

McCook City Council
December 17, 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, Weedon, Muehlenkamp (arrived 6:34 P.M.).

Absent: City Attorney Mustion.

City Officials present: City Manager Schneider, 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 December 13, 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. Father Gary Brethour, St. Patrick's Catholic Church, presented the invocation. 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.

Barb Ostrum thanked the Council for the use of the auditorium for the annual Toy Box. Ninety-one bikes and gifts for 370 children were given out.

2. Announcements & Recognitions.

There were no announcements or recognitions.

3. Public Hearings.

- 3.A. Public Hearing - Request from Marshall D. Tucker and Randy and Carol Lashley, for the creation of a minor subdivision, prospectively named Lashley-Tucker Subdivision, described as Block 1, Lots 1 and 2, being a Subdivision of Part of the NE1/4, Section 24, Township 3 North, Range 30 West of the 6th P.M. and Replat of Block 4 and Block 4R of A.M. Bishop Addition, Red Willow County, Nebraska.

Motion to recess as a City Council and convene a public hearing - for the purpose of receiving public comment on a request from Marshall D. Tucker and Randy and Carol Lashley, for the creation of a minor subdivision, prospectively named Lashley-Tucker Subdivision, described as Block 1, Lots 1 and 2, being a Subdivision of Part of the NE1/4, Section 24, Township 3 North, Range 30 West of the 6th P.M. and Replat of Block 4 and Block 4R of A.M. Bishop Addition, Red Willow County, Nebraska, with the City Manager to act as hearing officer. This motion, made by Calvin and seconded by Hepp, passed.

Gonzales: YEA, Hepp: Calvin: YEA, YEA, Weedin, YEA: Muehlenkamp: ABSTAIN
YEA: 4, NAY: 0, ABSTAIN: 1

The City Manager offered and received into evidence Exhibit #1 - City Manager's Report dated December 17, 2018 (2 pages); Exhibit #2 - proposed Resolution No. 2018-16 (1 page); Exhibit #3 - Notice of Public Hearing, published, posted; and mailed (1 page); Exhibit #4 - listing of property owners notified (1 page); Exhibit #5 - Land use Action Request Form (2 pages); Exhibit #6 - property Legal Description (1 page); Exhibit #7 - proposed Lashley-Tucker Subdivision plat (1 page); and Exhibit #8 - Carol Lashley letter dated December 5, 2018.

City Manager Schneider reviewed the following information contained in Exhibit #1: The applicants, Marshall D. Tucker and Randy and Carol Lashley, are requesting the creation of a minor subdivision located on Drive 716, north of Cappel Industrial Park. Essentially, the Lashleys are dividing and conveying a tract of their land to Marshall D. Tucker. Mr. Tucker would like to build a personal garage on the land sought to be divided and conveyed. In order to convey the land, a minor subdivision is necessary. This area has been subdivided before, making an administrative lot split impossible. Tyson Bardsley (Miller & Associates), John Hanson (McCook Abstract), and City Staff discussed the best way to move forward with this request. It was determined that a new subdivision was needed in order to properly remove the property to be conveyed from the A.M. Bishop Addition. If approved by the City Council, recording of the new Lashley-Tucker Subdivision will have to occur simultaneously with the closing of the property conveyance from Lashley to Tucker. Nothing can be conveyed until a proper plat is achieved, and this minor subdivision process will assure the tracks of land are defined properly. The McCook Planning Commission unanimously voted to recommend approval of the request.”

Tyson Bardsley, Miller and Associates, and Marshall Tucker, applicant, were present to address questions from the Council. Mr. Bardsley stated that he had presented the request to the Red Willow County Planning Commission and the Red Willow County Commissioners for their review. Both have approved the request.

Motion to adjourn the public hearing and to reconvene as a City Council. This motion, made by Calvin and seconded by Hepp, passed.

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

3.B. Adopt Resolution No. 2018-16 approving a minor subdivision, prospectively named Lashley-Tucker Subdivision, described as Block 1, Lots 1 and 2, being a Subdivision of Part of the NE1/4, Section 24, Township 3 North, Range 30 West of the 6th P.M. and Replat of

Block 4 and Block 4R of A.M. Bishop Addition, Red Willow County, Nebraska.

Motion to adopt Resolution No. 2018-16 approving a minor subdivision, prospectively named Lashley-Tucker Subdivision, described as Block 1, Lots 1 and 2, Being a Subdivision of Part of the NE1/4, Section 24, Township 3 North, Range 30 West of the 6th P.M. and Replat of Block 4 and Block 4R of A.M. Bishop Addition, Red Willow County, Nebraska. This motion, made by Calvin and seconded by Weedin, passed.

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

3.C. Public Hearing - Consider Replat of Dwight Gallatin Subdivision, Lots 1, 2, and 3, Block 1, Part of the SW1/4 Section 6, Township 3 North, Range 29 West of the 6th P.M., Red Willow County, Nebraska.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment the proposed Replat of Dwight Gallatin Subdivision, Lots 1, 2, and 3, Block 1, Part of the SW1/4 Section 6, Township 3 North, Range 29 West of the 6th P.M., Red Willow County, Nebraska, with the City Manager to act as hearing officer. This motion, made by Calvin and seconded by Hepp, passed.

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

The City Manager offered and received into evidence Exhibit #1 - City Manager's Report dated December 17, 2018 (2 pages); Exhibit #2 - proposed Resolution No. 2018-17 (1 page); Exhibit #3 - Notice of Public Hearing, published, posted; and mailed (1 page); Exhibit #4 - listing of property owners notified (1 page); Exhibit #5 - Land use Action Request Form (2 pages); Exhibit #6 - property Legal Description (1 page); and Exhibit #7 - proposed Replat of Dwight Gallatin Subdivision plat (1 page).

City Manager Schneider reviewed the following information presented in Exhibit #1: "Earlier this year, the Planning Commission recommended the approval of a minor subdivision entitled the Dwight Gallatin Subdivision to the McCook City Council. The Council approved the subdivision. An application for a replat of the Dwight Gallatin Subdivision has been submitted by Mr. Gallatin. The requested replat would move a proposed future road and permanent ingress-egress easement from the western boundary of the subdivision to the eastern boundary of the subdivision. Staff is comfortable with the requested replat. The permanent easement fits more naturally on the eastern boundary of the subdivision. On the western boundary, the easement was adjacent to the Culbertson Extension Canal perpetual easement. Due to the physical nature of the canal, the easement zigzagged. Staff's preference was to find a different location for the easement, but that was the applicant's desired location. Staff believes the replat will assure the easement is in a more natural location. The McCook Planning Commission unanimously recommended approval of the Replat request."

Tyson Bardsley, Miller & Associates, was present to address questions from the Council.

Motion to adjourn the public hearing and to reconvene as a City Council. This motion, made by Calvin and seconded by Hepp, passed.

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

- 3.D. Adopt Resolution No. 2018-17 approving the Replat of Dwight Gallatin Subdivision, Lots 1, 2, and 3, Block 1, Part of the SW1/4 Section 6, Township 3 North, Range 29 West of the 6th P.M., Red Willow County, Nebraska.

Motion to approve Resolution No. 2018-17 approving the Replat of Dwight Gallatin Subdivision, Lots 1, 2, and 3, Block 1, Part of the SW1/4 Section 6, Township 3 North, Range 29 West of the 6th P.M., Red Willow County, Nebraska. This motion, made by Calvin and seconded by Hepp, passed.

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

4. Consent Agenda.

Motion to approve the consent agenda. This motion, made by Weedin and seconded by Hepp, passed.

Gonzales: YEA, Hepp: Calvin: YEA, YEA, Weedin, YEA: Muehlenkamp: ABSTAIN
YEA: 4, NAY: 0. ABSTAIN: 1

- 4.A. Approve the minutes of the December 3, 2018 regular City Council meeting.
- 4.B. Approve the application for a Special Designated Liquor License submitted by Hillcrest Nursing Home for an After Holiday Company Party to be held at the Red Willow County Community Building, 1412 West 5th Street, on January 18, 2019, from 5:30 P.M. to 11:30 P.M.
- 4.C. Receive and file the Fiscal Year 2017-2018 Budget Year, Board of Public Roads Classifications and Standards (NBCS) Budget reports and authorize the Mayor to sign the required certifications.
- 4.D. Approve and authorize the Mayor to sign Change Order No. 1, the Certificate of Substantial Completion, and Pay Application No. 2 (Final) for sewer system improvements in the alley of West 4th Street, between West "D" and West "E" Streets.
- 4.E. Award the bid for a new three wheel mechanical street sweeper for the Street Department, to MacQueen Equipment, in the amount of \$228,691.00.
- 4.F. Ratify the Mayor's appointments to the Airport Advisory Commission - reappoint Doug Skiles and Mike Kugler - terms expire November 2021 and to the Housing Agency Board - reappoint Barb Ostrum - term expires December 2023.

- 4.G. Approve the automatic renewal of all current retail liquor licenses in the City of McCook for the year 2019 and instruct the City Clerk to publish individual notice of the right of automatic renewal of each license
- 4.H. Receive and file the 2019/2020 Council Radio Show Schedule.
- 4.I. Approve the bid specifications for Ballpark Concessions at the Jaycee Ball Complex and Felling Field for Calendar Years 2019, 2020, and 2021 and set the date to receive bids as January 14, 2019 at 2:00 P.M.
- 4.J. Approve the Encroachment Agreement with Panhandle Geotechnical & Environmental, Inc. for the purpose of installing underground monitoring wells along the 100 Block of East 4th Street and in the alley of the 100 Block between East 4th Street and East 5th Street and authorize the Mayor to sign.
- 4.K. Receive the minutes of the December 10, 2018 Planning Commission meeting.
- 4.L. Receive and file the claims for the month of November 2018 as published December 11, 2018.

5. Regular Agenda.

- 5.A. Consider and approve a request from the 2018-2019 Southwest Nebraska Leadership Institute class to waive rental fees for use of the City Auditorium for their project, Southwest Community Links Activities Fair, on February 28, 2019, utilizing Community Betterment funds as payment of waived rental fees.

Holly Olson, representing the 2018-2019 SWNLI, presented the request to the Council.

Motion to approve a request from the 2018-2019 Southwest Nebraska Leadership Institute class to waive rental fees for use of the City Auditorium for their project, Southwest Community Links Activities Fair, on February 28, 2019, utilizing Community Betterment funds as payment of waived rental fees. This motion, made by Calvin and seconded by Gonzales, passed.

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

- 5.B. Discussion regarding the potential vacating or selling of platted East "G" Street land between Lots 7, Block 3, and Lot 12, Block 4, of Brown's Park Addition.

City Manager Schneider reviewed the following information presented in his City Manager's Report: "McCook Community Hospital has requested that the City Council vacate the platted, but unimproved, East G Street land between Lot 7 Block 3 and Lot 12 Block 4 of Browns Park Addition. The platted, but unimproved street, is located south of the Hospital's offices for its Home Health and Hospice Agency, Foundation and Patient Accounts located at 711 East 11th Street. Per Nebraska Revised Statute 16-611, City's of the First Class have the authority to vacate a street. If a street is

vacated, the title to such property vests in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city. If the City Council determined to vacate only one side of the street, the title to such property would vest in the owner of the abutting property and become part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city. A copy of Nebraska Revised Statute is attached to this report. Additionally, McCook Community Hospital's request and supporting documents are attached to this report. Staff has discussed the Community Hospital's request with the property owners on both side of the unused street, and both parties are interested in the land. Staff believes the best way to move forward on the matter is to hold a discussion prior to taking action. Both property owners have been notified of the December 17, 2018 Council Meeting."

Both property owners were present. It was the consensus of the Council to have staff meet with the property owners and bring back a recommendation addressing the request at a future Council meeting.

- 5.C. Introduce and approve upon its first reading Ordinance No. 2018-2976 providing for the amendment of Chapter 130 - General Offenses/Offenses Against Property, adding Section 130.02 - Unauthorized Entry Into Motor Vehicle.

Mayor Gonzales introduced Ordinance No. 2018-2976 and asked the Clerk to read Ordinance by title.

The Clerk read Ordinance No. 2018-2976 by title:

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 130 - GENERAL OFFENSES/OFFENSES AGAINST PROPERTY, OF THE CITY OF MCCOOK CODE OF ORDINANCES; ADDING SECTION 130.02 - UNAUTHORIZED ENTRY INTO MOTOR VEHICLE; 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. 2018-2976 has been introduced and read by title only and I move to approve upon its first reading. This motion, made by Calvin and seconded by Weedin. Motion withdrew.

Ordinance No. 2018-2976 has been introduced, read by title, and I move that the statutory rule requiring reading on three different days be suspended. This motion, made by Gonzales and seconded by Calvin, passed.

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

The motion to suspend the rule was adopted by three-fourths of the Council and the statutory rule

was declared suspended for consideration of said Ordinance.

I move for final passage of Ordinance No. 2018-2976. This motion, made by Calvin and seconded by Weedin, passed.

Gonzales: YEA, Hepp: Calvin: YEA, YEA, Weedin, YEA: Muehlenkamp: YEA

YEA: 5, NAY: 0

Mayor Gonzales declared that Ordinance 2018-2976 has been lawfully passed and adopted upon publication as required by law.

5.D. Council Comments.

Councilmembers wished all a Merry Christmas and a Happy and Healthy New Year.

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:34 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer