

McCook City Council  
March 19, 2018  
6:30 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 6:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Gonzales, Councilmembers Hepp, Calvin, McDowell, Weedin.

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Police Chief Brown, Utilities Director Dutcher, Fire Chief Harpham, and Public Works Director Potthoff.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on March 15, 2018, 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 Acknowledgement 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 Gonzales announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Gonzales called the meeting to order.

**1. Citizen's Comments.**

No one was present for Citizen's Comments.

**2. Announcements & Recognitions.**

There were no announcements or recognitions.

**3. Consent Agenda.**

Councilmember Hepp requested that Item 3.F. be removed from the Consent Agenda and placed on the Regular Agenda.

Motion to approve Consent Agenda Items 3.A. through 3.E. and 3.G. through 3.J. This motion, made by Mayor Gonzales and seconded by Councilmember Weedin, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, McDowell: YEA, Weedin: YEA  
YEA: 5, NAY: 0

3.A. Approve the minutes of the March 5, 2018 regular City Council meeting.

3.B. Approve the application for a Special Designated Liquor License submitted by Tyler Schmick, Schmick's Market Inc., Liquor License #IDK-084561, for a reception/fund raiser to be held at the McCook Municipal Auditorium, 302 West 5th Street, on April 14, 2018

from 4:00 P.M. to 1:00 A.M.

- 3.C. Approve the application for a Special Designated Liquor License submitted by JBN, Inc., dba "Hi Times Liquor Mart 1", Liquor License #DK-100025, for a wedding reception to be held at the National Guard Armory, 38709 US Highway 6, on May 26, 2018 from 12:00 P.M. to 1:00 A.M.
  - 3.D. Approve the application for a Special Designated Liquor License submitted by JBN, Inc., dba "Hi Times Liquor Mart 1", Liquor License #DK-100025, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on June 9, 2018 from 12:00 P.M. to 1:00 A.M.
  - 3.E. Approve the application for a Special Designated Liquor License submitted by JBN, Inc., dba "Hi Times Liquor Mart 1", Liquor License #DK-100025, for a wedding reception to be held at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on July 7, 2018 from 12:00 P.M. to 1:00 A.M.
  - 3.G. Receive and file the Financial Report for the period ending February 28, 2018.
  - 3.H. Approve the Consent to Assignment of Concession Agreement for the Jaycee Complex and authorize the Mayor to sign.
  - 3.I. Receive the minutes of the January 10, 2018 Library Advisory Board meeting.
  - 3.J. Award the bid for (1) new 3/4 ton 4-wheel drive pickup to Wagner Ford of McCook, Nebraska as the lowest responsible bid in the amount of \$25,994.00.
- 4. Regular Agenda.**
- 3.F. Approve the First Amendment to both Agricultural Farm Leases with the Meyers Brothers and authorize the Mayor to sign.

Councilmember Hepp questioned if the leases were put out to bid, wanting to insure that the City is getting the best deal possible.

City Manager Schneider and staff reviewed the following information contained in the City Manager's Report prepared for the meeting:

"The farm leases for the airport farm land and the west well field farm land expired on March 1, 2018. City Staff has been reviewing lease prices for dryland farm ground in Southwest Nebraska. Based on our research, our current leases with the Meyers Brothers are favorable to the City. According to the USDA Agricultural Statistics Service the non-irrigated cropland cash rent paid per acre in Red Willow County was \$56.50. Based on the averages, both leases exceed similarly situated farm leases in terms of per acre prices. The current lease for cropland at the airport is \$63.02 per acre. The current lease at the west well field is \$80.00 per acre. The current leases will generate \$3,195.50 more revenue than the above average. Also important to note, both leases place restrictions on the lessees which are not normally present in agricultural farm leases. Chemical restrictions, mandatory training, crop and height restrictions are a few of the necessary restrictions the City must put on the leased ground."

"City Manager Nate Schneider, Public Works Director Kyle Potthoff and Utilities Director Jesse Dutcher have discussed whether or not it would be wise to bid out the lease contracts at this time. Based on the terms of the farm leases and the performance of the Meyers Brothers under the contract terms, it has been determined the best course of action is to extend the leases under the same terms for additional three year terms. Also, the Meyers Brothers maintenance of the farm ground has been exemplary and at no time has there ever been payment or practice concerns. Staff has discussed the renewal of the lease contracts with the Meyers Brothers and they are willing to enter into three year leases under the same per acre terms. The termination date of both leases is March 1, 2021. Thereafter, upon the option of the lessee, the agreement shall renew from year to year until March 1, 2024."

Motion to approve the First Amendment to both Agricultural Farm Leases with the Meyers Brothers and authorize the Mayor to sign. This motion, made by Councilmember Hepp and seconded by Councilmember Calvin, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, McDowell: YEA, Weedon: YEA  
YEA: 5, NAY: 0

- 4.A. Ordinance No. 2018-2962 creating Chapter 119 of the City of McCook, Nebraska Code of Ordinances and establishing the method for calculating the Occupation Tax for companies who operate a hotel, and creating an enforcement and reporting system for Hotel Company Occupation Taxes and Rates.

The Clerk read the Ordinance by title:

AN ORDINANCE CREATING CHAPTER 119, OF THE CITY OF MCCOOK, NEBRASKA CODE OF ORDINANCES AND ESTABLISHING THE METHOD FOR CALCULATING THE OCCUPATION TAX FOR COMPANIES WHO OPERATE A HOTEL, AND CREATING AN ENFORCEMENT AND REPORTING SYSTEM FOR HOTEL COMPANY OCCUPATION TAXES AND RATES; PROVIDING FOR THE REPEAL OF 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.

Ordinance No. 2018-2962 has been read by title and I move to approve upon its second reading. This motion, made by Councilmember Calvin and seconded by Councilmember Weedon, passed.

Calvin: YEA, Gonzales: YEA, Hepp: YEA, McDowell: YEA, Weedon: YEA  
YEA: 5, NAY: 0

- 4.B. Discuss whether to utilize ACE funds for a residential demolition project at 1107 West 4th Street.

Discussion was held on whether to utilize ACE funds for a residential demolition project at 1107 West 4th Street.

City Manager Schneider and staff reviewed the following information included in the City Manager's Report prepared for the meeting:

"In January, a house fire occurred at the residence located at 1107 West 4th. It's been determined, per our ordinance, the residence is unsafe and in need of repair or demolition. Based on multiple conversations with representatives associated with the lot, the family doesn't have the funds to demolish the home. In prior years, the City's budget contained a line for demolition projects. Due

to budget constraints, the line item has been removed. Staff's concern is that individuals may attempt to enter the residence. The City's building inspector and fire chief have determined that the structure is unsafe and uninhabitable. The property also poses a potential threat to the adjacent land owner to the north. In short, the building needs to be removed."

"A general fund source Staff has considered to assist with the demolition of the property is the ACE fund. Typically, these funds are used for a public purpose that falls in line with traditional public functions (eg. band shell renovation, gap funding source for the skate park, and primary matching source for a transit bus). This situation is different, in that the demolition of a private property is not normally associated with a public benefit. However, under the circumstances associated with this property (and this property only), Staff believes utilizing ACE funds may be the best option to eliminate a legitimate safety and nuisance concern. One requirement Staff would insist on would be the need for the current owner to deed the property to the City, free of cost, in consideration for demolishing and removing the current structure. Staff is concerned that without the transfer of title, there could be issues with property usage requirements. If the owner is unwilling to agree to these terms, we would proceed with the avenues provided by our unsafe building ordinance."

Discussion included the lack of budgeted funds for demolition; the fact that the family does not have funds for demolition; is the owner a willing seller and the difficulty of making contact with owner; the use of ACE funds has been reserved for community betterment issues; the neighbors would consider it community betterment; concerns that by using ACE funds, it would set a bad precedent; future issues would be handled differently, based on circumstances; could this process be expedited in court, yes it could, but it would be time-consuming and the structure needs to be taken care of because of safety concerns; possibility of conducting an auction for the property; concerns using the taxpayers money for the benefit of a private individual; the City will try to utilize every option before using city resources; could the property be donated to Habitat for Humanity; and if the City gets the property, what do we do with it.

Fire Chief Harpham stated that the structure is unsafe because the roof is partially missing allowing snow and rain inside, burned out floor joists, a crumbling foundation, there is no way to secure the structure and its proximity to the alley all make it very unpredictable and a safety concern.

Police Chief Brown noted that they have been dealing with the family for a number of years regarding property issues and they have shown an unwillingness to work with anyone. There are serious safety issues and it is impossible to secure the structure due to the damage. The Problem Response Team has tried in previous situations to get someone to buy a property in need of demolition, it has not worked.

It was the consensus of the Council to have this item brought back as an action item to determine the next step and how it would be paid for. April 20 is the deadline for the property owners to have the nuisance abated.

4.C. Discuss potential capital improvement projects, relative to current and future budget forecasts, and set a date(s) for town hall discussions.

The Council set April 9, 2018 at 6:30 P.M. for the first town hall meeting to begin discussion of these topics.

4.D. Council Comments.

Councilmember Weedon informed the Council that the City had received \$12,586.68 from ACE for Fiscal Year 2017-2018. These funds may be used as the City wishes. To date ACE has returned \$109,680 back to McCook.

Councilmember McDowell and Mayor Gonzales commended all departments that showed up to assist in anyway with the recent fire. We were very lucky to only have minimal damage with the high winds and dry conditions, we escaped a big one. Mayor Gonzales added that he had received correspondence from Scott Frakes, Director of the Nebraska Department of Corrections, stating that they greatly appreciated all that the City did in assisting them that day.

4.E. Executive Session may be held upon a majority vote of the Council for the protection of public interest and protection of attorney client privilege for a strategy session with their Attorney with respect to potential litigation involving a Zoning Regulation Violation.

I move to go into executive session for the protection of public interest and protection of attorney client privilege for a strategy session with the City Attorney with respect to potential litigation involving a Zoning Regulation Violation at 7:19 p.m. This motion, made by Councilmember Weedon and seconded by Councilmember Calvin, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, McDowell: YEA, Weedon: YEA  
YEA: 5, NAY: 0

4.E.1 Nebraska Open Meetings Act statement.

Mayor Gonzales stated that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the protection of public interest and protection of attorney client privilege for a strategy session with the City Attorney with respect to potential litigation involving a Zoning Regulation Violation. The Council will reconvene in public session following this closed session.

Included in the executive session were City Manager Schneider, City Attorney Mustion, and City Clerk Doak.

4.E.2. Close Executive Session.

I move to come out of executive session at 7:45 p.m. This motion, made by Mayor Gonzales and seconded by Councilmember Weedon, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, McDowell: YEA, Weedon: YEA  
YEA: 5, NAY: 0

### **Adjournment.**

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:46 P.M.

-s- Michael D. Gonzales, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk-Treasurer