

McCook City Council
April 15, 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 Sergeant Downing, and Senior Services Director Siegfried.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 11, 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 Jeff Kelley, Memorial Methodist 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 Board of Zoning Adjustment meeting is scheduled for this coming Monday at 5:30 P.M.

Mayor Taylor recognized Utilities Director Fawver and the Water Department staff for working so diligently on the water leak that was in front of her house this past week. They took care of it in a very timely, efficient manner.

2. Presentation.

2.A. McCook Lodge #135/McCook Masonic Bodies presentation regarding the upcoming McCook Aquatic Park cornerstone ceremony scheduled for May 18, 2024 at 1:00 P.M.

Steve Lyne, representing McCook Masonic Lodge 135, gave an overview of the cornerstone ceremony to be held at the McCook Aquatic Park on May 18 at 1:00 P.M. and invited all City

Council, City Officials and staff to attend. Masons lay cornerstones only on public buildings and buildings dedicated to religion, education, civic service or philanthropy. On average, about 10 cornerstones are laid in buildings by the Masons in the State of Nebraska each year.

3. Public Hearings.

- 3.A. Public Hearing - Request for a special exception by Brian and Jessica Luke to locate a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM) - property located at #1 Club House Drive; Lot 1, Block 7, Golf Course First 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 with respect to the request for a special exception by Brian and Jessica Luke to locate a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM) - property located at #1 Club House Drive; Lot 1, Block 7, Golf Course First 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 Rambali, passed.

Taylor: YEA, Calvin: YEA, Weedon: 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 15, 2024 City Council meeting (1 page), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing mailed and posted (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #5 - Land Use Action Request Form and attachments (11 pages); Exhibit #6 - City of McCook Zoning Ordinance Article 9, Residential Medium Density District (RM) (3 pages); Exhibit #7 - City of McCook Zoning Ordinance Article 24, Special Exceptions (1 page); Exhibit #8 - Findings and Determinations of McCook City Council (2 pages); and Exhibit #9 - Minutes of the April 8, 2024 Planning Commission meeting (4 pages).

Comments were taken from City Staff, the applicant, before opening to the public for comment.

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

Applicant Jessica Luke was present to address the request and answer questions from the Council.

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

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

YEA: 5, NAY: 0

- 3.B. Approve the application for a special exception by Brian and Jessica Luke to allow a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM), said property located at #1 Club House Drive; legally described as Lot 1, Block 7, Golf Course First Addition to the City of McCook, Red Willow County, Nebraska, finding Special Exception considerations A-I are satisfied.

Motion to approve the application for a special exception by Brian and Jessica Luke to allow a Bed and Breakfast/Vacation Rental in a Medium Density Residential District (RM), said property located at #1 Club House Drive; legally described as Lot 1, Block 7, Golf Course First Addition to the City of McCook, Red Willow County, Nebraska, finding Special Exception considerations A-I are satisfied. This motion, made by Calvin and seconded by Weedin, passed.

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

3.C. Public Hearing - Regarding the Redevelopment Plan for the R Perry Redevelopment Project as to its conformity with the general plan for the development of the City as a whole.

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment regarding the Redevelopment Plan for the R Perry Redevelopment Project as to its conformity with the general plan for the development of the City as a whole, with the City Attorney to act as 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 15, 2024 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - listing of Public Entities who received Notice of Public Hearing (1 page); Exhibit #4 - copies of letter to Public Entities receiving Notice of Public Hearing (5 pages); Exhibit #5 - Proposed Redevelopment Plan for the R Perry Redevelopment Project (14 pages); and Exhibit #6 - Minutes of the April 8, 2024 Planning Commission meeting.

Comments were taken from City Staff, the applicant, before opening to the public for comment.

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

Joe Johnson, representing R Perry Construction, reviewed the request and answered questions from the Council. The project will consist of three single-family dwellings, each approximately 1,280 square feet, with three bedrooms, two bathrooms, with an attached garage. The basement will be unfinished and will allow for the addition of two bedrooms and a bathroom in the future if desired. Each unit will sell for \$300,000. Construction is expected to begin within the next few weeks.

Amanda Engell, McCook Economic Development Director of Housing Development spoke in support of the request. This project will add three new homes to the much needed housing in McCook.

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

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

3.D. Meeting of the Community Development Agency - recess as City Council and convene

meeting.

Motion to recess as a City Council and to convene as the McCook Community Development Agency for consideration of CDA Agenda at 6:09 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

3.D.1. Call to Order and Roll Call.

3.D.2. Open Meetings Act Announcement.

A meeting of the Mayor and City Council of the City of McCook, Nebraska, acting as the governing body of the Community Development Agency of the City of McCook, Nebraska was convened in open and public session at 6:09 o'clock P.M. on April 15, 2024, at the McCook Municipal Center in McCook, Nebraska. Agency Members present were: Taylor, Calvin, Weedin, Muehlenkamp, Rambali. Absent: None. Notice of the meeting was given in advance thereof by publication, one of the City's designated methods for giving notice, a copy of the proof of publication being attached to these minutes. Advanced notice of the meeting was given to each member of the Agency and a copy of their acknowledgment of receipt of notice and the agenda is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and all members of the Council. Mayor Taylor presided and City Clerk Doak recorded the proceedings. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held.

3.D.3. Adopt Resolution No. CDA 2024-01 recommending approval of a Redevelopment Plan for the R Perry Redevelopment Project in the City of McCook, Nebraska, to the McCook City Council.

Motion to adopt Resolution No. CDA 2024-01 recommending approval of a Redevelopment Plan for the R Perry Redevelopment Project in the City of McCook, Nebraska, to the McCook City Council. This motion, made by Calvin and seconded by Weedin, passed.

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

3.D.4. Recess as a Community Development Agency.

Motion to recess as the McCook Community Development Agency and reconvene as the McCook City Council. This motion, made by Calvin and seconded by Weedin, passed.

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

- 3.E. Adopt Resolution No. 2024-06 approving the R Perry Redevelopment Project Redevelopment Plan for the City of McCook, Nebraska.

Motion to adopt Resolution No. 2024-06 approving the R Perry Redevelopment Project Redevelopment Plan for the City of McCook, Nebraska. This motion by Calvin and seconded by Muehlenkamp, passed.

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

- 3.E.1. Recess as a City Council.

Motion to recess as the McCook City Council and reconvene as the McCook Community Development Agency. This motion, made by Weedon and seconded by Rambali, passed.

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

- 3.F. Adopt Resolution No. CDA 2024-02 authorizing and approving a Redevelopment Agreement for the R Perry Redevelopment Project, including the use of TIF for the Redevelopment Project.

Motion to adopt Resolution No. CDA 2024-02 authorizing and approving a Redevelopment Agreement for the R Perry Redevelopment Project, including the use of TIF for the Redevelopment Project. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

- 3.F.1. Adjourn the McCook Community Development Agency.

Motion to adjourn the meeting of the McCook Community Development Agency at 6:15 P.M. and to reconvene as the McCook City Council. This motion, made by Calvin and seconded by Taylor, passed.

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

- 3.G. Approve Resolution No. 2024-07 approving the Redevelopment Agreement between the City of McCook/CDA and R Perry Construction.

Motion to approve Resolution No. 2024-07 approving the Redevelopment Agreement between the City of McCook/CDA and R Perry Construction. This motion, made by Calvin and seconded by Rambali, passed.

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

4. Proclamations.

- 4.A. Approve the proclamation designating April 26, 2024 as "Arbor Day" in the City of McCook and authorize the Mayor to sign.

Motion to approve the proclamation designating April 26, 2024 as "Arbor Day" in the City of McCook and authorize the Mayor to sign. This motion, made by Calvin and seconded by Weedon, passed.

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

- 4.B. Approve the proclamation designating the week of April 21 - 27, 2024 as "Public Transit Week" in the City of McCook and authorize the Mayor to sign.

Motion to approve the proclamation designating the week of April 21 - 27, 2024 as "Public Transit Week" in the City of McCook and authorize the Mayor to sign. This motion, made by Rambali and seconded by Muehlenkamp, passed.

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

5. Consent Agenda.

Motion to approve the consent agenda. This motion, made by Weedon and seconded by Muehlenkamp, passed.

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

- 5.A. Approve the minutes of the April 1, 2024 regular City Council meeting.
- 5.B. Accept the minutes of the April 8, 2024 Planning Commission meeting.
- 5.C. Receive and file the Financial Report for the period ending March 31, 2024.
- 5.D. Receive and file the claims for the month of March 2024, published April 12, 2024.
- 5.E. Approve an application from Great Plains Communications to occupy city right-of-way for the purpose of installing underground fiber optic conduit, cable and new ground level vaults at North Pointe subdivision.
- 5.F. Approve an application from Pinpoint Communications, Inc. of Cambridge, Nebraska, to occupy city right-of-way for the purpose of installing underground conduit, vaults, and pedestals for fiber optic cable at North Pointe subdivision.
- 5.G. Approve an application from Nebraska Public Power District to occupy city right-of-way for the purpose of installing underground electrical cable and conduit at North Pointe subdivision.

5.H. Approve an application from Century Link to occupy city right-of-way for the purpose of installing an underground fiber optic cable and two ground level vaults, service for 201 West 4th Street.

5.I. Adopt Resolution No. 2024-08 granting a Waiver of Payment in Lieu of Taxes to the McCook Housing Agency.

6. Regular Agenda.

6.A. 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 IT'S 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 that the statutory rule requiring reading on three different days be suspended. This motion, made by Weedon and seconded by Muehlenkamp, passed. Motion to suspend the rule must be adopted by three-fourths of the Council.

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

Motion for final passage of Ordinance No. 2024-3079. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

Mayor Taylor stated for the record that Ordinance No. 2024-3079 is declared lawfully passed and adopted upon publication as required by law.

6.B. Approve and enter into a Nuisance Abatement Agreement with West Central Nebraska Development District, Inc. (WCNDD).

Representatives from West Central Nebraska Development District were present to address the agreement and answer questions from the Council.

Motion to approve and enter into a Nuisance Abatement Agreement with West Central Nebraska Development District, Inc. (WCNDD). This motion, made by Calvin and seconded by Taylor, passed.

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

YEA: 5, NAY: 0

6.C. Adopt Resolution No. 2024-09 approving the appointment of West Central Nebraska Development District, Inc. (WCNDD) to act as Nuisance Officer for the City of McCook.

Motion to approve and enter into a Nuisance Abatement Agreement with West Central Nebraska Development District, Inc. (WCNDD). This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

YEA: 5, NAY: 0

6.D. Authorize City Staff to proceed with filing a Complaint to Foreclose the special assessment on Original Town Addition, Block 10, Lot 4 (commonly referred to as 406 E 1st Street).

Motion to authorize City Staff to proceed with filing a Complaint to Foreclose the special assessment on Original Town Addition, Block 10, Lot 4 (commonly referred to as 406 E 1st Street). This motion, made by Calvin and seconded by Taylor, passed.

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

YEA: 5, NAY: 0

6.E. 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 third and final. This motion, made by Calvin and seconded by Taylor, passed.

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

YEA: 5, NAY: 0

Mayor Taylor stated for the record that Ordinance No. 2024-3076 is declared lawfully passed and adopted upon publication as required by law.

6.F. 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 third and final reading. 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 Ordinance No. 2024-3077 is declared lawfully passed and adopted upon publication as required by law.

6.G. Council Comments.

Councilmember Weedin stated that the Choice Gas selection period ends April 24 and encouraged all to make a selection.

With severe weather in the forecast, City Manager Schneider requested that Items 6.I. and 6.J. be moved before Item 6.H. to allow for Mr. and Mrs. Sabin's attorney to travel safely back to North Platte.

6.I. 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 6:47 P.M. This motion, made by Taylor 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 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, City Clerk Doak.

Motion to come out of executive session at 6:52 P.M. This motion, made by Taylor and seconded by Muehlenkamp, passed.

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

YEA: 5, NAY: 0

6.J. Authorize City Staff to proceed with necessary actions to abate nuisance at 1111 East "H" Street, McCook, Nebraska.

Audrey Kingston presented a written proposal, which included the construction of an 80' x 80' structure for storage of the trucks, from Mr. and Mrs. Sabin as a possible solution to the existing issues on the property.

Council discussion included the time-line for construction of the structure and removal of the remaining items from the site, had another location been considered, and the possibility of setting a precedent with letting this property maintain its current condition.

Motion to authorize City Staff to proceed with necessary actions to abate nuisance at 1111 East "H" Street, McCook, Nebraska. This motion, made by Calvin and seconded by Taylor, passed.

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

YEA: 5, NAY: 0

6.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 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 7:20 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.

Motion move to come out of executive session at 8:00 P.M. This motion, made by Calvin and seconded by Muehlenkamp, passed.

Taylor: YEA, Calvin: YEA, Weedin: 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 8:01 P.M.

Linda Taylor, Ex-officio Mayor
and Council President

ATTEST:

Lea Ann Doak, City Clerk-Treasurer