

MCCOOK CITY COUNCIL  
July 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, City Attorney Schneider; City Manager Fritsch; City Clerk-Treasurer Doak.

Absent: Councilmember Gonzales.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on July 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 - JON ALBRECHT, MCCOOK HARVEST CHURCH.

Jon Albrecht, pastor of the McCook Harvest Church, was present for the invocation.

(2) CITIZEN'S FORUM.

No one was present for Citizen's Forum.

(3) MAYOR'S ANNOUNCEMENTS & RECOGNITIONS.

City Manager Fritsch requested that the Agenda Item No. 12 be considered before Agenda Item No. 11. The condition of the properties concerned need to be addressed before award of the contracts for their demolition.

(4) PUBLIC HEARING - PROPOSED CHANGES TO ZONING ORDINANCE NO. 1580, AMENDING ARTICLE 3, DEFINITIONS.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the proposed changes to Zoning Ordinance No. 1580, amending Article 3, Definitions, with the City Attorney to act as hearing officer. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Kircher.

The City Attorney offered and received into evidence Exhibit #1 - Notice of Hearing published, Exhibit #2 - proposed Ordinance No. 2010-2838; and Exhibit #3 - the Compare Document indicating all changes

made to the existing Article 3.

City Manager Fritsch stated that the Planning Commission began the process by reviewing definitions from other communities and incorporating those that pertained to our local area into the existing ordinance.

In September, the Commission will begin the process of reviewing other areas of the ordinances. Two particular areas of concern are where to allow adult establishments and detention/prison/jail facilities. Detention facilities are currently only allowed in the Agricultural Zones.

The Council requested that a definition for windmills be added to the proposed ordinance for consideration upon its next reading.

There being no one else present to comment, upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, 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: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

(5) INTRODUCE AND APPROVE ORDINANCE NO. 2010-2838 AMENDING ARTICLE 3, DEFINITIONS OF MCCOOK ZONING ORDINANCE NO. 1580 UPON ITS FIRST READING.

Councilmember Kircher introduced Ordinance No. 2010-2838 entitled:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF ARTICLE 3, DEFINITIONS, OF MCCOOK ZONING ORDINANCE NO. 1580; CLARIFYING AND ADDING TO EXISTING DEFINITIONS, PROVIDING FOR THE REPEAL OF ANY AND ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

The motion was made by Councilmember Kircher, seconded by Councilmember Anderson, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

Ordinance No. 2010-2838 was read by title only. Motion was made by Councilmember Kircher, seconded by Councilmember Anderson, to approve Ordinance No. 2010-2838 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales. Motion carried. Whereupon the Mayor declared said Ordinance No. 2010-2838 approved on its first reading.

(6) CONSENT AGENDA:

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

ITEM A APPROVE THE MINUTES OF THE JULY 6, 2010 REGULAR CITY COUNCIL MEETING AND THE JULY 12, 2010 SPECIAL CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the minutes of the July 6, 2010 regular City Council meeting and the July 12, 2010 special City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

ITEM B APPROVE THE REQUEST FOR PROPOSALS FOR ENGINEERING CONSULTING SERVICES FOR PROJECT NO. URB-6154(1) CN-71135 "H" STREET, NORRIS AVENUE TO AIRPORT ROAD AND SET THE DEADLINE TO RECEIVE THE PROPOSALS AS 2:00 P.M. ON AUGUST 4, 2010.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to approve the Request for Proposals for Engineering Consulting Services for Project No. URB-6154(1) CN-71135 "H" Street, Norris Avenue to Airport Road and set the deadline to receive the proposals as 2:00 P.M. on August 4, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

ITEM D ACCEPT THE STATE OF NEBRASKA DHHS RATE OF \$5.36 FOR UNDER 60 CONGREGATE AND HOME DELIVERED MEALS.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to accept the State of Nebraska DHHS rate of \$5.36 for under 60 congregate and home delivered meals. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

ITEM E RECOMMEND APPROVAL TO THE NEBRASKA LIQUOR CONTROL COMMISSION THE REQUEST FROM TJ'S FAMILY FUN CENTER INC., 1511 NORTH HIGHWAY 83, LICENSE #77142, FOR AN ADDITION OF A ONE STORY BUILDING APPROXIMATELY 140' X 40'.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to recommend approval to the Nebraska Liquor Control Commission the request from TJ's Family Fun Center Inc., 1511 North Highway 83, License #77142, for an addition of a one story building approximately 140' x 40'. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

ITEM F RECEIVE AND FILE THE FINANCIAL REPORT FOR THE QUARTER ENDING JUNE 30, 2010.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the Financial Report for the quarter ending June 30, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

ITEM H RECEIVE AND FILE THE MINUTES OF THE BOARD OF HEALTH DATED JUNE 17, 2010 AND THE PLANNING COMMISSION MEETINGS DATED APRIL 12, 2010, MAY 10, 2010, JUNE 14, 2010, AND JULY 12, 2010.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to receive and file the minutes of the Board of Health dated June 17, 2010 and the Planning Commission meetings dated April 12, 2010, May 10, 2010, June 14, 2010, and July 12, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

## REGULAR AGENDA

ITEM 6C APPROVE THE APPOINTMENT OF CITY MANAGER KURT FRITSCH, PUBLIC WORKS DIRECTOR KYLE POTTHOFF, AND PUBLIC WORKS SUPERVISOR DOB NEUHAUS TO THE SELECTION BOARD FOR ENGINEERING CONSULTING SERVICES FOR PROJECT NO. URB-6154(1) CN-71135 "H" STREET, NORRIS AVENUE TO AIRPORT ROAD.

Councilmember Kircher introduced a motion to approve the appointment of City Manager Kurt Fritsch, Public Works Director Kyle Potthoff, and Public Works Supervisor Dob Neuhaus to the Selection Board for Engineering Consulting Services for Project No. URB-6154(1) CN-71135 "H" Street, Norris Avenue to Airport Road. Motion was seconded by Councilmember Calvin.

Upon a motion by Mayor Berry, seconded by Councilmember Kircher, the Council voted to amend the proposed motion by including Councilmembers Kircher and Anderson. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

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. NAY: None. ABSENT: Gonzales. Motion carried.

ITEM 6G APPROVE THE EXPENDITURE OF \$7,000 FROM THE COUNCIL CONTINGENCY FUND FOR THE REIMBURSEMENT OF RED WILLOW COUNTY FOR COMPLETION OF THE HAZARD MITIGATION SURVEY BY JEO CONSULTING.

Upon a motion by Councilmember Kircher, seconded by Councilmember Calvin, the Council voted to approve the expenditure of \$7,000 from the Council Contingency Fund for the reimbursement of Red Willow County for completion of the Hazard Mitigation Survey by JEO Consulting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

(7) CONTINUED MUNICIPAL FACILITIES UPDATE AND DISCUSSION, AND FINALIZE THE BUILDING FOOTPRINT OF THE MUNICIPAL FACILITIES AND AGREE TO A BUDGET AMOUNT FOR THE PROJECT.

Via a conference, call Prochaska & Associates presented a space layout and cost projections of \$5,837,350, with a reduced option of \$5,218,200 for the proposed Municipal Facility. The reduced option would probably use more of a metal structure and have less brick used on the exterior of the building. The proposed facility shares one public entrance and fits well into the sloped area of the block reducing the amount of excavation needed. The Fire Department is on a second level above the vehicle bays.

City Manager Fritsch noted that City Staff is planning to meet with Prochaska & Associates the first week of August to address the proposed layout and soft costs.

(8) APPROVE THE LANGUAGE TO BE PUT BEFORE THE VOTERS IN THE NOVEMBER ELECTION TO APPROVE CONSTRUCTION OF MUNICIPAL FACILITIES.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council approved the suggested form of language to be put before the voters in the November election to approve construction

of municipal facilities. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

The required resolution for approval of the actual ballot language will be presented to the Council at a future meeting.

Don Klein, McCook resident, expressed concerns with what is being reported in the local newspaper and with what he hears on the street, compared to what he hears from the City Council and Staff. If the bond issue fails in November, will the City build the facility anyway? Will property tax be used to fund the project? Will all available sales tax funds be used to fund the project?

The Council and Staff clarified that if the voters vote down the issue in November, the City does not plan to go ahead and build the facility. Property tax will not be used to fund the facility. Only a portion of the current sales tax will be used to fund the project for a term of seven years. Sales tax funds will still be available to do other city improvements.

- (9) DIRECT STAFF TO WORK OUT A PURCHASE AGREEMENT WITH THE MCCOOK HOUSING AGENCY FOR A PORTION OF CITY-OWNED PROPERTY FOR USE BY THE MCCOOK HOUSING AGENCY.

Rebecca Dutcher, Housing Agency Director, presented an offer to the Council for the purchase of a parcel approximately 199 feet by 160.33 feet on the north end of Block Three, Bison First Addition. The Housing Agency would pay \$15,025.00 for the parcel and would pay for the survey. They propose to build a maintenance shop on the parcel. The City recently purchased this block for future cemetery development and the Agency would provide the City access to their remaining portion of the block.

Upon a motion by Councilmember Calvin, seconded by Councilmember Anderson, the Council voted to direct staff to continue to work out a purchase agreement with the McCook Housing Agency for a portion of city-owned property for use by the McCook Housing Agency. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

- (10) AUTHORIZE THE CITY TO ACT AS AGENT FOR THE SUBMISSION OF A TAX CREDIT APPLICATION FOR SERVICES RENDERED BY W DESIGN ON BEHALF OF THE MCCOOK ECONOMIC DEVELOPMENT CORPORATION.

Upon a motion by Councilmember Calvin, seconded by Councilmember Anderson, the Council voted to authorize the City to act as agent for the submission of a tax credit application for services rendered by W Design on behalf of the McCook Economic Development Corporation. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

- (12) DECLARE THE PROPERTIES AND RESIDENCES LOCATED AT 606 WEST 3<sup>RD</sup> STREET, 710 WEST 4<sup>TH</sup> STREET, AND 1403 WEST 14<sup>TH</sup> STREET AS UNSAFE NUISANCE PROPERTIES, CONDEMN SAID PROPERTIES AND STRUCTURES, AND DIRECT STAFF TO ABATE THE NUISANCES.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to declare the properties and residences located at 606 West 3<sup>rd</sup> Street, 710 West 4<sup>th</sup> Street, and 1403 West 14<sup>th</sup> Street as unsafe nuisance properties, condemn said properties and structures, and direct staff to abate the nuisances.

The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

City Attorney Schneider noted that the City has signed demolition agreements with the owners of the properties located at 606 West 3<sup>rd</sup> Street and 710 West 4<sup>th</sup> Street. He added that Phillip Lyons had filed an appeal on behalf of his clients, owners of property located at 1403 West 14<sup>th</sup> Street. He will drop the appeal if the City can get a signed demolition agreement with them.

- (11) AWARD DEMOLITION CONTRACTS FOR RESIDENTIAL STRUCTURES TO THE LOWEST RESPONSIBLE BIDDERS FOR SEVEN PROPERTIES LOCATED AT 710 WEST 4<sup>TH</sup> STREET, #23 SOUTH STREET, 606 WEST 3<sup>RD</sup> STREET, 208 WEST 10<sup>TH</sup> STREET, 202 SOUTH 7<sup>TH</sup> STREET, 105 SOUTH 7<sup>TH</sup> STREET, AND 1306 WEST 12<sup>TH</sup> STREET UNDER THE NEIGHBORHOOD STABILIZATION PROGRAM.

Upon a motion by Councilmember Kircher, seconded by Councilmember Anderson, the Council voted to award demolition contracts for residential structures to Myers Construction for 105 South 7<sup>th</sup> Street in the amount of \$2,300.00, and to Weaver Brothers Tree Service for 710 West 4<sup>th</sup> Street, #23 South Street, 606 West 3<sup>rd</sup> Street, 208 West 10<sup>th</sup> Street, 202 South 7<sup>th</sup> Street, and 1306 West 12<sup>th</sup> Street in the amount of \$37,000.00, that being the lowest responsible bidders. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

- (13) FY 2010/2011 PRELIMINARY ANNUAL BUDGET REVIEW.

Continued review of the FY 2010/2011 Preliminary Annual Budget was conducted. The remaining Public Works Departments, Solid Waste, Water, and Sewer Departments were discussed.

It was the consensus of the Council to consider a \$125,000 utility debt payment from sales tax revenue.

- (14) COUNCIL COMMENTS.

Mayor Berry noted that the General Fund budget increased only 2.1% and that the CPI increased approximately 4.49% this past year. Staff has done an excellent job of holding spending down.

- (15) AN EXECUTIVE SESSION MAY BE HELD UPON A MAJORITY VOTE OF THE COUNCIL FOR THE PROTECTION OF PUBLIC INTEREST FOR A STRATEGY SESSION WITH RESPECT TO COLLECTIVE BARGAINING - MCCOOK PROFESSIONAL FIREFIGHTERS ASSOCIATION LOCAL 2100 AND THE FRATERNAL ORDER OF POLICE LODGE 57.

Upon a motion by Mayor Berry, seconded by Councilmember Anderson, the Council voted to move into executive session for the protection of public interest for a strategy session with respect to collective bargaining - McCook Professional Firefighters Association Local 2100 and the Fraternal Order of Police Lodge 57 at 11:05 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

The Mayor then stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the protection of public interest for a strategy session with respect to collective bargaining - McCook Professional Firefighters Association Local 2100 and the Fraternal Order of Police Lodge 57. The Council will reconvene in public session following this closed session.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to move out of executive session at 11:20 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSENT: Gonzales.

(16) ADJOURNMENT.

There being no further business to come before the Council, Mayor Berry declared the meeting adjourned at 11:21 P.M.

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Mayor Berry, Mayor

ATTEST:

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Lea Ann Doak, City Clerk