

MINUTES

MCCOOK CITY COUNCIL

Monday, November 2, 2009

7:30 P.M. - City Council Chambers

Call to Order and Roll Call

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; 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 October 29, 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 - EMMANUEL REINHOLD, FIRST NAZARENE CHURCH.

Emmanuel Reinhold, pastor of the First Nazarene Church, was present for the invocation.

ITEM NO. 2 CITIZEN'S FORUM.

Steve Batty informed the Council that he was withdrawing his name for consideration for filling the vacancy on the Council and spoke in support of Mike Gonzales to fill the vacancy.

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There were no Mayor's announcements or recognitions.

ITEM NO. 4 RATIFY THE MAYOR'S APPOINTMENT OF A REPLACEMENT TO FILL THE VACANCY OF COUNCILMEMBER COLLEEN GRANT FROM NOW UNTIL DECEMBER 6, 2010.

Councilmember Kircher moved that Shane Hilker be appointed to fill the vacancy on the Council. Motion died for lack of a second.

Mayor Berry introduced a motion to ratify the appointment of Mike Gonzales to fill the vacancy of Councilmember Colleen Grant from now until December 6, 2010. Motion was seconded by Councilmember Anderson.

Letters of interest to fill the vacancy on the Council were received from Stephen Batty, Michael Gonzales, Shane Hilker, Steve Keene, and Fred Shepherd. Each gave a short presentation and answered questions from the Council.

The Mayor then stated the question: "Shall the Mayor's appointment of Mike Gonzales to fill the vacancy on the Council, from now until December 6, 2010, be ratified?" The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM NO. 5 ADMINISTER THE OATH OF OFFICE FOR THE NEWLY APPOINTED

COUNCILMEMBER.

The City Clerk administered the Oath of office for newly appointed Councilmember Mike Gonzales.

ITEM NO. 6 CONSENT AGENDA:

Shane Hilker requested that Item 6 be removed from the Consent Agenda and placed on the Regular Agenda, noting a necessary date correction.

ITEM A APPROVE THE MINUTES OF THE OCTOBER 19, 2009 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the minutes of the October 19, 2009 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B APPROVE THE IRREVOCABLE ESCROW AGREEMENT WITH MCCOOK NATIONAL BANK PROVIDING FINANCIAL SURETY TO THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR THE PLUGGING AND ABANDONMENT OF THE DEEP INJECTION WELL.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the Irrevocable Escrow Agreement with McCook National Bank providing financial surety to the Nebraska Department of Environmental Quality for the plugging and abandonment of the deep injection well. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM C APPROVE THE AGREEMENT RENEWAL FOR MAINTENANCE AGREEMENT NO. 17 BETWEEN THE NEBRASKA DEPARTMENT OF ROADS AND THE MUNICIPALITY OF MCCOOK AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the Agreement Renewal for Maintenance

Agreement No. 17 between the Nebraska Department of Roads and the Municipality 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 E APPROVE AND AUTHORIZE THE MAYOR TO SIGN CHANGE ORDER NO. 1 IN THE AMOUNT OF \$5,347.54 AND THE CERTIFICATE OF SUBSTANTIAL COMPLETION FOR THE JAYCEE BALLPARK PAVEMENT PROJECT.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve and authorize the Mayor to sign Change Order No. 1 in the amount of \$5,347.54 and the Certificate of Substantial Completion for the Jaycee Ballpark Pavement Project. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM F RATIFY THE MAYOR'S REAPPOINTMENT OF RICHARD STULL TO THE CITY/COUNTY AIRPORT ZONING BOARD - TERM EXPIRES SEPTEMBER, 2013.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to ratify the Mayor's reappointment of Richard Stull to the City/County Airport Zoning Board - term expires September, 2013. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM G APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY THE MCCOOK AREA CHAMBER OF COMMERCE FOR THE DECEMBER MIXER TO BE HELD AT WELLS FARGO BANK, 108 WEST "D" STREET, DECEMBER 9, 2009 FROM 5:30 P.M. TO 7:00 P.M., WITH AN ALTERNATE DATE OF DECEMBER 16, 2009.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the application for a Special Designated

Liquor License submitted by the McCook Area Chamber of Commerce for the December Mixer to be held at Wells Fargo Bank, 108 West "D" Street, December 9, 2009 from 5:30 P.M. to 7:00 P.M., with an alternate date of December 16, 2009. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM H APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY MO DOUGH L.L.C., LIQUOR LICENSE NUMBER IK-57785, FOR A WEDDING RECEPTION AT THE RED WILLOW COUNTY FAIRGROUNDS COMMUNITY BUILDING, 1408 WEST 5TH STREET, ON DECEMBER 18, 2009 FROM 1:00 P.M. TO 1:00 A.M.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to approve the application for a Special Designated Liquor License submitted by Mo Dough L.L.C., Liquor License Number IK-57785, for a wedding reception at the Red Willow County Fairgrounds Community Building, 1408 West 5th Street, on December 18, 2009 from 1:00 P.M. to 1:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM I ADOPT RESOLUTION NO. 2009-20 APPROVING THE SUMMARY PLAN DESCRIPTION FOR THE CITY OF MCCOOK REGULAR EMPLOYEE RETIREMENT PLAN RESTATED AS OF JANUARY 1, 2009.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to adopt Resolution No. 2009-20 approving the Summary Plan Description for the City of McCook Regular Employee Retirement Plan restated as of January 1, 2009. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM J DECLARE THE LISTED ABANDONED AND UNCLAIMED VEHICLES AND PROPERTY AS SURPLUS CITY PROPERTY TO BE DISPOSED OF IN THE APPROPRIATE LEGAL MANNER.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to declare the listed abandoned and unclaimed vehicles and property as surplus city property to be disposed of in the appropriate legal manner. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM K RECEIVE AND FILE THE MINUTES OF THE MAY 6, 2009 LIBRARY ADVISORY BOARD MEETING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to receive and file the minutes of the May 6, 2009 Library Advisory Board meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

REGULAR AGENDA

ITEM NO. 6D APPROVE THE BID SPECIFICATIONS FOR BALLPARK CONCESSIONS AT THE JAYCEE BALL COMPLEX AND FELLING FIELD AND SET THE DATE TO RECEIVE BIDS AS NOVEMBER 24, 2009 AT 2:00 P.M.

Councilmember Kircher introduced a motion to approve the bid specifications for Ballpark Concessions at the Jaycee Ball Complex and Felling Field and set the date to receive bids as November 24, 2009 at 2:00 P.M. The motion was seconded by Councilmember Anderson.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to amend the presented bid specifications on page 4 by changing the year "20011" to "2011". 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 passed as amended?" The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM NO. 7 APPROVE ORDINANCE NO. 2009-2833 PROVIDING FOR THE AMENDMENT OF CHAPTER 7, ARTICLE 4, SECTION 409 OF THE MCCOOK MUNICIPAL CODE – DISCHARGE OF FIREWORKS GENERALLY, CLARIFYING PERMITTED DAYS AND HOURS THAT FIREWORKS MAY BE DISCHARGED UPON ITS THIRD AND FINAL READING.

Ordinance No. 2009-2833 now came up for third and final reading. Ordinance No. 2009-2833 was read by title only and thereafter Councilmember Anderson moved for final passage of the Ordinance, which motion was seconded by Councilmember Kircher. The Mayor then stated the question: "Shall Ordinance No. 2009-2833 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. 2009-2833 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, Calvin, Gonzales. NAY: None.

ITEM NO. 8 CONSIDER REQUEST FROM THE MCCOOK YOUTH LEAGUE FOR THE "FIRST NIGHT" EVENT TO BE HELD ON NEW YEARS EVE.

Sue Shaner, sponsor, and Shane Hilker, President of the McCook Youth League (MYL), addressed their request with the Council. They are promoting an alcohol-free, community-wide New Year's Eve celebration in downtown McCook and would like to hold a street dance on West "C" between West First and West Second streets.

Members of the Council were generally in support of the project but expressed

concerns over security and curfew hours. They also suggested the group contact the property owners in the 200 block of West "C" Street seeking their support of the event and the dance.

The MYL is to report back to the Council at the November 16 meeting more definite plans for the event and how they plan to provide security and address curfew issues.

ITEM NO. 9 RECEIVE AND FILE INFORMATION ON THE PROGRESS OF THE

ABATEMENT OF NUISANCES AT 305 EAST 12TH STREET; PROPERTY

OWNED BY DOTTI PARK.

Ms. Park updated the Council on her progress of the property located at 305 East 12th Street. She has removed a lot of the brush and is in the process of cleaning out the interior of the mobile home. She should be able to have the trailer off within a month. The home and garage will need to be bulldozed off. She has done most of the work herself and would appreciate if the Council would bear with her.

It was the consensus of the Council to have her present the proposal and time line for removal of the mobile home and definite plans for removal of the other buildings at the November 16 meeting.

ITEM NO. 10 DISCUSSION OF PLANS FOR THE WEST WARD SITE AND THE FUTURE OF MUNICIPAL FACILITIES.

Discussion was held regarding future plans for the West Ward site. City Staff gave a power point presentation of preliminary designs of a city facility on the West Ward site and the current deteriorating condition of the building. The design included a combined facility for law enforcement and city administration

and a separate facility for the fire department. The layout provides for parking on the east side along West Fourth Street. These plans were prepared for an application for a federal grant to construct a new fire station. The prospects for the City receiving this grant does not look promising.

These preliminary plans called for the removal of the school building. The City had planned on using Neighborhood Stabilization Funds to demolish the building. The Nebraska State Historical Society stated that the school could potentially be listed as a historical site and blocked the use of those funds to remove the building. Final design would be driven by whether West Ward is incorporated into the site or demolished.

Possible ways of funding the project were discussed. The City could bond, using city sales tax revenue. During the budget process \$1 million has been earmarked for the development of a city facility.

Bringing the issue to the public for a vote was considered. What do the citizen's want? A new fire station, a city municipal building, to reuse West Ward, or to remove it, and what method of funding is preferred?

City Manager Fritsch noted that whether the public approved or voted down a bond for new city facilities did not change the facts. A fire and police station is needed. That does not go away because a bond is voted down. He added that the City has never built a City Hall or a Fire and Police station. The current buildings were hand me downs.

John Hubert told the Council that originally he wanted the school building preserved but has changed his mind after receiving facts on the condition of the structure. He now feels that a new facility would be in the best interests of the community. He added that perhaps the Historical Society should have come to look at the building before making their decision.

It was the consensus of the Council to have staff meet with the architects to compile more concrete numbers on the costs of building a new city facility and fire station on the site, as well as costs of converting the former West Ward

School into a municipal building. Council will then consider what is the best option to pursue and conduct town hall meetings to receive the public's input.

ITEM NO. 11 APPROVE ASSIGNMENT OF TERRY JESSEN'S INTEREST IN THE ROMANOFF BUILDING LOCATED AT 200 NORRIS AVENUE, MCCOOK, NEBRASKA, TO THE CITY OF MCCOOK IN CASE NO. CI09-73 AND AUTHORIZE PAYMENT TO SATISFY TERRY JESSEN'S FIRST LIEN AGAINST THE PROPERTY IN THE AMOUNT OF \$9,372.08.

Upon a motion by Councilmember Anderson, seconded by Councilmember Kircher, the Council voted to approve the assignment of Terry Jessen's interest in the Romanoff Building located at 200 Norris Avenue, McCook, Nebraska, to the City of McCook in Case No. CI09-73 and authorize payment to satisfy Terry Jessen's first lien against the property in the amount of \$9,372.08. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM NO. 12 COUNCIL COMMENTS.

Mayor Berry thanked those candidates that came forward to fill the Council vacancy, they were a group of good quality folks.

The Mayor informed the Council of a Poverty Simulation Workshop conducted through the Red Willow County Extension office on Monday, November 16, 2009.

ITEM NO. 13 EXECUTIVE SESSION FOR A STRATEGY SESSION WITH RESPECT TO PENDING LITIGATION REGARDING TERRY JESSEN PROPERTY LOCATED AT 301 EAST 2ND STREET.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to move into executive session for a strategy session with respect to pending litigation regarding Terry Jessen property located at 301 East 2nd

Street at 9:40 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated for the record, at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of a strategy session with respect to pending litigation regarding Terry Jessen property located at 301 East 2nd Street. 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 10:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM NO. 14 ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 10:00 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk