

MINUTES

MCCOOK CITY COUNCIL

Monday, October 19, 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 15, 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 - STEVE BALES, FIRST CONGREGATIONAL CHURCH.

No one was present to give the invocation.

ITEM NO. 2 Citizen's Forum.

Shane Hilker, President of the McCook Youth League, informed the Council that he would be presenting a request to close "C" Street from West 1st to West 2nd on New Years Eve to host "First Night", an internationally know event that promotes culture, community, and a non-alcoholic good time.

ITEM NO. 3 Mayor's Announcements & Recognitions.

There were no Mayor's announcements or recognitions .

ITEM NO. 4 DIRECT THE CITY CLERK TO DECLARE THAT A VACANCY EXISTS ON THE CITY COUNCIL AND TO PUBLISH NOTICE OF SUCH VACANCY AS PRESCRIBED BY STATE LAW.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to direct the City Clerk to declare that a vacancy exists on the City Council and to publish notice of such vacancy as prescribed by state law. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

It was the consensus of the Council to have letters of interest and a brief resume submitted to the City Clerk by 4:00 P.M. on October 28, 2009.

ITEM NO. 5 ADOPT RESOLUTION NO. 2009-19 SUBMITTING THE MATTER OF SUCCESSOR TO FILL THE UNEXPIRED TERM OF COLLEEN GRANT ON THE CITY COUNCIL OF THE CITY OF MCCOOK, NEBRASKA, TO THE STATEWIDE GENERAL ELECTION ON NOVEMBER 2, 2010; AND CERTIFYING THE SUBMISSION OF THIS MATTER TO THE RED WILLOW COUNTY CLERK.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2009-19 submitting the matter of

successor to fill the unexpired term of Colleen Grant on the City Council of the City of McCook, Nebraska, to the statewide general election on November 2, 2010; and certifying the submission of this matter to the Red Willow County Clerk. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM NO. 6 CONSENT AGENDA:

Councilmember Anderson requested that Item C, Item D, and Item G be removed from the Consent Agenda and placed on the Regular Agenda.

Councilmember Kircher requested that Item J be removed from the Consent Agenda and placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE OCTOBER 5, 2009 REGULAR CITY COUNCIL MEETING.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve the minutes of the October 5, 2009 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM B APPROVE AND AUTHORIZE THE MAYOR TO SIGN CHANGE ORDER NO. 1 IN THE DEDUCTION AMOUNT OF \$2,998.02 AND THE CERTIFICATE OF SUBSTANTIAL COMPLETION FOR PHASE II OF THE KELLEY CREEK WALKING TRAIL.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve and authorize the Mayor to sign Change Order No. 1 in the deduction amount of \$2,998.02 and the Certificate of Substantial Completion for Phase II of the Kelley Creek Walking Trail. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM E APPROVE AND AUTHORIZE THE MAYOR TO SIGN CHANGE ORDER NO. 1

AND THE CERTIFICATE OF SUBSTANTIAL COMPLETION FOR THE WATER & SEWER EXTENSION TO THE NEW GUARD AND RESERVE READINESS CENTER.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve and authorize the Mayor to sign Change Order No. 1 and the Certificate of Substantial Completion for the Water & Sewer Extension to the New Guard and Reserve Readiness Center. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM F APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH MILLER & ASSOCIATES, CONSULTING ENGINEERS, P.C., FOR DESIGN AND CONSTRUCTION OBSERVATION OF WATER MAINS ON SOUTH STREET AND KELLEY PARK DRIVE.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve and authorize the City Manager to sign an Agreement for Professional Engineering Services with Miller & Associates, Consulting Engineers, P.C. for design and construction observation of water mains on South Street and Kelley Park Drive. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM H APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE SUBMITTED BY SCHMICK'S MARKET INC., LIQUOR LICENSE NUMBER ID-84561, TO CATER A RECEPTION AT ACME TOUCH PRINTING, 1009 WEST "B" STREET, ON NOVEMBER 4, 2009 FROM 5:00 P.M. TO 10:00 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve the application for a Special Designated Liquor License submitted by Schmick's Market Inc., Liquor License Number ID-

84561, to cater a reception at Acme Touch Printing, 1009 West "B" Street, on November 4, 2009 from 5:00 P.M. to 10:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM I

APPROVE AND AUTHORIZE THE MAYOR TO SIGN THE PROCUREMENT PROCEDURES AND CODE OF CONDUCT AS A CONDITION OF THE RECEIPT OF FEDERAL FUNDS UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD STABILIZATION PROGRAM (NSP).

Upon a motion by Councilmember Anderson, seconded by Councilmember Calvin, the Council voted to approve and authorize the Mayor to sign the Procurement Procedures and Code of Conduct as a condition of the receipt of Federal funds under the Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP). The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

REGULAR AGENDA

ITEM 6C

APPROVE THE BID SPECIFICATIONS FOR TWO (2) NEW 2009 OR 2010 3/4 TON 4-WHEEL DRIVE PICKUP TRUCKS FOR THE STREET AND RECYCLING DEPARTMENTS AND SET THE DATE TO RECEIVE BIDS AS NOVEMBER 9, 2009 AT 2:00 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Kircher, the Council voted to approve the bid specifications for Two (2) New 2009 or 2010 3/4 ton 4-Wheel Drive Pickup Trucks for the Street and Recycling Departments and set the date to receive bids as November 9, 2009 at 2:00 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM 6D

APPROVE THE BID SPECIFICATIONS FOR ONE (1) NEW HEAVY DUTY PITLESS TRUCK SCALE FOR THE TRANSFER STATION AND SET THE

DATE TO RECEIVE BIDS AS NOVEMBER 9, 2009 AT 2:30 P.M.

Upon a motion by Councilmember Anderson, seconded by Mayor Berry, the Council voted to approve the bid specifications for One (1) New Heavy Duty Pitless Truck Scale for the Transfer Station and set the date to receive bids as November 9, 2009 at 2:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM 6G APPROVE THE BID SPECIFICATIONS FOR ONE (1) NEW POLICE PACKAGE VEHICLE AND SET THE DATE TO RECEIVE BIDS AS NOVEMBER 9, 2009 AT 2:15 P.M.

Upon a motion by Councilmember Anderson, seconded by Councilmember Kircher, the Council voted to approve the bid specifications for One (1) New Police Package Vehicle and set the date to receive bids as November 9, 2009 at 2:15 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM 6J AUTHORIZE THE MAYOR TO SIGN THE EXCESSIVE FORCE
CERTIFICATION THAT THE CITY OF MCCOOK HAS ADOPTED AND WILL
ENFORCE A POLICY TO PROHIBIT THE USE OF EXCESSIVE FORCE BY
LAW ENFORCEMENT AGENCIES WITHIN ITS JURISDICTION AGAINST ANY
INDIVIDUAL ENGAGED IN NONVIOLENT CIVIL RIGHTS DEMONSTRATION.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to authorize the Mayor to sign the Excessive Force Certification that the City of McCook has adopted and will enforce a policy to prohibit the

use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in nonviolent civil rights demonstration. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. 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 SECOND READING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to 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 second reading. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM NO. 8 APPROVE AND AUTHORIZE JIM MCCLYMONT TO CONDUCT A TITLE SEARCH AND COMPLETE A TITLE OPINION FOR THE BARNETT PARK AREA.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve and authorize Jim McClymont to conduct a title search and complete a title opinion for the Barnett Park area. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

ITEM NO. 8 APPROVE AGREEMENT WITH MARTHA PETTIGREW TO PROCEED WITH THE CREATION OF THE WORK OF ART TITLED “ON MY HONOR”.

Councilmember Kircher introduced a motion to Approve agreement with Martha

Pettigrew to proceed with the creation of the work of art titled "On My Honor". Councilmember Calvin seconded the motion.

Mark Graff, representing the Nebraska Foundation, requested that the presented agreement be amended in Section 2b by striking "cast bronze base" and inserting "concrete pedestal". The change is at the request of the artist Ms. Pettigrew and the Foundation is in agreement.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to amend the presented agreement in Section 2b by striking "cast bronze base" and inserting "concrete pedestal". The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None.

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

ITEM NO. 10 COUNCIL COMMENTS.

The Council extended condolences to the family of Councilmember Grant. She was a good, compassionate member of the Council. She loved McCook and will be greatly missed by the community.

ITEM NO. 11 ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 7:55 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk