

MCCOOK CITY COUNCIL
August 16, 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 August 12, 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 - CLARK BATES, MCCOOK CHRISTIAN CHURCH.

Jason Van Pelt, associate pastor of the McCook Christian 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) APPROVE THE PROCLAMATION DESIGNATING THE WEEK OF SEPTEMBER 6, 2010 THROUGH SEPTEMBER 12, 2010 AS "DONOR APPRECIATION WEEK".

Upon a motion by Councilmember Anderson, seconded by Councilmember Kircher, the Council voted to approve the proclamation designating the week of September 6, 2010 through September 12, 2010 as "Donor Appreciation Week". The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin. NAY: None. ABSTAIN: Gonzales.

Councilmember Gonzales noted that he would abstain from the vote due to a possible conflict of interest with his involvement at the McCook YMCA, a recipient of these donations.

(5) CONSENT AGENDA:

Councilmember Kircher requested that Item H and Item I be removed from the Consent Agenda and

placed on the Regular Agenda.

ITEM A APPROVE THE MINUTES OF THE AUGUST 2, 2010 REGULAR CITY COUNCIL MEETING.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the minutes of the August 2, 2010 regular City Council meeting. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM B APPROVE RESOLUTION NO. 2010-19 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 (NEBRASKA ADMINISTRATIVE CODE) AND THE REQUIREMENTS OF THE LPA GUIDELINES MANUAL OF THE NEBRASKA DEPARTMENT OF ROADS WITH REGARDS TO TITLE VI CIVIL RIGHTS, DESIGNATE THE PUBLIC WORKS DIRECTOR AND DEPUTY CITY CLERK RESPONSIBLE FOR THE MANAGEMENT OF THE TITLE VI PROCESS FOR THE CITY OF MCCOOK, AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve Resolution No. 2010-19 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 (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads with regards to Title VI Civil Rights, designate the Public Works Director and Deputy City Clerk responsible for the management of the Title VI process for 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 C APPROVE THE TITLE VI NONDISCRIMINATION PROGRAM AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the Title VI Nondiscrimination Program and authorize the Mayor to sign. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM D APPROVE THE TITLE VI NONDISCRIMINATION AGREEMENT BETWEEN THE CITY OF MCCOOK AND THE NEBRASKA DEPARTMENT OF ROADS AND AUTHORIZE THE MAYOR TO SIGN.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the Title VI Nondiscrimination Agreement between the City of McCook and the Nebraska Department of Roads 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 THE REQUEST FROM MARIS CONSTRUCTION TO CLOSE WEST "D" STREET FROM NORRIS AVENUE TO THE FIRST ALLEY WEST FOR THE REMOVAL AND REPLACEMENT OF THE SIDEWALKS ON THE SOUTH SIDE OF THE KEYSTONE ON AUGUST 17, 2010 THROUGH AUGUST 20, 2010 AND

AUGUST 23, 2010 THROUGH AUGUST 25, 2010.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the request from Maris Construction to close West "D" Street from Norris Avenue to the first alley west for the removal and replacement of the sidewalks on the south side of the Keystone on August 17, 2010 through August 20, 2010 and August 23, 2010 through August 25, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM F APPROVE THE MCCOOK AREA CHAMBER OF COMMERCE HERITAGE DAYS REQUEST FOR THE USE OF NORRIS PARK FOR THEIR ARTS & CRAFTS SHOW AND THE BANDSHELL FOR ENTERTAINMENT ON SEPTEMBER 25 - 26, 2010; FOR THE CLOSING OF NORRIS AVENUE FROM "G" STREET TO "H" STREET AFTER THE PARADE ON SATURDAY, THE 700 BLOCK OF EAST 1ST, THE 100 BLOCK OF EAST "G", THE 100 BLOCK OF EAST "H" STREETS FROM 5:00 A.M. SEPTEMBER 25, 2010 UNTIL THE EVENING ON SUNDAY, SEPTEMBER 26, 2010 AND THE 100 BLOCK OF WEST "G" STREET PRIOR TO THE PARADE; TO ALLOW OVERNIGHT PARKING FOR VENDORS AROUND NORRIS PARK; TO CONDUCT THEIR PARADE ON PUBLIC STREETS ON SEPTEMBER 25, 2010; THE USE OF NORRIS PARK FROM THE CONCLUSION OF THE PARADE UNTIL 4:00 P.M. ON SATURDAY, SEPTEMBER 25, 2010 FOR A CAR SHOW; TO USE NORRIS PARK ON THURSDAY, SEPTEMBER 23, 2010, BEGINNING AT 6:00 P.M., FOR ART IN THE PARK, SIDEWALK CHALK ART AND THEIR "DEAL OR NO DEAL" EVENT; AND THE USE OF TWO SETS OF BLEACHERS.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the McCook Area Chamber of Commerce Heritage Days request for the use of Norris Park for their Arts & Crafts Show and the bandshell for entertainment on September 25 - 26, 2010; for the closing of Norris Avenue from "G" Street to "H" Street after the parade on Saturday, the 700 block of East 1st, the 100 block of East "G", the 100 block of East "H" Streets from 5:00 A.M. September 25, 2010 until the evening on Sunday, September 26, 2010 and the 100 block of West "G" Street prior to the parade; to allow overnight parking for vendors around Norris Park; to conduct their parade on public streets on September 25, 2010; the use of Norris Park from the conclusion of the parade until 4:00 P.M. on Saturday, September 25, 2010 for a Car Show; to use Norris Park on Thursday, September 23, 2010, beginning at 6:00 P.M., for Art In The Park, Sidewalk Chalk Art and their "Deal Or No Deal" event; and the use of two sets of bleachers. 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 HERITAGE DAYS MIXER TO BE HELD AT MCCOOK NATIONAL BANK, 220 NORRIS AVENUE, ON WEDNESDAY, SEPTEMBER 22, 2010 FROM 5:30 P.M. TO 7:30 P.M.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by the McCook Area Chamber of Commerce for the Heritage Days mixer to be held at McCook National Bank, 220 Norris Avenue, on Wednesday, September 22, 2010 from 5:30 P.M. to 7:30 P.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

ITEM J APPROVE THE APPLICATION FOR A SPECIAL DESIGNATED LIQUOR LICENSE

SUBMITTED BY JUSTIN J. BILBY, DBA "ROCK 'N HORSE LOUNGE", LICENSE #CK-77614, FOR THE FARM & RANCH EXPO TO BE HELD AT THE RED WILLOW COUNTY KIPLINGER ARENA, 1412 WEST 5TH STREET, ON NOVEMBER 17 AND 18, 2010 FROM 8:00 A.M. TO 12:00 A.M.

Upon a motion by Mayor Berry, seconded by Councilmember Gonzales, the Council voted to approve the application for a Special Designated Liquor License submitted by Justin J. Bilby, dba "Rock 'N Horse Lounge", License #CK-77614, for the Farm & Ranch Expo to be held at the Red Willow County Kiplinger Arena, 1412 West 5th Street, on November 17 and 18, 2010 from 8:00 A.M. to 12:00 A.M. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

REGULAR AGENDA

ITEM 5H APPROVE DRAWINGS AND SPECIFICATIONS FOR WASTEWATER TREATMENT FACILITY (WWTF) PRIMARY CLARIFIER REHABILITATION AND SET DATE TO RECEIVE BIDS FOR SEPTEMBER 2, 2010 AT 2:00 P.M.

Councilmember Kircher introduced a motion to approve the drawings and specifications for Wastewater Treatment Facility (WWTF) Primary Clarifier Rehabilitation and set date to receive bids for September 2, 2010 at 2:00 P.M. Mayor Berry seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amend the presented specifications to include a contract time of 120 days to build new and 150 days to rebuild. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall 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 5I APPROVE DRAWINGS AND SPECIFICATIONS FOR SENIOR CENTER ROOF REPLACEMENT AND SET DATE TO RECEIVE BIDS FOR SEPTEMBER 2, 2010 AT 2:00 P.M.

Councilmember Kircher introduced a motion to approve the drawings and specifications for Senior Center Roof Replacement and set date to receive bids for September 2, 2010 at 2:00 P.M. Mayor Berry seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to amended the presented specifications by changing the completion date from this fiscal year to calendar year. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

The Mayor then stated the question: "Shall 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.

(6) CONTINUED MUNICIPAL FACILITIES UPDATE.

Jim Classe of Prochaska and Associates presented an updated Municipal Facilities floor plan. The plan addresses the needs of each department, allows for future expansion, and off-street parking has been added to the east.

(7) ADOPT RESOLUTION NO. 2010-20 AUTHORIZING AND DIRECTING THAT A MUNICIPAL FACILITIES ELECTION BE HELD NOVEMBER 2, 2010.

Upon a motion by Councilmember Gonzales, seconded by Councilmember Calvin, the Council voted to adopt Resolution No. 2010-20 authorizing and directing that a Municipal Facilities Election be held November 2, 2010. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

(8) APPROVE ORDINANCE NO. 2010-2838 AMENDING ARTICLE 3, DEFINITIONS, OF MCCOOK ZONING ORDINANCE NO. 1580 UPON ITS THIRD AND FINAL READING.

Ordinance No. 2010-2838 now came up for third and final reading. Ordinance No. 2010-2838 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. 2010-2838 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. 2010-2838 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.

(9) APPROVE ORDINANCE NO. 2010-2839 PROVIDING FOR THE ADOPTION OF THE BUDGET FOR FY 2010/2011 UPON ITS SECOND READING.

Councilmember Kircher introduced a motion to approve Ordinance No. 2010-2839 providing for the adoption of the budget for FY 2010/2011 upon its second reading. Councilmember Anderson seconded the motion.

Upon a motion by Councilmember Kircher, seconded by Mayor Berry, the Council voted to take \$15,000 from the ending fund balance and place it in Senior Center Capital Outlay for additional roof replacement costs. The motion passed upon the following roll call vote: YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None.

Councilmember Kircher introduced a motion to take \$15,000 from the ending fund balance and place it in Council Capital Outlay for video equipment. Motion died for lack of a second.

The Mayor then stated the question: "Shall Ordinance No. 2010-2839 be approved on its second reading as amended?" Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried.

- (10) INTRODUCE AND APPROVE ORDINANCE NO. 2010-2841 PROVIDING FOR THE ADOPTION OF THE 2010/2011 FISCAL YEAR EMPLOYEE CLASSIFICATION PAY PLAN UPON ITS FIRST READING.

Councilmember Kircher introduced Ordinance No. 2010-2841 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE ADOPTION OF THE 2010/2011 FISCAL YEAR EMPLOYEE CLASSIFICATION AND PAY PLAN; PROVIDING FOR AN EFFECTIVE DATE FOR THE IMPLEMENTATION OF THE CLASSIFICATION AND PAY PLAN; REPEALING 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, Gonzales. NAY: None.

Ordinance No. 2010-2841 was read by title only. Motion was made by Councilmember Kircher, seconded by Mayor Berry, to approve Ordinance No. 2010-2841 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Anderson, Calvin, Gonzales. NAY: None. Motion carried. Whereupon the Mayor declared said Ordinance No. 2010-2841 approved on its first reading.

- (11) RECEIVE AND FILE THE WATER AND SEWER ENTERPRISE FUND FINANCIAL AND CAPITAL PLANNING MODEL AS PREPARED BY PUBLIC FINANCIAL MANAGEMENT.

Utility Director Jesse Dutcher reviewed the Water and Sewer Planning Model documents prepared by Public Financial Management (PFM). The City has been using PFM since 2005 to provide a model showing the cash flow of the Water and Sewer Enterprise Funds. The model provides a projection of revenue verses expenses into the future. The data is a valuable tool in determining rates. Predicting rates is not an exact science, the model does provide a roadmap showing what should happen. Many variables come into play that can change the outcome, rain in July or 80 degree temperatures in April effect water revenues. Changes in process and conservation effect sewer usage. Unforeseen equipment failures can greatly influence expenses. This year's models show that water can sustain a healthy status with no rate increase for the 2011 budget year and a modest increase in the "out years". The Sewer Model, on the other hand, shows a need to adjust rates now by adding \$1.00 to the base charge. Sewer may also need to be adjusted again for the 2012 budget year.

Kathryn Bills spoke in opposition of the sewer rate increase.

- (12) INTRODUCE AND APPROVE ORDINANCE NO. 2010-2840 PROVIDING FOR THE AMENDMENT OF APPENDIX II, SEWER DEPARTMENT RATES AND FEE, OF THE MCCOOK MUNICIPAL CODE UPON ITS FIRST READING.

Mayor Berry introduced Ordinance No. 2010-2840 entitled:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF APPENDIX II, SEWER DEPARTMENT RATES AND FEES; OF THE MCCOOK MUNICIPAL CODE, 1981; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2008-2813 AND ANY AND ALL ORDINANCES IN CONFLICT

HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

The motion was made by Mayor Berry, seconded by Councilmember Kircher, that the number and title of said Ordinance be approved. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Calvin, Gonzales. NAY: Anderson.

Ordinance No. 2010-2840 was read by title only. Motion was made by Mayor Berry, seconded by Councilmember Kircher, to approve Ordinance No. 2010-2840 on its first reading. Upon roll call vote the following Councilmembers voted YEA: Berry, Kircher, Calvin, Gonzales. NAY: Anderson. Motion carried. Whereupon the Mayor declared said Ordinance No. 2010-2840 approved on its first reading.

(13) COUNCIL COMMENTS.

The Council set informational meetings regarding the Municipal Facilities Election for September 27, October 14, and October 25, 2010 at the Heritage Senior Center at 7:00 P.M.

(14) 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.

Upon a motion by Mayor Berry, seconded by Councilmember Calvin, the Council voted to move into executive session for the protection of public interest for a strategy session with respect to collective bargaining at 9:30 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 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. The Council will reconvene in public session following this closed session.

Upon a motion by Councilmember Calvin, seconded by Councilmember Gonzales, the Council voted to move out of executive session at 10:10 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 10:12 P.M.

Dennis Berry, Mayor

ATTEST:

Lea Ann Doak, City Clerk