment of property at #10 South Street owned by Jason and Anne Kennedy for a portion of a garage built in City right -of-way. The motion passed upon the following roll call vote: YEA: Berry, Anderson, Calvin, Gonzales. NAY: None. ABSTAIN: Kircher.

ITEM 5F APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE TO HOST A BEER GARDEN DURING THE BISON 2010 ALL CLASS REUNION TO BE LOCATED AT NORRIS AVENUE AND EAST "D" STREET, ON JULY 3, 2010 FROM 6:00 P.M. TO 12 MIDNIGHT.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by the McCook Area Chamber of Commerce to host a beer garden during the Bison 2010 All Class Reunion to be located at Norris Avenue and East "D" Street, on July 3, 2010 from 6:00 P.M. to 12 Midnight. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM 5G APPROVE THE CONTRACT BETWEEN THE CITY OF MCCOOK AND BERGGREN ARCHITECTS FOR ARCHITECTURAL SERVICES FOR THE NORRIS BANDSHELL RESTORATION PROJECT.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the contract between the City of McCook and Berggren Architects for architectural services for the Norris Bandshell Restoration Project. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

- (6) APPROVE THE LICENSE FOR MCCOOK PAWN TO BE OPERATED BY LARRY BASS AND ADAM JOHNSON AT 615 WEST "B" STREET, MCCOOK, NEBRASKA.

Upon a motion by Councilmember Kircher, seconded by Councilmember Gonzales, the Council voted to approve the license for McCook Pawn to be operated by Larry Bass and Adam Johnson at 615 West "B" Street, McCook, Nebraska. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

- (7) RECEIVE THE RECOMMENDATION FROM THE AIRPORT ADVISORY COMMISSION FOR THE COMMERCIAL AIR CARRIER AT MCCOOK BEN NELSON REGIONAL AIRPORT AND AUTHORIZE STAFF TO FORWARD A RECOMMENDATION TO THE DEPARTMENT OF TRANSPORTATION.

Mayor Berry introduced a motion to authorize staff to forward the recommendation from the Airport Advisory Commission of SeaPort Airlines as the Commercial Air Carrier at McCook Ben Nelson Regional Airport to the U.S. Department of Transportation. Councilmember Kircher seconded the motion.

The Airport Advisory Commission met on April 16, 2010 and voted by four to three to recommend SeaPort Airlines. SeaPort proposed 18 weekly flights using PC-12 pressurized single-engine turboprop aircraft that seat nine. Great Lakes would provide 12 weekly flights using twin turboprop Beechcraft 1900-D aircraft that seat 19.

Doug Vap, Chairman of the Airport Advisory Commission, noted that the vote was not a one-sided decision. He acknowledged that there are problems with Great Lakes service, but the convenience of our passengers should be considered. He expressed concerns with the fact that SeaPort does not terminal at Denver International Airport (DIA) making passengers have to go through security in DIA adding time, and making it harder to make connecting flights.

Richard Stull, member of the Airport Advisory Commission, stated that the main goal of the Commission was to go with the company that gave McCook the best opportunity to increase passenger counts and that the Commission felt that SeaPort Airlines was the best solution. The City could lose our service if the enplanements do not increase. He acknowledged that the planes were smaller, but it is not economically feasible to use a 19-passenger plane to fill a few seats. Our average is 2.5 seats. SeaPort proposed to increase enplanements to 3,900. They would have two crews stationed in McCook, the terminal would be manned full time, and they would have regular operating hours. Great Lakes offered no reduced fares, do not have an advertisement for McCook, and had not plans to increase enplanements. Service would stay as is.

Kelly Soden expressed her concerns with the service that Great Lakes provides. You can not rely on them, they do not return calls, and they do not hold up to their end of the bargain. She is very disappointed with their service and will not use them again. Any time that she has flown, she never saw more than nine passengers and did not have any concerns with the smaller plane.

Doug Hyde spoke in support of Great Lakes.

Council expressed concerns with the use of the smaller plane, loss of TSA and its employees, the spotty service provided by Great Lakes, the fare differences would be a wash with SeaPort charging extra for luggage over 35 pounds, and the inconvenience of passengers in DIA with security and ticket issues and having to be shuttled to their flights.

Mayor Berry noted that we need to look at enplanements. If the passenger counts do not increase, we may not be able to stay with the subsidized service.

Councilmember Kircher acknowledged the pros and cons of both airlines, but felt that we should give SeaPort a chance, we need to increase enplanements.

The Mayor then stated the question: "Shall the motion on the floor be approved?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher. NAY: Anderson, Calvin, Gonzales. NAY: None. Motion failed.

Upon a motion by Mayor Berry, seconded by Councilmember Kircher, the Council voted to authorize staff to forward the recommendation of Great Lakes Aviation as the Commercial Air Carrier at McCook Ben Nelson Regional Airport to the U.S. Department of Transportation. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(8) DIRECT STAFF REGARDING NEXT STEPS TO BE TAKEN FOR THE CONSTRUCTION OF MUNICIPAL FACILITIES.

Discussion was held regarding the steps to be taken for the construction of municipal facilities.

Items of discussion were the placing of the issues on a November ballot, using property taxes to pay for bonding of the project instead of sales tax, trimming the proposed costs of both proposed facilities, and whether the County was interested in joining in the project for the Sheriff's Department and a jail.

It was the consensus of the Council to move forward with the demolition of West Ward, eliminated the renovation of the National Guard facility for Police/City Offices, to build new structures and to trim down the proposed costs, and for the Mayor to contact the County to see if they have any interest in joining in the proposed facilities.

A town hall meeting was scheduled for Thursday, April 29, 2010 at 7:00 P.M. at the Heritage Senior Center to receive further public input on the options being considered.

(9) APPROVE ORDINANCE NO. 2010-2835 AMENDING CHAPTER 3, ARTICLE 1, SECTION 127 OF THE MCCOOK MUNICIPAL CODE TO EXEMPT THE TESTING OF BACKFLOW PROTECTION DEVICES USED ON LAWN SPRINKLER SYSTEMS WHEN THE SPRINKLER SYSTEM IS NOT USED TO APPLY CHEMICALS UPON ITS THIRD AND FINAL READING.

Ordinance No. 2010-2835 now came up for third and final reading. Ordinance No. 2010-2835 was read by title only and thereafter Councilmember Kircher moved for final passage of the Ordinance, which motion was seconded by Councilmember Gonzales. The Mayor then stated the question: "Shall Ordinance No. 2010-2835 be passed and adopted?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. 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 Kircher, the Council voted to publish Ordinance No. 2010-2835 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.

- (10) APPROVE ORDINANCE NO. 2010-2836 AMENDING CHAPTER 3, ARTICLE 9, SECTIONS 901 - 912, OF THE MCCOOK MUNICIPAL CODE; REGARDING THE CITY AUDITORIUM AND ITS USE; ALLOWING THE USE OR POSSESSION OF ALCOHOLIC BEVERAGES ON SAID PREMISES UPON APPROVAL OF A SPECIAL DESIGNATED LIQUOR LICENSE BY THE CITY COUNCIL UPON ITS SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve Ordinance No. 2010-2836 amending Chapter 3, Article 9, Sections 901 - 912, of the McCook Municipal Code; regarding the City Auditorium and its use; allowing the use or possession of alcoholic beverages on said premises upon approval of a Special Designated Liquor License by the City Council upon its second reading. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

- (11) APPROVE REQUEST FROM MARK FRIEHE FOR A WEDDING RECEPTION SERVING ALCOHOL TO BE HELD IN THE CITY AUDITORIUM DURING THE MONTH OF JUNE.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve request from Mark Friehe for a wedding reception serving alcohol to be held in the City Auditorium during the month of June. The motion passed upon the following roll call vote: YEA: Berry, Anderson, Calvin, Gonzales. NAY: None. Councilmember Kircher did not vote.

- (12) APPROVE ORDINANCE NO. 2010-2837 PROVIDING FOR THE AMENDMENT OF SECTION A OF APPENDIX IV OF THE MCCOOK MUNICIPAL CODE, 1981 REVISED; SETTING THE BUILDING USE FEES FOR THE CITY AUDITORIUM UPON ITS SECOND READING.

Councilmember Kircher introduced a motion to approve Ordinance No. 2010-2837 providing for the amendment of Section A of Appendix IV of the McCook Municipal Code, 1981 Revised; setting the Building Use Fees for the City Auditorium upon its second reading. Councilmember Anderson seconded the motion.

Ron Kotschwar expressed concerns with doubling the rental fees and felt that the proposed deposit increases were excessive.

Upon a motion by Councilmember Kircher, seconded by Mayor, the Council voted to amended the presented ordinance by inserting in the deposit sections “No part of this ordinance shall be construed to mean various deposits may be added to another deposit. In the event an activity falls in the category of two or more deposits, as defined by this ordinance, the deposit requiring the greater dollar amount shall be charged and all other eligible deposit(s) shall be waived.” The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall Ordinance No. 2010-2837 be approved upon its second reading as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

(13) COUNCIL COMMENTS.

Mayor Berry thanked the Airport Advisory Commission for their input regarding the selection of a commercial air carrier at the McCook Ben Nelson Regional Airport. It was a tough decision to make, adding that McCook is very fortunate to have airport service, as well as Amtrak and bus service.

(14) EXECUTIVE SESSION FOR THE PROTECTION OF THE PUBLIC INTEREST FOR A STRATEGY SESSION WITH RESPECT TO COLLECTIVE BARGAINING - MCCOOK PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL 2100.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to move into executive session for the protection of the public interest for a strategy session with respect to collective bargaining - McCook Professional Firefighters Association Local 2100 at 9:50 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Mayor Berry stated for the recorded that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the protection of the public interest for a strategy session with respect to collective bargaining - McCook Professional Firefighters Association Local 2100. The Council will reconvene in public session following this closed session.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to move out of executive session at 10:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(15) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 10:30 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk