

McCook City Council
June 4, 2018
6:30 PM 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.

Absent: Councilmember Weedin.

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

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on May 31, 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. Invocation was provided by Bruce Lester, pastor of the McCook Evangelical Free Church. 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.

Dave Gerih, 1008 East "E" Street, expressed concerns with the Alarm Permit fee charged by the City when a resident has an in-home security system.

Scott Felker expressed concern with the condition of the streets at the end of Missouri Avenue, dip at West 5th and "M" Street, 705 West 2nd Street, Auditorium Drive and West 7th; asked when the grass containers need to be out so that they are picked up; and what is the procedure for paving an alley.

2. Announcements & Recognitions.

City Manager Schneider reminded all of the public information meeting regarding the Super 2 Highway Project between McCook and North Platte to be held tomorrow, June 5, from 5:00 P.M. to 7:00 P.M. in the McCook Municipal Center upstairs training room.

Police Chief Brown informed the Council that Officer Kyle Rappold received a Hero Award for DUI Enforcement from Nebraska Mothers Against Drunk Driving (MADD). This award is presented to individuals who have done outstanding work in the enforcement of DUI in our area to help make an impact on reducing impaired drivers off the roadways in Nebraska.

3. Public Hearings.

- 3.A. Public Hearing - request for a special exception to allow a professional office in the Residential High Density District (RH), located in Lot Twelve (12), Block Eighteen (18), Original Town of McCook, Red Willow County, Nebraska - 311 West 3rd Street; Project Sponsor/Developer - Edward Jones/Sharleen Riemenschneider; Land owner - Bradley E. and Sharleen R. Riemenschneider.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment on a request for a special exception to allow a professional office in the Residential High Density District (RH), located in Lot Twelve (12), Block Eighteen (18), Original Town of McCook, Red Willow County, Nebraska - 311 West 3rd Street; Project Sponsor/Developer - Edward Jones/Sharleen Riemenschneider; Land owner - Bradley E. and Sharleen R. Riemenschneider with the City Attorney to act as hearing officer. This motion, made by Calvin and seconded by Hepp, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the June 4, 2018 City Council meeting (2 pages); Exhibit #2 - Notice of Public Hearing published, posted, and mailed (1 page); Exhibit #3 - Ownership List for Mailing (2 pages); Exhibit #4 - Land Use Action Request Form (10 pages); Exhibit #5 - Findings and Determinations of the McCook City Council (2 pages); Exhibit #6 - proposed site, floor and electrical plans (4 pages); Exhibit #7 - minutes of the May 14, 2018 Planning Commission meeting (3 pages); Exhibit #8 - minutes of the May 29, 2018 Board of Zoning Adjustment (2 pages); and Exhibit #9 email from applicant (2 pages).

City Manager Schneider reviewed the following information presented in Exhibit #1: "An application has been submitted by Edward Jones/Sharleen Riemenschneider for a special exception to be issued at 311 West 3rd Street. The special exception would permit a professional office in the Residential High Density District. The attached application (Exhibit #4) describes the project. During staff review, it was noted that similar professional offices are located in this area. Also, the post office is located to the north. The area appears to be appropriate for a professional office. Staff has reviewed the special exception considerations A - I with the applicants, as well as internally. The applicants plan to provide diagonal, on-street parking to clients. The parking will be similar to Great Plains Oral Surgery/Hinze Chiropractic and Lifetime Eye Clinic. On May 14, 2018, the Planning Commission voted unanimously to recommend approval of the special exception. A variance was granted by the Board of Zoning Adjustment on May 29, 2018, allowing for a modification of the front and side yard setbacks in order to situate the building so as to face West "D" Street (opposed to West 3rd). The Edward Jones building and garage will be situated on the lot in a manner similar to Great Plains Oral Surgery/Hinze Chiropractic and Lifetime Eye Clinic."

3.A.1. Adjourn the Public Hearing.

There being no one else present to comment, motion to adjourn the public hearing and to reconvene as a City Council. This motion, made by Calvin and seconded by McDowell, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

- 3.B. Approve the request for a special exception to allow a professional office in the Residential High Density District (RH), located in Lot Twelve (12), Block Eighteen (18), Original Town of McCook, Red Willow County, Nebraska - 311 West 3rd Street; Project Sponsor/Developer

- Edward Jones/Sharleen Riemenschneider; Land owner - Bradley E. and Sharleen R. Riemenschneider; that the granting of the special exception will not adversely affect the public interest; and that satisfactory provisions and arrangements have been made by the applicant concerning Special Exception Considerations A - I.

I move to approve the request for a special exception to allow a professional office in the Residential High Density District (RH), located in Lot Twelve (12), Block Eighteen (18), Original Town of McCook, Red Willow County, Nebraska - 311 West 3rd Street; Project Sponsor/Developer - Edward Jones/Sharleen Riemenschneider; Land owner - Bradley E. and Sharleen R. Riemenschneider; that the granting of the special exception will not adversely affect the public interest; and that satisfactory provisions and arrangements have been made by the applicant concerning Special Exception Considerations A - I. This motion, made by Calvin and seconded by McDowell, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

4. Consent Agenda.

Councilmember Calvin requested that Item B be removed from the Consent Agenda and placed on the Regular Agenda.

Motion to approve the consent agenda. This motion, made by Calvin and seconded by Hepp, passed.
Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.

YEA: 4, NAY: 0, Absent: 1

4.A. Approve the minutes of the May 21, 2018 regular City Council meeting.

4.C. Receive and file the notice from the Nebraska Department of Transportation of the public information meeting to be held on Tuesday, June 5, 2018 from 5:00 P.M. to 7:00 P.M., at the McCook Municipal Center upstairs training room, concerning the Super 2 Highway Project between McCook and North Platte.

4.D. Approve the agreement between the City of McCook and W Design Associates to provide Design and Construction Engineering Services for the Reconstruction of Park Avenue from Kelley Park Drive to Norris Avenue and Sioux from Park Avenue to 175' East, and authorize the Mayor to sign.

4.E. Approve the application for a Special Designated Liquor License submitted by Tyler Schmick, Schmick's Market Inc., Liquor License #IDK-084561, for a wedding reception to be held at the National Guard Armory, 38709 US Highway 6, on June 30, 2018 from 4:00 P.M. to 1:00 A.M.

4.F. Approve the application for a Special Designated Liquor License submitted by Tyler Schmick, Schmick's Market Inc., Liquor License #IDK-084561, for a wedding reception to be held at the Red Willow County Fairgrounds Community Building, 1412 West 5th Street, on September 15, 2018 from 4:00 P.M. to 1:00 A.M.

4.G. Approve the application for a Special Designated Liquor License submitted by Tyler Schmick, Schmick's Market Inc., Liquor License #IDK-084561, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on October 27, 2018 from 4:00 P.M. to 11:59 P.M.

- 4.H. Approve the application for a Special Designated Liquor License submitted by the McCook Area Chamber of Commerce and the McCook Economic Development Corporation for a Crazy Days reception/mixer to be held at the Fox Theater, 412 Norris Avenue, on July 13, 2018 from 1:00 P.M. to 2:00 A.M.
- 4.I. Approve the application for a Special Designated Liquor License submitted by the McCook Area Chamber of Commerce and the McCook Economic Development Corporation for a Crazy Days BBQ & dance to be held at the McCook Municipal Auditorium, 302 West 5th Street, on July 14, 2018 from 8:00 A.M. to 2:00 A.M.

5. Regular Agenda.

- 4.B. Approve the request from the McCook Area Chamber of Commerce to close West "C" Street from West 1st Street to West 3rd Street and West 2nd Street from West "B" Street to West "D" Street on Saturday, July 14, 2018 from 6:00 A.M. to 2:00 P.M.; West "C" Street from Norris Avenue to West 1st Street from 5:00 P.M. on Friday, July 13, 2018 to 2:00 P.M. on Saturday, July 14, 2018; East "C" Street from Norris Avenue to East 1st Street on Friday, July 13, 2018 from 5:00 P.M. to 10:00 P.M.; the streets on the north and west side of Memorial Auditorium from noon on Friday, July 13, 2018 to noon on Sunday, July 15, 2018; and to cover the traffic signal at the intersection of Norris Avenue and "C" Street on Friday, July 13, 2018 from 5:00 P.M. to 10:00 P.M.

Councilmember Calvin requested clarification of why the various streets were being closed.

Motion to approve the request from the McCook Area Chamber of Commerce to close West "C" Street from West 1st Street to West 3rd Street and West 2nd Street from West "B" Street to West "D" Street on Saturday, July 14, 2018 from 6:00 A.M. to 2:00 P.M.; West "C" Street from Norris Avenue to West 1st Street from 5:00 P.M. on Friday, July 13, 2018 to 2:00 P.M. on Saturday, July 14, 2018; East "C" Street from Norris Avenue to East 1st Street on Friday, July 13, 2018 from 5:00 P.M. to 10:00 P.M.; the streets on the north and west side of Memorial Auditorium from noon on Friday, July 13, 2018 to noon on Sunday, July 15, 2018; and to cover the traffic signal at the intersection of Norris Avenue and "C" Street on Friday, July 13, 2018 from 5:00 P.M. to 10:00 P.M. This motion, made by Calvin and seconded by Gonzales, passed.
Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

- 5.A. Authorize the McCook Planning Commission to determine whether property located at 510 West 5th Street is blighted and substandard pursuant to the State of Nebraska's Community Development Law, with a recommendation to be forwarded to the Council following the Planning Commission's review.

Motion to authorize the McCook Planning Commission to determine whether property located at 510 West 5th Street is blighted and substandard pursuant to the State of Nebraska's Community Development Law, with a recommendation to be forwarded to the Council following the Planning Commission's review. This motion, made by Calvin and seconded by Hepp, passed.
Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

Councilmember Hepp noted that this particular parcel is not adjacent-touching any other parcel already designated as blighted and substandard, which was a requirement previously.

City Manager Schneider stated that it would be clarified during the Planning Commission review process, before making recommendation to the Council to proceed.

- 5.B. Ordinance No. 2018-2965, providing for the amendment of Chapter 95 - Nuisance; Health and Sanitation; Section 95.03 - Abatement Procedure, of the City of McCook, Code of Ordinances.

The City Clerk read Ordinance No. 2018-2965 by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 95 NUISANCE; HEALTH AND SANITATION; SECTION 95.03 - ABATEMENT PROCEDURE, OF THE CITY OF MCCOOK CODE OF ORDINANCES; 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.

- 5.B.2. Consider approval of Ordinance No. 2018-2965 upon its third and final reading. Ordinance No. 2018-2965 has been read by title and I move to approve upon its third and final reading.

This motion, made by Calvin and seconded by McDowell, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.

YEA: 4, NAY: 0, Absent: 1

Mayor Gonzales stated that Ordinance No. 2018-2965 is declared lawfully passed and adopted upon publication as required by law.

- 5.C. Ordinance No. 2018-2963 providing for the amendment of Chapter 130 - General Offenses; Offenses Against Persons; Sexual Predators; Section 130.16 - Definitions, of the City of McCook, Nebraska Code of Ordinances.

Mayor Gonzales introduced Ordinance No. 2018-2963 and the City Clerk read the Ordinance by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 130 - GENERAL OFFENSES - OFFENSES AGAINST PERSONS - SEXUAL PREDATORS; SECTION 130.16 - DEFINITIONS, OF THE CITY OF MCCOOK CODE OF ORDINANCES; 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.

- 5.C.2. Consider approval of Ordinance No. 2018-2963 upon its first reading.

Ordinance No. 2018-2963 has been introduced, read by title, motion to approve upon its first reading. This motion, made by Calvin and seconded by Hepp, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.

YEA: 4, NAY: 0, Absent: 1

- 5.D. Council Comments.

Council comments included thanking the organizers for bringing BRAN (Bicycle Ride Across Nebraska) to McCook; thanking the local volunteers who have helped in anyway with hosting

BRAN for their overnight stay in McCook and those that worked on getting BRAN Host Community scholarships; and recognized the caravan of classic cars that traveled to McCook Sunday morning as part of the 26th annual Nebraska Rod and Custom Association's 600 mile "Tour Nebraska" driving event.

5.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 regarding the property located at 1107 West 4th Street.

Motion 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 regarding the property located at 1107 West 4th Street at 7:08 P.M. This motion, made by Calvin and seconded by McDowell, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

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 regarding property located at 1107 West 4th Street. 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.

5.E.2. Close Executive Session.

Motion to come out of executive session and reconvene in public session at 7:21 P.M. This motion, made by Gonzales and seconded by Hepp, passed.

Gonzales: YEA, Calvin: YEA, Hepp: YEA, McDowell: YEA, Weedon: Absent.
YEA: 4, NAY: 0, Absent: 1

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:22 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer