

McCook City Council
October 21, 2019
5:30 PM Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:30 o'clock P.M. in the City Council Chambers,

Present: Mayor Gonzales, Councilmembers Hepp (excused at 5:57 P.M.), Calvin, Weedon, Muehlenkamp.

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Library Director Crocker, Utilities Director Dutcher, Water Superintendent Fawver, Fire Chief Harpham, Detective Hodgson, Public Works Director Potthoff, and Senior Services Director Siegfried.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on, October 17, 2019 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.

City Manager Schneider informed the Council that the Nebraska State Highway Commission has scheduled a meeting regarding the Highway 83 "Super 2" project between North Platte and McCook for Friday, October 25, at 8:30 A.M., at the Community Hospital.

3. Presentations.

A telephone conference call was held with Owen Gerard, CFA for Public Financial Management (PFM) for review of the cashflow analyses for the Water and Sewer Enterprise Funds. Some of the key points were Debt Coverage Ratios, the Ending Cash Balance, Cash Balance as percent of Operation and Maintenance, Net Operating Income, and that because water sales have been trending

down at upwards of -4.0% over the past five years, the future usage assumption has been reduced to -1.0%. A 3% rate increase was proposed for Sewer and with the predicted decrease in water usage a 6% rate increase was proposed for Water.

- 3.A. Receive and file the Annual Cashflow Analysis for the Water and Sewer Utility Funds, as prepared by PFM Financial Advisors, LLC.

Motion to receive and file the Annual Cashflow Analysis for the Water and Sewer Utility Funds, as prepared by PFM Financial Advisors, LLC, This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

4. Public Hearings.

- 4.A. Public Hearing - Regarding a zoning change request from Central Business (CB) District to Industrial Heavy (IH) District, for the following described property: Lots Four (4), Five (5), Six (6), and Seven (7), Block Thirty (30), Original Town Addition, to the City of McCook, Red Willow County, Nebraska.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment regarding a zoning change request from Central Business (CB) District to Industrial Heavy (IH) District, for the following described property: Lots Four (4), Five (5), Six (6), and Seven (7), Block Thirty (30), Original Town Addition, to the City of McCook, Red Willow County, Nebraska with the City Attorney to act as hearing officer. This motion, made by Calvin and seconded by Weedin, passed.

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

The City Attorney offered and received into evidence Exhibit #1 - the City Manager's Report dated October 21, 2019 (2 pages); Exhibit #2 - copy of Zoning Ordinance No, 2016-2929, Article 22 Non-Conforming Lots, Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Premises, and Non-Conforming Characteristics of Use (3 pages); Exhibit #3 - Notice of Hearing published (1 page); Exhibit #4 - listing of Notice of Public Hearing mailed to (1 page); Exhibit #5 - Land Use Action Request form and attachments, including letter from Southwest Environmental Engineering, LLC dated September 20, 2019 (12 pages); Exhibit #6 - proposed Ordinance No. 2019-2991 (1 page); and Exhibit #7 - minutes of the October 14, 2019 Planning Commission meeting (3 pages).

City Manager Schneider reviewed the following information included in Exhibit #1:

"A zoning change application has been filed by Frenchman Valley Coop. The physical address of the property is 301 West A Street. The legal description is listed above. Frenchman Valley would like to change the zoning designation of the property from Central Business (CB) District to Industrial Heavy (IH) District. Frenchman Valley proposes to continue the current use of the property

for feed mill purposes. In order to deter the release of fugitive dust from the premises, Frenchman Valley plans to perform upgrades, modifications, and repairs to on-site structures and grain handling systems. The property is located in the Central Business (CB) District. A feed mill is not a permitted principal use, nor does it qualify for a special exception per the requirements of the McCook Zoning Ordinance, Article 12 Central Business District (CB). Subsequently, Frenchman Valley's property falls under the non-conforming uses of land section found in McCook Zoning Ordinance, Article 22 Non-Conforming Uses of Land. According to Article 22, Frenchman Valley Coop currently operates under grandfather clause status in the CB District. With the proposed upgrades and construction, Frenchman Valley would lose its zoning protection per Article 22, Section 2203 and 2204. Staff has been contacted by Frenchman Valley Coop regarding a zoning change, modifying the property's zoning designation from CB District to Industrial Heavy (IH) District. The McCook Zoning Ordinance, Article 17 Industrial Heavy District (IH) permits feed mixing plants within the district. A modification of the zoning designation from CB District to IH District would satisfy the use and structure requirements established by McCook's Zoning Ordinance. Staff reviewed this request in conjunction with the neighborhood's current zoning arrangement. West "A" Street borders Frenchman Valley Coop to the south. The property on the south side of West "A" Street rests entirely inside of the IH District. Within this neighborhood, there are numerous structures that fit within the permitted principal uses and structures as outlined in Article 17. It is the staff's opinion that a rezoning will not serve to impede properties located near Frenchman Valley Coop. On the contrary, staff believes a rezoning will benefit the neighborhood by allowing Frenchman Valley Coop to complete needed construction to reduce the amount of dust generated on-site. At the October 14th Planning Commission meeting, the Planning Commission voted unanimously to recommend approval to the City Council. Jacque Riener spoke on behalf of Frenchman Valley Coop. Ms. Riener explained the modification request has been made to comply with dust emission requirements mandated by the Nebraska Department of Environmental Quality. Leigh Real asked questions regarding whether a zoning change for the Frenchman Valley Coop property would impact setback requirements for his property to the north. There would be no setback impact on Mr. Real's property. Mr. Real also inquired of Ms. Riener whether another location would be more practicable. Ms. Riener stated that Frenchman Valley is considering all possible options. At the meeting, Planning Commission member Tammie Hilker asked whether a zoning change could be modified if Frenchman Valley Coop opts for a different location. A zoning change can be modified if the property is no longer used for purposes permitted in the zoning district. If the zoning request is approved by the City Council, Frenchman Valley Coop intends to apply for a variance to the Board of Zoning Adjustment to meet setback requirements as the requirements relate to properties found within the IH District, Ms. Riener informed the Planning Commission that Frenchman Valley would like to achieve a zoning change as quickly as possible in order to submit a progress report to NDEQ by the end of October. Staff has prepared this Report under the assumption that the City Council will choose to read the ordinance three times prior to passage. This said, the City Council has the right to suspend the rules with regard to the three reading requirement if it chooses. There was no opposition to the request at the Planning Commission meeting. If there is no opposition at the Public Hearing, the City Council may choose to suspend the rules."

Jacque Riener, on behalf of Frenchman Valley Coop, was present to address questions from the Council. She gave a history of the project and explained that Frenchman Valley desires to extend the south loading bay in hopes of containing some of the dust from the grain. They are currently

non-conforming use in the Central Business District, which prohibits them from making any changes to the structure.

Mark Wilcox, property owner to the west, asked the Council to see a plan before changing the zoning designation, he does not feel this would be the right way to go to fix the problem.

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

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

YEA: 4, NAY: 0, ABSENT: 1

4.B. Ordinance No. 2019-2991 approving the zoning change request from Central Business District (CB) to Industrial Heavy District (IH), for the following described property: Lots Four (4), Five (5), Six (6), and Seven (7), Block Thirty (30), Original McCook Addition, to the City of McCook, Red Willow County, Nebraska.

Mayor Gonzales introduced Ordinance No. 2019-2991 and asked the Clerk to read said ordinance by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF LOTS FOUR (4), FIVE (5), SIX (6), SEVEN (7), BLOCK THIRTY (30), ORIGINAL MCCOOK ADDITION , TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM CENTRAL BUSINESS DISTRICT (CB) TO INDUSTRIAL HEAVY DISTRICT (IH); PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2019-2991 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 Weedin and seconded by Calvin, passed.

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

YEA: 4, NAY: 0, ABSENT: 1

Motion for final passage of Ordinance No. 2019-2991. This motion, made by Calvin and seconded by Weedin, passed.

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

YEA: 4, NAY: 0, ABSENT: 1

Mayor Gonzales stated that Ordinance No. 2019-2991 is declared lawfully passed and adopted upon publication as required by law.

4.C. Public Hearing - on the applications from Casey's Retail Company, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License under the Nebraska Liquor Control Commission, for "Casey's General Store 2984, License #123291 - located at 204 West "B" Street, McCook, Nebraska; "Casey's General Store 1954, License #123295 -

located at 810 East "B" Street, McCook, Nebraska; and "Casey's General Store 2291, License #123296 - located at 704 West "B" Street, McCook, Nebraska.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment on the applications from Casey's Retail Company, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License under the Nebraska Liquor Control Commission, for "Casey's General Store 2984, License #123291 - located at 204 West "B" Street, McCook, Nebraska; "Casey's General Store 1954, License #123295 - located at 810 East "B" Street, McCook, Nebraska; and "Casey's General Store 2291, License #123296 - located at 704 West "B" Street, McCook, Nebraska with the City Attorney to act as hearing officer. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

YEA: 4, NAY: 0, ABSENT: 1

The City Attorney offered and received into evidence Exhibit #1 - the City Manager's Report dated October 21, 2019 (1 page); Exhibit #2 - Casey's General Store 2984 Notice of Hearing published (1 page); Exhibit #3 - Casey's General Store 2984 Recommendation of the Nebraska Liquor Control Commission (1 page); Exhibit #4 - Casey's General Store 2984 Application for Liquor License and all attachments (30 pages); Exhibit #5 - Casey's General Store 2984 Police Department Liquor Application Report (6 pages); Exhibit #6 - Casey's General Store 1954 Notice of Hearing published (1 page); Exhibit #7 - Casey's General Store 1954 Recommendation of the Nebraska Liquor Control Commission (1 page); Exhibit #8 - Casey's General Store 1954 Application for Liquor License and all attachments (29 pages); Exhibit #9 - Casey's General Store 1954 Police Department Liquor Application Report (6 pages); Exhibit #10 - Casey's General Store 2291 Notice of Hearing published (1 page); Exhibit #11 - Casey's General Store 2291 Recommendation of the Nebraska Liquor Control Commission (1 page); Exhibit #12 - Casey's General Store 2291 Application for Liquor License and all attachments (38 pages); and Exhibit #13 - Casey's General Store 2291 Police Department Liquor Application Report (6 pages).

The City Attorney opened it up to staff comments followed by public comment.

Jesse Dutcher, 1705 W 2 Street, spoke in opposition of the request.

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

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

YEA: 4, NAY: 0, ABSENT: 1

- 4.D. Recommend approval to the Nebraska Liquor Control Commission the applications of Casey's Retail Company; for "Casey's General Store 2984, for an upgrade to a Class "D" (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123291 under the Nebraska Liquor Control Commission, located at 204 West "B" Street, McCook, Nebraska; for "Casey's General Store 1954, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123295 under the Nebraska Liquor Control Commission, located at 810 East "B" Street, McCook, Nebraska; for "Casey's General Store 2291, for an upgrade to a Class

"D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123296 under the Nebraska Liquor Control Commission, located at 704 West "B" Street, McCook, Nebraska.

Motion to recommend approval to the Nebraska Liquor Control Commission the applications of Casey's Retail Company; for "Casey's General Store 2984, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123291 under the Nebraska Liquor Control Commission, located at 204 West "B" Street, McCook, Nebraska; for "Casey's General Store 1954, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123295 under the Nebraska Liquor Control Commission, located at 810 East "B" Street, McCook, Nebraska; for "Casey's General Store 2291, for an upgrade to a Class "D" - (Beer, Wine, & Distilled Spirits, Off Sale Only) License #123296 under the Nebraska Liquor Control Commission, located at 704 West "B" Street, McCook, Nebraska. This motion, made by Calvin and seconded by Weedin, passed. Gonzales: NAY, Hepp: ABSENT, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA. YEA: 3, NAY: 1, ABSENT: 1

5. Consent Agenda.

Motion to approve the consent agenda. This motion, made by Calvin and seconded by Weedin, passed.
Gonzales: YEA, Hepp: ABSENT, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA.
YEA: 4, NAY: 0, ABSENT: 1

- 5.A. Approve the minutes of the October 7, 2019 regular City Council meeting.
- 5.B. Approve the application for a Special Designated Liquor License submitted by Loop Brewing Company, Liquor License #LK-093351, for the Farm Show to be held at the Kiplinger Arena, 1412 West 5th Street, on November 20, 2019 from 11:00 A.M. to 1:00 A.M. and November 21, 2019 from 11:00 A.M. to 5:00 P.M.
- 5.C. Receive and file the claims for the month of September 2019 as published October 15, 2019.
- 5.D. Receive and file notification of an emergency purchase of a 2019 John Deere Backhoe from Murphy Tractor and Equipment.
- 5.E. Receive and file the City of McCook Snow and Ice Control and Removal Operation Procedures and Policies.
- 5.F. Receive and file the minutes of the October 14, 2019 Planning Commission meeting.
- 5.G. Approve the application for a Special Designated Liquor License submitted by MO Dough, LLC, Liquor License #IK-057785, for a McCook Community Foundation Holiday Party to be held at the Keystone Business Center, 402 Norris Avenue, on December 1, 2019 from 8:00 A.M. to 1:00 A.M.

6. Regular Agenda.

6.A. Consider and authorize the use of Community Betterment Funds to cover the rental fees for the Annual Toy Box event to be held at the McCook City Auditorium on December 8, 2019,

Barb Ostrum was present to make the request for the Toy Box event.

Motion to authorize the use of Community Betterment Funds to cover the rental fees, from December 2 - 9, 2019, for the Annual Toy Box event to be held at the McCook City Auditorium on December 8, 2019. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Gonzales: YEA, Hepp: ABSENT, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA.
YEA: 4, NAY: 0, ABSENT: 1

6.B. Discussion regarding the "H" Street and Norris Avenue intersection.

Discussion was held regarding the intersection at Norris Avenue and "H" Street. The original request was for a crosswalk on the south side of "H" Street and connecting to the library on the west side of Norris Avenue.

Discussion included locating the crosswalk at "G" Street getting the pedestrian traffic away from the busy intersection; a four-way stop; the turning lane adding more congestion; lack of visibility due to the islands; a traffic study indicated that in the last three years there were five car vs. car accidents, two car vs. car accidents with injuries, one car vs. bike accident, and since 2012 one speeding citation; manual crosswalk light similar to the one going to Wal-Mart; the possibility that crosswalks give the pedestrian a false sense of security; a stop light - not sure if traffic studies would indicate a need for a stop light; see the need for more security with more distracted drivers; and a crosswalk is not to stop traffic, but to direct walkers where to cross safely - help children understand where to cross.

Bruce McDowell - 904 W 3, Keri Galarneau - 805 W 12, and Tasha Blomstedt - 411 Elizabeth, spoke in support of a crosswalk at the intersection.

It was the consensus of the Council to have staff review and bring back to the Council at a future meeting options, costs, and a possible action item.

6.C. Receive and file the McCook Public Library HVAC Evaluation prepared by James N. Marshall Engineering.

City Manager Schneider informed the council that Engineer James Marshall has submitted an evaluation of the Library's HVAC system. The purpose of the evaluation was to review options to replace a portion of the HVAC system at the Library. Per the evaluation, Mr. Marshall considered two potential systems. Option #1 consists of a dual-path system (simultaneous heating and cooling) with either liquid chiller or direct expansion cooling (DX). Option #2 consists of a single path system (non-simultaneous heating and cooling) with either liquid chiller or direct expansion cooling. Mr. Marshall recommends a single path handler with a DX cooling system. According to Mr. Marshall, the single path air handling system will provide adequate temperature control for the

building while the DX cooling system is the most cost effective option where only one air handling device is involved. The estimated project cost is \$130,000. Mr. Marshall is preparing bid documents for Option #2.

Library Director Crocker informed the Council that the Library Foundation has stepped up to cover the additional \$20,000. She thanked members of the Foundation; Jason Loop, Walt Sehnert, Nancy Mousel, Sharon Bohling, Bernie Wood, and Mary Dueland.

6.D. Ordinance No. 2019-2990 amending Subsection 34.30- Purchasing Regulations, of the City of McCook Code of Ordinances.

Mayor Gonzales asked the Clerk to read Ordinance No. 2019-2990 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 34 - PURCHASING REGULATIONS, SECTION 34.30 - FORMAL CONTRACT PURCHASE, 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,

Ordinance No. 2019-2990 has been introduced, read by title, and I move to approve upon its first reading. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

YEA: 4, NAY: 0, ABSENT: 1

6.E. Ordinance No. 2019-2992 amending Chapter 90 - Animals, of the City of McCook Code of Ordinances; adding Section 90.09 - Off-Lease Dog Areas in City and amending Section 90.24 - Dangerous/Vicious Dogs and Hybrid Animals,

Mayor Gonzales asked the Clerk to read Ordinance No. 2019-2992 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 90 - ANIMALS, OF THE CITY OF MCCOOK CODE OF ORDINANCES; ADDING SECTION 90.08 - OFF- LEASH DOG AREAS IN CITY AND AMENDING SECTION 90.24 - DANGEROUS/VICIOUS DOGS AND HYBRID ANIMALS; 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. 2019-2992 has been introduced, read by title, and I move to approve upon its first reading. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

YEA: 4, NAY: 0, ABSENT: 1

6.F. Council Comments.

There were no council comments.

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:48 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer