

McCook City Council  
July 20, 2020  
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, Calvin, Weedin, Muehlenkamp.

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Police Chief Brown, Library Director Crocker, Utilities Director Dutcher, Fire Chief Harpham, 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 July 16, 2020, 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 announced that Civil Service Commission will be conducting the examination for Police Chief on July 11, 2020 at 8:00 A.M. and oral interviews at 1:00 P.M.

**3. Public Hearings.**

- 3.A. Public Hearing - To consider the preliminary plat on the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public

comment with respect to the proposed preliminary plat on the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska, with the City Attorney to act as hearing officer. This motion, made by Gonzales and seconded by Weedin, passed.

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

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the July 20, 2020 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (2 pages); Exhibit #3 - ownership list for mailing of Notice of Hearing (2 pages); Exhibit #4 - Land Use Action Request Form and attachments (5 pages); Exhibit #5 - Bishop Acres Third Subdivision Preliminary Plat (1 page); Exhibit #6 - minutes of the July 13, 2020 Planning Commission meeting (5 pages); and Exhibit #7 - Letter from the Craig A. Bennett, the Red Willow County Zoning Planning & Zoning Administrator, dated July 20, 2020, indicating that the Red Willow County Planning Commission met on July 15, 2020 and reviewed the Bishop Acres Third Subdivision and take no issue with the proposed subdivision.

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

“An application for a minor subdivision has been submitted by Miller & Associates Consulting Engineers, P.C., on behalf of the A.M. Bishop Family Trust. Staff and Miller & Associates have worked together to determine the best way to bring this item forward to the Planning Commission and City Council. The A.M. Bishop Family Trust would like to break a portion of the property they own in the SW1/4 of Section 24, T3N, R30W, of the 6th P.M., Red Willow County, Nebraska into a separate lot. A communication tower is located on the land that the applicant would like to create into a separate lot. While the land at issue is currently zoned for agriculture, McCook’s Comprehensive Plan contemplates the future land use to be residential. Despite the designation, the proposed lot would not be used, nor could it be used, for residential purposes due to the existing tower.”

“The tract of property considered in this request has already been subdivided by the owner, both administratively and through the minor subdivision process. The Planning Commission has stressed that before there is additional development of the Bishop tract, a comprehensive development plan needs to be designed. As such, city staff has asked the developer and owner to provide a more concrete plan. In order to provide a more definite vision for the development of the Bishop property, the developer and owner agreed to provide a preliminary plat of the entirety of the Bishop property located in Section 24, T3N, R30W. The preliminary plat is similar to the conceptual design proffered by the owner when Bishop Acres Second Subdivision was created in 2019. The preliminary plat of Bishop Acres Third Subdivision has been attached for the City Council’s review. The proposal consists of four blocks, with each block containing a varying number of lots. All of the proposed lots would have access to street frontage as required by McCook’s Subdivision Regulations. All of the lots meet the size requirements required by McCook’s Zoning Code.”

“If approved, the preliminary plat would be filed with the City of McCook. It would not be filed

with the Red Willow County Register of Deeds. This is because a preliminary plat may be modified if the owner believes a change is warranted due to development needs. The City of McCook can also ask that the preliminary plat be modified to meet McCook's needs. McCook's Subdivision Regulations allow for the adoption of a preliminary plat in anticipation of a final plat. The final plat will need to be brought back to the Planning Commission and City Council for adoption at a later date."

"As for the creation of Lot 1, staff is comfortable with completing the final plat at this time. As mentioned, proposed Lot 1 currently is home to a communication tower. Due to the tower, proposed Lot 1 is unique in that it would not be suitable for a residence. It is an area that is better fit for commercial. Staff asked the developer and owner to take into consideration the road frontage issue when developing the proposal. The developer's proposal envisions a "flag lot", with the northern portion being wide enough to provide for adequate ingress and egress off of Road 716. There is an easement that straddles proposed Lot 1 and anticipated Lot 2. The easement provides access to a communication tower located to the south. If proposed Lot 1 is created through this subdivision process, the owner of Lot 1 would be subject to the easement."

"At the July 13, 2020 Planning Commission meeting, the Planning Commission voted unanimously to recommend approval of the preliminary plat and final plat."

Craig Bennett of Miller & Associates, was present to address questions from the Council.

With no one else present to comment, motion to adjourn the public hearing and to reconvene as a City Council. This motion, made by Gonzales and seconded by Muehlenkamp, passed.  
Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

3.B. Approve the preliminary plat of the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska.

Motion to approve the preliminary plat of the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska. This motion, made by Gonzales and seconded by Muehlenkamp, passed.  
Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

3.C. Public Hearing - To consider the final plat on the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska, and more specifically, proposed Lot 1 of said Bishop Acres Third Subdivision.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment with respect the proposed final plat on the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska, and more specifically, proposed Lot 1 of said Bishop Acres Third Subdivision, with the City Attorney to act as hearing officer. This motion, made by Gonzales and seconded by Weedin, passed.

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

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the July 20, 2020 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - ownership list for mailing of Notice of Hearing (2 pages); Exhibit #4 - Land Use Action Request Form and attachments (5 pages); Exhibit #5 - Bishop Acres Third Subdivision Final Plat (1 page); Exhibit #6 - minutes of the July 13, 2020 Planning Commission meeting (5 pages); Exhibit #7 - proposed Resolution No. 2020-15 (1 page); and Exhibit #8 - Letter from the Craig A. Bennett, the Red Willow County Zoning Planning & Zoning Administrator, dated July 20, 2020, indicating that the Red Willow County Planning Commission met on July 15, 2020 and reviewed the Bishop Acres Third Subdivision and take not issue with the proposed subdivision.

City Manager Schneider noted that the owner has the possibility of selling the land with the tower located on it. Since the parcel has had a prior subdivision, it is necessary to create a new subdivision. Staff is comfortable with completing the final plat of Lot 1 at this time. Proposed Lot 1 currently is home to a communication tower. Due to the tower, proposed Lot 1 is unique in that it would not be suitable for a residence. It is an area that is better fit for commercial. Staff asked the developer and owner to take into consideration the road frontage issue when developing the proposal. The developer's proposal envisions a "flag lot", with the northern portion being wide enough to provide for adequate ingress and egress off of Road 716. There is an easement that straddles proposed Lot 1 and anticipated Lot 2. The easement provides access to a communication tower located to the south. If proposed Lot 1 is created through this subdivision process, the owner of Lot 1 would be subject to the easement.

Craig Bennett of Miller and Associates, was present to address questions from the Council.

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

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

3.D. Adopt Resolution No. 2020-15 approving the final plat of the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska, and more specifically, proposed Lot 1 of said Bishop Acres Third Subdivision.

Motion to adopt Resolution No. 2020-15 approving the final plat of the following described property to be known as Bishop Acres Third Subdivision, said tract generally described as a tract of land being part of the Southwest Quarter of Section 24, Township 3 North, Range 30 West of the 6th P.M., in Red Willow County, Nebraska, and more specifically, proposed Lot 1 of said Bishop Acres Third Subdivision. This motion, made by Weedin and seconded by Muehlenkamp, passed. Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA. YEA: 5, NAY: 0

#### **4. Consent Agenda.**

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

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

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

- 4.A. Approve the minutes of the July 6, 2020 regular City Council meeting.
- 4.B. 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 August 29, 2020 from 12:00 P.M. to 1:00 A.M.; and shall be subject to comply with any Directed Health Measures in effect at the time of the event.
- 4.C. Approve an application from Great Plains Communications to occupy city right of way on West "Q" Street and West 17th Street for the purpose of installing fiber optic cable to 1505 West 17th Street occupied by Esslinger's Home Improvement.
- 4.D. Receive and file the claims for the month of June 2020 as published July 9, 2020.
- 4.E. Adopt Resolution No. 2020-16 ratifying all City Council actions at virtual meetings, beginning April 6, 2020 through June 1, 2020, per Executive Orders No. 20-03 and No. 20-24.
- 4.G. Receive and the file the Financial Report for the period ending June 30, 2020.
- 4.H. Receive and file the minutes of the July 13, 2020 Planning Commission meeting.

#### **5. Regular Agenda.**

- 4.F. Approve the request from the Prairie Roots Festival Committee for the use of Barnett Park, including the west shelter house, electricity, use of additional picnic tables, benches and trash cans for their Fifth Annual Prairie Roots Festival on Saturday, August 22, 2020; and that they

shall be subject to comply with any Directed Health Measures in effect at the time of the event.

Councilmember Muehlenkamp informed that the event would not be happening this year.

Motion to approve the request from the Prairie Roots Festival Committee for the use of Barnett Park, including the west shelter house, electricity, use of additional picnic tables, benches and trash cans for their Fifth Annual Prairie Roots Festival on Saturday, August 22, 2020; and that they shall be subject to comply with any Directed Health Measures in effect at the time of the event. This motion, made by Muehlenkamp and seconded by Calvin, Failed.

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

5.A. Receive and file a presentation from Craig Bennett of Miller and Associates regarding annexation processes.

Craig Bennett of Miller and Associates presented information regarding the annexation process.

Council discussion included possible areas to annex; how to pay for the necessary infrastructure; and how does the City ever grows if we are land locked by continuing to develop areas without providing the infrastructure.

Kurt Vosburg, Chair of the Planning Commission, stated that he and fellow Commission member Dale Dueland have the same concerns with how the City ever grows if we are land locked by continuing to develop areas without providing the infrastructure.

5.B. Receive and file a presentation from Andy Long of the McCook Economic Development Corporation regarding the creation of the Birdella Nelson Technology Center in the McCook Public Library.

Andy Long of the McCook Economic Development Corporation presented information regarding the creation of the Birdella Nelson Technology Center in the McCook Public Library.

Senator Ben Nelson, was present via telephone to address has plans regarding the proposed technology center in honor of his mother Birdella Nelson.

5.C. Council Comments.

Councilmembers recognized city staff and Nebraska Public Power for all that they did in the aftermath of the recent storm.

5.D. 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 - the Fraternal Order of Police Lodge 57.

Motion to go into executive session for the protection of public interest for a strategy session with respect to collective bargaining - the Fraternal Order of Police Lodge 57 at 7:34 P.M. This motion, made by Calvin and seconded by Weedon, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

Mayor Gonzales stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of the protection of public interest for a strategy session with respect to collective bargaining - the Fraternal Order of Police Lodge 57. The Council will reconvene in public session following this closed session.

Motion to come out of executive session at 8:16 P.M. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

5.E. 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 - McCook Professional Firefighters Association Local 2100.

Motion to go into executive session for the protection of public interest for a strategy session with respect to collective bargaining - McCook Professional Firefighters Association Local 2100 at 8:17 P.M. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

Mayor Gonzales stated for the record that at this time, pursuant to the Nebraska Open Meetings Act, a closed session will be held for the purpose of the protection of public interest for a strategy session with respect to collective bargaining - the McCook Professional Firefighters Association Local 2100. The Council will reconvene in public session following this closed session.

Motion to come out of executive session at 8:26 P.M. This motion, made by Calvin and seconded by Hepp, passed.

Gonzales: YEA, Hepp: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA.  
YEA: 5, NAY: 0

### **Adjournment.**

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 8:27 P.M.

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Michael D. Gonzales, Mayor

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer