

MCCOOK CITY COUNCIL  
March 20, 2017  
6:30 P.M.

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, Weedin.

Absent: Councilmember McDowell; City Clerk Doak.

City Officials present: City Manager Schneider, City Attorney Mustion, Deputy City Clerk Schmidt, Police Chief Brown, Utilities Director Dutcher, Fire Chief Harpham, Public Works Director Potthoff, Senior Services Director Siegfried, and Building Inspector Barry Mooney.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on March 16, 2017, 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 Acknowledgment 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.**

Scott Felker expressed his concerns about the length of the stop lights at East 1<sup>st</sup> and B Street, West 10<sup>th</sup> and B Street, and West 5<sup>th</sup> and B Street. He also suggested a 4-way stop at the intersection of West 7<sup>th</sup> and E Streets by the high school. Public Works Director Potthoff explained that some sensors are in the concrete, that the Department of Roads controls the timing of the stop lights, and he will pass along Mr. Felker's concerns.

### **2. Announcements & Recognitions.**

There were no announcements and recognitions.

### **3. Consent Agenda.**

A. Approve the minutes of the March 6, 2017 regular City Council meeting.

Upon a motion by Councilmember Weedin, seconded by Councilmember Hepp, the Council voted to approve the minutes of the March 6, 2017 regular City Council meeting. The yeas and nays were called and the vote was as follows: YEA: Gonzales, Hepp, Calvin, Weedin. NAY: None. ABSENT: McDowell. Motion approved.

B. Receive the minutes of the February 8, 2017 Library Advisory Board meeting.

Upon a motion by Councilmember Weedon, seconded by Councilmember Hepp, the Council voted to receive the minutes of the February 6, 2017 Library Advisory Board meeting. The yeas and nays were called and the vote was as follows: YEA: Gonzales, Hepp, Calvin, Weedon. NAY: None. ABSENT: McDowell. Motion approved.

- C. Approve the application for a Special Designated Liquor License submitted by Loop Brewing Company LLC, Liquor License #LK-93351, for a Reception/Fund Raiser to be held at the National Guard Building, 38709 US Highway 6, on June 3, 2017 from 5:00 P.M. to 1:00 A.M.

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- D. Award the bid for the 2017 Armor Coating Project to Topkote, Inc. of Yankton, SD in the amount of \$3.667 per gallon, that being the lowest best bid.

Upon a motion by Councilmember Weedon, seconded by Councilmember Hepp, the Council voted to award the bid for the 2017 Armor Coating Project to Topkote, Inc. of Yankton, SD in the amount of \$3.667 per gallon, that being the lowest best bid. The yeas and nays were called and the vote was as follows: YEA: Gonzales, Hepp, Calvin, Weedon. NAY: None. ABSENT: McDowell. Motion approved.

#### **4. Regular Agenda.**

- A. Discussion regarding alley houses, and how they are treated for nuisance abatement purposes.

City Manager Schneider provided information from his City Manager's report:

"Recently, Staff has been reviewing how to treat residential lots that contain alley houses. There are numerous alley houses throughout McCook. Most of the alley houses are located in the center of town. Typically, the alley houses are older residential structures that were built on smaller lots, directly behind larger residential structures. By today's standards, they would not be allowed as they do not meet the residential lot size requirements. However, they are in existence currently and can continue to be used for residential purposes per our ordinance.

We recently have had questions regarding alley houses. We have been able to work through most of the questions. One request has been difficult to answer. The fact pattern is as follows. The City of McCook had been working with a property owner to remedy a nuisance abatement problem at an alley house she owned. The property owner sold the residence to another person. The new owner wants to demolish the nuisance house, which would serve to improve the neighborhood. The difficulty is, pursuant to the ordinance, the new owner can't build anything on the small lot that contained the alley house. The lot is too small for a residential structure. Further, no ancillary structures such as garages or sheds can be built on the lot as these structures aren't permitted in the area. The reason for this rule is to discourage off-site ownership which may not be maintained in a similar fashion as inhabited property, as well as to ensure the structure isn't turned into a storage facility. That said, the concern is that as some of these alley houses age, they will fall into a state of disrepair. Because of the limitations in the ordinance, there will be no interested parties willing to

demolish the structures as they will be unable to use the property. The City has not been able to fund the nuisance abatement demolition fund for a number of years due to the need to address more pressing issues.

Staff has considered multiple solutions, but have ran into practical roadblocks as we worked our way through the issue. Ultimately, if there is a solution, we would modify the ordinance through our typical procedure, obtaining a recommendation from the Planning Commission and approval from the Council. But for now, discussion would be helpful.”

Roger Engler approached Council. Last year he purchased an alley lot located a half block/across the street from his home. The house and property was considered a nuisance by the City, it is dilapidated, has a bad roof, the yard is weeds, it’s an eye sore, and it has too much structural damage to remodel. He would like to demolish it and build a garage for his vehicles. If he hadn’t purchased it, it was going to be the City’s responsibility eventually.

City Manager Schneider explained to Council that garages are not allowed in a Residential Medium Density District (RM). Councilmember Hepp verified that we are talking about lots that have been subdivided. Councilmember Weedin questioned how other cities are handling the same issue. Councilmember Calvin asked if it would be possible to create a variance that, on a subdivided lot, would be required for personal use only.

Building Inspector Barry Mooney addressed Council and commented that he hasn’t seen a community with quite so many alley houses; if we issue a variance, how do we set something that is standard; do we do this every time someone wants to do something with an alley structure; we have minimum building standards to follow.

Schneider indicated that this issue will be brought before the Planning Commission for their recommendation.

#### B. Update and discussion concerning Barnett Park.

Public Works Director Potthoff first commented that he was informed today by Game & Parks that they stocked the Barnett Park ponds with 750 rainbow trout this past weekend. He then provided information from his City Manager’s report:

“Over the past few years, we have experienced a number of fish kills in Barnett Park. This past year we had a substantial loss of fish in the park. This summer we contacted both the Nebraska Department of Environmental Quality and the Nebraska Game and Parks Commission to get their input into what may be causing the fish to die. At that time, it was determined that the most logical cause of the fish kill was a lack of oxygen in the ponds. NDEQ agreed to do some water testing on the pond water.

On February 23, 2017 City Staff held a conference call with representatives from NDEQ and NGPC to discuss Barnett Park. During the conversation NDEQ informed us the results of their testing of the pond water. It shows that the levels of nitrogen, ammonia and phosphorous are quite high. These levels are high enough that the environment in the ponds make it difficult at best for fish to survive. According to the NGPC and NDEQ, these elevated numbers are a direct result of the waste being produced by the goose population.

Barnett Park is a very popular area within the City of McCook for its residents to fish, observe

wildlife (geese), picnic, attend and participate in athletic activities and various other outdoor activities.

We would like to have input from the public to see what activities are important to them. We are continuing to look at options for the park. It would be great to be able to come to a happy medium where we have good fish habitat and a resident goose population. According to the experts, this may be difficult to achieve.

The fountains were purchased to assist with the water quality in the ponds by circulating the water. Our initial reaction was that if there are very few fish in the ponds, maybe it would be best not to install the fountains this year. After giving it more thought, staff is not opposed to installing the fountains this year for the public to enjoy.”

Potthoff provided further background information in relation to the fish kill and geese problem at Barnett Park:

“On the weekend of June 19, 2016, Fathers Day weekend, we had a substantial fish kill. At that time we consulted with Game and Parks and the consensus was that it was either a lightning strike during that Friday night storm or that we may have over populated the pond when we stocked it for the fishing derby.

On July 3, 2016 we once again experienced a substantial fish kill in Barnett Park. The biggest majority of the dead fish, on both occasions, were located in the north pond. Due to the fish kill, the Nebraska Game and Parks Commission was notified and they came to the park to inspect. At that time they were not sure what had caused the fish kill and recommended that we contact NDEQ to have them take a look at it. The park was closed due to the uncertainty. On July 5th NDEQ was notified and they agreed to take some more water samples of the ponds. They had already been down on June 28th to take a sample at the request of the City due to a citizens request. Additional samples were taken on July 27, 2016 and September 23, 2016.

On July 26, 2016 a fish population survey was completed by the Nebraska Game and Parks Commission.

City Staff had a phone conference with representatives from the Nebraska Game and Parks Commission and the Nebraska Department of Environmental Quality. In this conference call we discussed the fish kills that had occurred last summer. NDEQ reported that they had tested the ponds in Barnett Park on 3 different occasions and that the results showed that the nitrogen, ammonia and phosphorous were all very high.”

Potthoff explained the chart included in his City Manager’s report:

“The graphs represent the concentrations of nitrogen and phosphorus found in Barnett Park Lake during the summer of 2016. The red line indicates the Surface Water Quality Standard set in Title 117 of the Nebraska Administrative Code for Nitrogen (1 mg/L) and Phosphorus (.05 mg/L). The green dots are the amount of ammonia detected. The Water Quality Standard for ammonia varies with pH and temperature. Excess ammonia in the water is most times an indicator to the presence of too many waterfowl. Their droppings contain ammonia and in high enough concentrations will lead to a buildup of ammonia in the water. The toxicity of ammonia to fish increases with temp and ph. when conditions are right, ammonia will kill the fish inhabiting the water. Ammonia will also drive algal growth within the lake as it is easily converted to Nitrate. The main nutrient needed for

plant growth.

Why are these test results important? Geese are contributors of Ammonia, Phosphorous and Nitrogen in ponds. These nutrients, act as fertilizer and come directly from goose excrement and cause what is called pond eutrophication. Pond eutrophication is a natural process that all bodies of water experience. It is the gradual enrichment of nutrients over time. Goose excrement speeds up this process by leaving extra nutrients for the development of algae blooms and excessive plant growth in lakes. A rapid increase in algae and plant growth can deplete the water of oxygen, damaging the aquatic environment and causing fish kills.

Research has shown that one goose defecates between 28 and 92 times per day, with wet weights of fecal material averaging between ½ and 3 pounds per day. Last summer city staff counted, on occasion as many as 500 geese that were present in the park. If you have an average of even 300 geese daily with an average of ½ - 1 pound of fecal matter per day this would equate into 150 - 300 pounds per day or 54,750 and 109,500 pounds of waste per year.

There have been some studies that show although waterfowl fecal matter can contribute inorganic nitrogen and phosphorous into fresh water lakes, the feces appeared to have a minimal impact. The argument is that the fecal matter falls to the bottom of the lake, and are therefore unavailable. These studies caution that the fecal matter can still contribute to lake eutrophication when seasonal mixing (for example wind or other weather events) or human made mixing (for example boating or jet skies, or in our case fountains), occurs that stir up lake sediment up from the bottom of the lake to the top.

We do not want to be all negative towards geese as they provide positive benefits for our residents as well. Recreational opportunities such as wildlife watching and sport hunting are a couple. The geese also provide ecological benefits that aid in the survival of other plants and animals.

The experts tell us that in order to have a thriving fish habitat, the goose population should be non-existent. We understand that this cannot be fixed overnight and we feel that it would be very difficult and unpopular to eliminate the goose population entirely. A possible starting point could be to try and minimize the number of native geese at the park. This will not be an easy task as geese have a very strong instinct to return to their general area of birth to mate and nest. They will either return to the exact site or to a nearby pond or other body of water. With less native geese there will be less of an attractant to migrating geese.”

Potthoff further discussed possible control methods he has researched such as: noise makers, dogs to chase off the geese, goose egg oiling which requires a federal permit to perform. “Goose egg oiling, or goose egg "addling" is a wildlife management method of population control for Canada geese and other bird species. The process of addling involves temporarily removing fertilized eggs from the nest, testing for embryo development, terminating embryo development, and placing the egg back in the nest. Returning the egg to the nest misleads the goose into believing the egg is still developing. Otherwise, the goose would begin laying again.”

Council and staff discussions included times of year geese are heavily populating the park; whether there are any man-made nestings remaining in Barnett Park; other cities' solutions, e.g. Gothenburg drained their ponds; recent and future meetings with Ted Bethel from Van Diest who works with aquatics; attraction of the geese to the soccer fields; the amount of grass geese can eat per day and the amount of excrement they can produce in one day; concern for fish recently stocked being contaminated; best time of year and best water temperatures for fish to survive in the ponds.

Potthoff went on to explain his research in the diet of the geese. He explained that a high carbohydrate diet such as bread, crackers, popcorn, grain, corn, etc. is bad for geese and causes a disease called "Angel Wing" which makes the wings of the birds curl and unable to fly. He passed around an article from OneGreenPlanet.org which included pictures of birds with the disease.

Citizens Comments:

Mike Brown stated that, unless he misread the newspaper, there would be no fishing allowed. Potthoff indicated that is not the case. Now is a good time to fish and the ponds have been restocked.

Bethene Vontz questioned whether the fountains would be used in the ponds this year and commented that people from out of town visit the park and particularly enjoy the fountains. She also mentioned that the fishing at the park is one of the few free things for kids to do. Potthoff said we are not opposed to using the fountains. The only impact was a study that said fountains stirs things up in the ponds, including the fecal matter at the bottom.

Fred Petsch said he went to Barnett Park this morning to see the turtles; geese can come and go; suggested moving the soccer field to vacant lot on 10<sup>th</sup> Street.

Dianna Kudera commented that we take the things right in front of us for granted; how much have we brought on ourselves with the soccer fields; family member was ill, would go to the park and sit for hours; something worth fighting for; don't want to see sand pits go in or fountains to leave. Potthoff assured her the plan was not to close the park, but to find a solution to the fish and geese problem. Kudera commented that is not how she felt after reading the article in the newspaper.

Art Skinner suggested the City dredge the ponds and use the waste as fertilizer in farmers' fields; Barnett Park used to be the City dump years ago; his kids come home and want to go to Barnett Park; going to cost some money - no different in surrounding lakes. Council asked when was the last time we dredged the ponds. Utilities Director Dutcher offered that his recollection was it was right about the time he started with the City in 2004. Potthoff indicated that staff has discussed dredging the ponds; the difficulty now is if we can't get the water quality up, it may be difficult getting grants.

Trevor Taylor addressed Council. He manages 16 sand pits; believes we can keep both the fish and geese with water management. Suggested putting out feeders for the geese so they get healthy feed; suggested selecting a certain pond for fishing and quarantine the other; contacting Pond Boss to help with water management. In response to the feeders, Potthoff pointed out that we are not necessarily trying to attract the geese to the park, but deter them. Councilmember Weedon asked Taylor how often he tests the water in the sand pits he manages. He responded that he does it once each year in July.

Further discussion between staff and Council included: depth of the ponds; both ponds are fed with ground water; fund raiser to dredge ponds yet this fall; Republican River Augmentation program; and plants and algae blooms in the water.

- C. Approve Ordinance No. 2017-2947 providing for the amendment of Chapter 38, Fee Schedule, Appendix J: Occupation Taxes of the City of McCook Code of Ordinances pertaining to Alcoholic Beverage Licenses upon its third and final reading.

Considered upon its third and final reading, Ordinance No. 2017-2947 entitled:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA PROVIDING FOR THE AMENDMENT OF CHAPTER 38, FEE SCHEDULE, APPENDIX J: OCCUPATION TAXES OF THE CITY OF MCCOOK CODE OF ORDINANCES PERTAINING TO ALCOHOLIC BEVERAGE LICENSES; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A DATE AND TIME FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2017-2947 was read by title only and thereafter Councilmember Hepp moved for final passage of the Ordinance, which motion was seconded by Councilmember Weedin. The Mayor then stated the question: "Shall Ordinance No. 2017-2947 be passed and adopted?" The yeas and nays were called and the vote was as follows: YEA: Gonzales, Calvin, Hepp, Weedin. NAY: None. ABSENT: McDowell. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

D. Approve upon its third and final reading, Ordinance No. 2017-2946 providing for the annexation of Part of Section 19-T3N-R29W, Red Willow County, Nebraska (property located between West "R" Street and West 7<sup>th</sup> Street, formerly owned by John and Betty Nothnagel and now owned by the City of McCook).

Considered upon its third and final reading, Ordinance No. 2017-2946 entitled:

AN ORDINANCE EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF MCCOOK, COUNTY OF RED WILLOW, STATE OF NEBRASKA, BY ANNEXING THERETO A CERTAIN TRACT OF LAND CONTIGUOUS TO AND NOT EMBRACED WITHIN THE PRESENT LIMITS OF THE CITY OF MCCOOK, NEBRASKA; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2017-2946 was read by title only and thereafter Councilmember Hepp moved for final passage of the Ordinance, which motion was seconded by Councilmember Weedin. The Mayor then stated the question: "Shall Ordinance No. 2017-2946 be passed and adopted?" The yeas and nays were called and the vote was as follows: YEA: Gonzales, Calvin, Hepp, Weedin. NAY: None. ABSENT: McDowell. Motion carried. The passage and adoption of said Ordinance having been concurred in by a majority of the Council, the Mayor declared the Ordinance lawfully passed and adopted upon publication as required by law.

E. Council Comments.

Councilmember Calvin thanked everyone in attendance for coming out and voicing their opinions.

Councilmember Hepp commented on the wonderful job by the Chamber of Commerce with their annual Founders Ball, it was a wonderful evening, the meal was delicious, and kudos to the Chamber staff for putting it together.

Mayor Gonzales commented that it was a busy weekend in McCook and asked Councilmember Weedin on the success of the *Beauty and The Beast* play. Councilmember Weedin, who also serves as the producer of the play, mentioned that the Southwest Nebraska Community Theatre Association play set an all-time attendance record throughout the six days of performances and thanked the community for their support.

▪ **Adjournment.**

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:50 P.M.

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Michael D. Gonzales, Mayor

ATTEST:

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Lori D. Schmidt, Deputy City Clerk