

McCook City Council
April 1, 2024
5:30 P.M. Central

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

Present: Mayor Taylor, Councilmembers Calvin, Weedon, Muehlenkamp, Rambali.

Absent: None.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Assistant City Manager Koetter, Utilities Director Fawver, Fire Chief Harpham, Police Chief Hodgson, Building Official Mooney, and Senior Services Director Siegfried.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on March 29, 2024, 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 Taylor 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 Dr. Walter Ray, McCook Baptist Church. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Taylor called the meeting to order.

1. Announcements & Recognitions.

City Manager Schneider informed the Council that a Planning Commission meeting is scheduled for April 8, 2024 at 5:15 P.M. for consideration of a special exception request and a Redevelopment Plan request for workforce housing and that the City received notice that we have been awarded a CCCFF grant.

2. Public Hearings.

- 2.A. Public Hearing - Regarding the request from Rose Weskamp to move a house owned by Michael and Linda Nielsen from 409 West 1st Street to 71823 Road 386, said property located outside the limits of the City of McCook, Nebraska, within the City's extraterritorial jurisdiction.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment with respect to the request from Rose Weskamp to move a house owned by Michael and

Linda Nielsen from 409 West 1st Street to 71823 Road 386, said property located outside the limits of the City of McCook, Nebraska, within the City's extraterritorial jurisdiction, with the City Attorney to act as the hearing officer. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the April 1, 2024 City Council meeting (1 page); Exhibit #2 - Notice of Hearing published (1 page); and Exhibit #3 - Structure Moving Application and all attachments (25 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

Ms Weskamp was present to address questions from the Council.

No date has been set for the move that will be finalized by the moving company.

- 2.B. Approve the request from Rose Weskamp to move a house owned by Michael and Linda Nielsen from 409 West 1st Street to 71823 Road 386, said property located outside the limits of the City of McCook, Nebraska, within the City's extraterritorial jurisdiction.

Motion to approve the request from Rose Weskamp to move a house owned by Michael and Linda Nielsen from 409 West 1st Street to 71823 Road 386, said property located outside the limits of the City of McCook, Nebraska, within the City's extraterritorial jurisdiction. This motion, made by Muehlenkamp and seconded by Taylor, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

Councilmember Calvin noted that the council had not reconvened before consideration of Item 2.B.

A motion to adjourn the public hearing and to reconvene as a City Council was introduced by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

The Council concurred with the previous approval of Item 2.B.

- 2.C. Public Hearing - Regarding the proposed "Incentive Plan" for construction of housing in the municipality targeted to house existing or new workers for the City of McCook (the "Incentive Plan"), which plan would authorize the use of tax increment financing for the construction of workforce housing in the redevelopment areas of the City of McCook.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment with respect to the proposed "Incentive Plan" for construction of housing in the municipality targeted to house existing or new workers for the City of McCook (the "Incentive

Plan"), which plan would authorize the use of tax increment financing for the construction of workforce housing in the redevelopment areas of the City of McCook, with the City Attorney to act as the hearing officer. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

The City Attorney received into evidence Exhibit #1 - Notice of Public Hearing published (1 page); Exhibit #2 - Certified notices mailed to the required public entities (5 pages); Exhibit #3 - City Manager's Report prepared for the April 1, 2024 City Council meeting for the approval of Resolution No. 2024-05 (1 page); Exhibit #4 - Proposed Workforce Housing Incentive Plan for the City of McCook, Nebraska (5 pages); and Exhibit #5 - Proposed Resolution No. 2024-05 (3 pages). (as corrected by the City Attorney before closing of the public hearing)

City Manager Schneider reviewed the information presented in Exhibit #3.

Amanda Engell, MEDC Director of Housing Development, spoke in support of the proposed plan. Workforce housing is greatly needed in McCook. This plan will allow them to offer some assistance to potential developers.

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

Taylor: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

2.D. Approve Resolution No. 2024-05 adopting and approving a workforce housing incentive plan, pursuant to the Nebraska Community Development Law.

Motion to approve Resolution No. 2024-05 adopting and approving a workforce housing incentive plan, pursuant to the Nebraska Community Development Law. This motion, made by Calvin and seconded by Weedon, passed.

Taylor: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

3. Consent Agenda.

Motion to approve the consent agenda. This motion, made by Calvin and seconded by Rambali, passed.

Taylor: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

3.A. Approve the minutes of the March 18, 2024 regular City Council meeting.

3.B. Approve Resolution No. 2024-04 establishing a handicap parking stall on the west side of the 400 block of Norris Avenue.

4. Regular Agenda.

4.A. Update regarding the swimming pool project.

Assistant City Manager Koetter gave an update of the pool project.

4.B. Ordinance No. 2024-3079 amending the City of McCook's Code of Ordinances by removing Chapter 93 and amending Sections 95.01, 95.02, 95.03, and 95.04 in Title IX: General Regulations.

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3079 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING THE CITY OF MCCOOK CODE OF ORDINANCES BY REPEALING CHAPTER 93, ENTITLED "UNLICENSED VEHICLES" IN ITS ENTIRETY; AMENDING CHAPTER 95, ENTITLED "NUISANCE; HEALTH AND SANITATION", SECTIONS 95.01-DEFINE, 95.02-SPECIFIC NUISANCES, 95.03-ABATEMENT SERVICES & NOTICE PROCEDURE FOR NUISANCES, AND 95.04-JURISDICTION; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CITY OF MCCOOK CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

Ordinance No. 2024-3079 has been introduced, read by title, and I move to approve upon its first of three readings. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

City Manager Schneider stated that on October 16 the Council authorized staff to submit a Nuisance Abatement Program application to West Central Nebraska Development District (WCNDD). On February 5 the Council approved and entered into an Interlocal Agreement with WCNDD. Staff is request the ordinance be approved to incorporate WCNDD's preferred language as well as allow the city to still handle nuisance properties not in WCNDD's assigned section of the city.

4.C. Ordinance No. 2024-3078 amending the City of McCook's Code of Ordinances by adding Chapter 121, entitled "Games of Skill" to Title XI Business Regulations".

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3078 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA TO AMEND THE CITY OF MCCOOK CODE OF ORDINANCES BY ADDING CHAPTER 121, ENTITLED "GAMES OF SKILL" TO TITLE XI "BUSINESS REGULATIONS"; TO PROVIDE THAT THIS ORDINANCE SHALL BE MADE A PART OF THE CITY OF MCCOOK CODE OF ORDINANCES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

Ordinance No. 2024-3078 has been introduced, read by title, and I move to approve upon its first of three readings. This motion, made by Calvin and seconded by Taylor.

City Manager Schneider reviewed the following information presented in his City Manager's Report dated April 1, 2024: "As "Games of Skill" become more prominent throughout Nebraska, communities have started to levy occupation taxes on these devices. North Platte is an example of a city that has implemented an occupation tax on "Games of Skill". As revenue raising options become more difficult to ascertain, occupation taxes on "Games of Skill" have gained popularity. City staff is proposing the implementation of an occupation tax on these devices in McCook. The occupation tax would cover both mechanical amusement devices and "Games of Skill" devices with betting capabilities. The occupation tax for a non-betting device would be \$10 annually per machine. The occupation tax for a betting device would be \$500 annually per machine. Staff proposes that the occupation tax for these devices be paid on August 1" of each year."

"Additionally, staff proposes that the accompanying ordinance make it unlawful for any person or company engaged in the occupation of conducting the use of "Games of Skill" with betting capabilities within the City of McCook to allow or permit a game of skill with betting capabilities to be operated within the City between the hours of 2:00 a.m. to 8:00 a.m. each and every day of the week."

"A right of entry provision is included in the ordinance to allow police officers of the City the authority to enter at any time upon any premises of any person or company engaged in the occupation of conducting the use of "Games of Skill" with betting capabilities within the City to determine whether any of the provisions of the ordinance or any rules or regulations adopted by the City or by the State have been violated. Per the proposed ordinance, City police officers will have the authority to review the records associated with these games, including video surveillance footage of the licenses premises."

"Per the ordinance, all persons or companies engaged in the occupation of conducting the use of "Games of Skill" with betting capabilities within the City must obtain appropriate licensing from the Department of Revenue."

Councilmember Calvin questioned how many machines are located within the city and if this would increase the workload for the Police Department.

Local business owners Nick Nothnagel, N-stant Convenience and Hi Times Liquor, and Robert Hall, the Bottle Shop, Spirit Shop, and Dr. Feel Good, expressed concerns regarding the proposed occupation tax. Mr. Nothnagel expressed concerns with adding an additional tax to all those that he already pays and Mr. Hall felt there was no need for the curfew. His business, Dr. Feel Good, is open 24 hours a day and they have had no issues. Mr. Hall also felt that a December payment date would be better to coincide with the state's due date.

With no further discussion, the motion on the floor was considered and passed.

Taylor: YEA, Calvin: NAY, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 4, NAY: 1

4.D. Ordinance No. 2024-3076 providing for the amendment of Chapter 38: Appendix E, Water Department Rates and Fees.

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3076 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 38: FEE SCHEDULE - APPENDIX E , WATER DEPARTMENT RATES AND FEES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR WATER BY THE MCCOOK WATER DEPARTMENT; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2023-3064 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2024-3076 has been introduced, read by title, and I move to approve upon its second of three readings. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

City staff noted that no comment had been received.

4.E. Ordinance No. 2024-3077 providing for the amendment of Chapter 38: Appendix D, Sewer Department Rates and Fees.

Mayor Taylor asked the Clerk to read Ordinance No. 2024-3077 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 38: FEE SCHEDULE - APPENDIX D, SEWER DEPARTMENT RATES AND FEES, OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2023-3065 AND 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. 2024-3077 has been introduced, read by title, and I move to approve upon its second of three readings. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

City Staff noted that no comment had be received.

4.F. Council Comments.

Councilmember Weedin stated that the Choice Gas Selection period runs April 4 - 24. He noted that there are eight suppliers this year and encouraged users that after review of the suppliers, that they select ACE as their preferred supplier, as ACE gives directly back to the City.

Councilmember Muehlenkamp thanked the Water Department for working on the leak in the 200 block of Norris Avenue this past Sunday.

- 4.G. 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 real estate purchase for Sports Complex.

Motion to go into executive session for the protection of public interest for a strategy session with respect to real estate purchase for a Sports Complex at 6:47 P.M. This motion, made by Calvin and seconded by Weedin, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

Mayor Taylor 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 real estate purchase for a Sports Complex. The Council will reconvene in public session following this closed session.

Included in the executive session were City Manager Schneider, City Attorney Mustion, Assistant City Manager Koetter, City Clerk Doak, MEDC Executive Director Charlie McPherson, and MEDC Director of Housing Amanda Engell.

Motion to come out of executive session at 7:22 P.M. This motion, made by Calvin and seconded by Taylor, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

- 4.H. 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 potential litigation - property located at 1111 East "H" Street, Cindy and Ron Sabin.

Motion to go into executive session for the protection of public interest for a strategy session with respect to potential litigation - property located at 1111 East "H" Street, Cindy and Ron Sabin at 7:23 P.M. This motion, made by Calvin and seconded by Taylor, passed.

Taylor: YEA, Calvin: YEA, Weedin: YEA, Muehlenkamp: YEA, Rambali: YEA
YEA: 5, NAY: 0

Mayor Taylor 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 potential litigation - property located 1111 East "H" Street, Cindy and Ron Sabin. The Council will reconvene in public session following this closed session.

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

Motion to come out of executive session at 7:30 P.M. This motion, made by Calvin and seconded

by Weedon, passed.

Taylor: YEA, Calvin: YEA, Weedon: YEA, Muehlenkamp: YEA, Rambali: YEA

YEA: 5, NAY: 0

Adjournment.

There being no further business to come before the Council, Mayor Taylor declared the meeting adjourned at 7:31 P.M.

Linda Taylor, Ex-officio Mayor
and Council President

ATTEST:

Lea Ann Doak, City Clerk-Treasurer