

MCCOOK CITY COUNCIL

REGULAR MEETING

**Monday, May 4, 2020
5:30 PM - City Council Chambers**

[Stream Meeting Here](#)

Call to Order and Roll Call.

Statement from Mayor and Open Meetings Act Announcement.

Rationale:

INTRODUCTION TO ZOOM TELECONFERENCE MEETING FORMAT

We welcome your attendance via audio/teleconference means and ask that you please mute your microphones so as not to disrupt the meeting progression. Public comment may also be provided by calling 308-345-2022, extension 224.

OPEN MEETINGS ACT ANNOUNCEMENT

In accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for public review on the City of McCook's website.
Items.

1. Citizen's Comments.

Rationale:

2. **The Council welcomes your input. You may address the Council at this time on items that are not on tonight's agenda. According to Nebraska Open Meeting Laws no action may be taken by Council.*
3. *At the appropriate time during the meeting, citizens wishing to comment on tonight's Agenda items will be given an opportunity.*
4. Announcements & Recognitions.

5. Proclamations.

A. Approve and authorize the Mayor to sign a proclamation declaring the week of May 3 - 9, 2020 as "Drinking Water Week".

B. Proclaim May 15 "Police Officers Memorial Day" and the week of May 10 - 16, 2020 as "National Police Week" and authorize the Mayor to sign said

proclamation.

6. Consent Agenda.

Rationale:

7. **The Consent Agenda is approved on one motion. Any item listed on the Consent Agenda may, by the request of any single Council member of public in attendance, be considered as a separate item under the Regular Agenda.*

- A. Approve the minutes of the April 20, 2020 regular City Council meeting and the April 30, 2020 special City Council meeting.

- 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 May 30, 2020 from 12:00 P.M. to 1:00 A.M.

- C. Authorize Great Plains Communications to occupy city right of way to install fiber optic cable on West "C" and West 9th Streets, suppling service to the Stagemeyer Complex and the YMCA, replacing permit approved on March 2, 2020.

- D. Authorize the City Attorney for the City of McCook to commence litigation against William T. Baker and Marie Baker, owners of a nuisance property located at 406 East 1st Street, enjoining the maintenance of the nuisance property, ordering the owners to abate the nuisance, and in the absence of action by the owners permitting the City of McCook to abate the nuisance or demolish the structure.

- E. Receive and file Change Order Number 1 for the McCook Public Library HVAC Project in the amount of \$3,612 and authorize the Mayor to sign.

- F. Approve the Land Lease with Chris Wagner for use of his property for practice fields and authorize the Mayor to sign.

8. Regular Agenda.

- A. Receive and file discussion regarding COVID-19 updates.

- B. Authorize City Staff to close the McCook Public Pool for the 2020 Summer.

- C. Approve on its third and final reading Ordinance No. 2020-3005 amending Chapter 31: City of McCook Policies, of the City of McCook Code of Ordinances, Section 31.56 - Sale or Conveyance of Property.
 - 1. Chairperson asks Clerk to read Ordinance by title.

 - 2. Consider approval of Ordinance No. 2020-3005 upon its third and final reading.

3. Chairperson declaration after vote and passage, if approved.

1. Ordinance No. 2020-3005 is declared lawfully passed and adopted upon publication as required by law.

D. Approve on its third and final reading Ordinance No. 2020-3006 amending Chapter 30: Government Officials, of the City of McCook Code of Ordinances, Section 30.002 - Bonds Required and Section 30.040 - City Clerk.

1. Chairperson asks Clerk to read Ordinance by title.

2. Consider approval of Ordinance No. 2020-3006 upon its third and final reading.

3. Chairperson declaration after vote and passage, if approved.

1. Ordinance No. 2020-3006 is declared lawfully passed and adopted upon publication as required by law.

E. Council Comments.

Adjournment.

CITY MANAGER'S REPORT
MAY 04, 2020 CITY COUNCIL MEETING

ITEM: **3.A.**

RECOMMENDATION:

APPROVE AND AUTHORIZE THE MAYOR TO SIGN A PROCLAMATION DECLARING THE WEEK OF MAY 3TH THROUGH MAY 9TH 2020 AS DRINKING WATER WEEK.

BACKGROUND:

For more than 40 years Americans have celebrated Drinking Water Week, a unique opportunity for both water professionals and the community to join together in recognizing the vital role water plays in our daily lives.

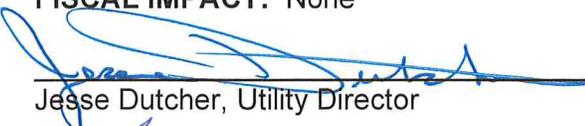
Each day water touches all aspects of our lives. We refer to the water that is pumped from the ground, treated in our water plant and pumped to our storage tanks and though the 50 some miles of water mains to our homes and business as "Drinking Water", and it is and much more. It also washes our clothes, our dishes, kids, pets and cars. We cook with it. We soak in it. We play in it. Use it to manufacture our tools, our food, our medicines and even our toys. We use our precious water to irrigate our lawn and gardens.

Bottom line, water drives our economy, helps protect our health, our homes from fire, and even provides us with recreation. It's **there when you need it!** As we recognize how important water is to our way of life we also need to stop and think just how much or lives would change without a safe supply of water to our beloved city.

As the world's population continues to grow the demands placed on water becomes more and more severe. Irrigation, manufacturing and day-to-day human requirements for water is causing the world's fresh water supply to disappear at alarming rates. While nearly 70 percent of our planet is covered by water, only 2.5 percent of it is fresh; the rest is saline and ocean-based. Even then, just **1 percent** of our freshwater is easily accessible. Every time we turn on that lawn sprinkler or wash the car we need to remember, what we waste by over watering our lawns or allowing water to run down the gutter is water that is gone to us forever.

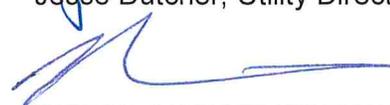
We are fortunate to have a group of men and women that work tirelessly every day to provide safe water for us to use. But every day the supply they have to work with gets smaller and smaller. Water conservation is no longer a feel good idea, it is a necessity. As we use more and more water it becomes harder to find safe sources of water. This along with the growing costs to removing pollutants from source water makes supplying water to the public a growing challenge for the water industry. It is everyone's responsibility to protect our most precious natural resource. We want our water supply to be **there when you need it.**

FISCAL IMPACT: None



Jesse Dutcher, Utility Director

Date: 4-28-2020



Nate Schneider, City Manager

Date: 4-28-2020

*Office of the Mayor
McCook, Nebraska*

Proclamation

“DRINKING WATER WEEK”

WHEREAS, water is our most valuable natural resource; and

WHEREAS, only tap water delivers public health protection, fire protection, support for our economy and the quality of life we enjoy; and

WHEREAS, any measure of a successful society - low mortality rates, economic growth and diversity, productivity, and public safety - are in some way related to access to safe water; and

WHEREAS, we are all stewards of the water infrastructure upon which future generations depend; and

WHEREAS, each citizen of our community is called upon to help protect our source waters from pollution, to practice water conservation, and to get involved in local water issues by getting to know their water;

NOW, THEREFORE, I, Michael D. Gonzales, Mayor of the City of McCook, Nebraska, do hereby proclaim May 3 - 9, 2020 as “Drinking Water Week” in the City of McCook.

Dated this 4th day of May, 2020.

*In witness whereof I have hereunto set by
hand and caused this seal to be affixed.*

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk

CITY MANAGERS REPORT
MAY 4, 2020 CITY COUNCIL MEETING

ITEM: 3.B.

RECOMMENDATION:

PROCLAIM MAY 15 POLICE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 10-16, 2020 AS NATIONAL POLICE WEEK AND AUTHORIZE THE MAYOR TO SIGN THE PROCLAMATION

BACKGROUND:

In October, 1962 Congress passed H. J. Resolution 730 designating the May 15 of each year as Peace Officers Memorial Day and the week during which May 15 occurs of each year as National Police Week. The Public Safety McCook Police Officers perform vital and exemplary service for our citizens 24 hours per day 365 days per year, often under stressful and difficult circumstances. It is fitting to recognize their service by proclaiming May 15 of each year as Peace Officers Memorial Day and the week May 10-16 2020 as National Police Week.

FISCAL IMPACT:

NONE.

RECOMMENDATION:

PROCLAIM MAY 15 POLICE OFFICERS MEMORIAL DAY AND THE WEEK OF MAY 10-16, 2020 AS NATIONAL POLICE WEEK AND AUTHORIZE THE MAYOR TO SIGN THE PROCLAMATION

APPROVALS:


Isaac S. Brown, Chief of Police

4-16-2020
Date


Nate Schneider, City Manager

4-16-2020
Date

*Office of the Mayor
McCook, Nebraska*

Proclamation

- Whereas, The Congress and President of the United States have designated May 15, as Peace Officers Memorial Day, and the week in which it falls as Police Week; and
- Whereas, the members of the McCook Police Department play an essential role in safeguarding the rights and freedoms of the citizens of McCook; and
- Whereas, it is important that all citizens know and understand the problems, duties and responsibilities of their local law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and
- Whereas, the police department of the City of McCook has grown to be a modern and scientific law enforcement agency which unceasingly provides a vital public service;

NOW, THEREFORE, I, Michael D. Gonzales, Mayor of the City of McCook, Nebraska, call upon all citizens of McCook and upon all patriotic, civic and educational organizations to observe the week of May 10 through 16, 2020, as "POLICE WEEK" with appropriate ceremonies and observances in which all our people may join in commemorating police officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of McCook to observe May 15, 2020 as "PEACE OFFICERS' MEMORIAL DAY" in honor of those law enforcement officers who, through their courageous deeds, have lost their lives or have become disabled in the performance of duty.

Dated this 4th day of May, 2020.

*In witness whereof I have hereunto set by
hand and caused this seal to be affixed.*

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: **4.A.**

Approve the minutes of the April 20, 2020 regular City Council meeting and the April 30, 2020 special City Council meeting.

BACKGROUND:

Receive and approve the minutes.

**FISCAL
IMPACT:** None.

APPROVALS:



Lea Ann Doak, City Clerk

April 29, 2020

McCook City Council
April 20, 2020
5:30 PM Central

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

Present: Mayor Gonzales, Councilmember Calvin.

Present via audio/conference means: Councilmembers Hepp, Weedon, Muehlenkamp.

Absent: None.

City Officials present: City Manager Schneider, City Clerk Doak, Deputy City Clerk Burkey, Police Chief Brown.

City Officials and members of the public present via audio/teleconference means: City Attorney Mustion, Utilities Director Dutcher, Fire Chief Harpham, Public Works Director Potthoff, McCook Economic Development Corporation Executive Director Andy Long, McCook Chamber of Commerce President/CEO Dawson Brunswick, and Nick Nothnagel.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 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 via audio/teleconference means.

Mayor Gonzales reminded those attending via public audio/teleconference means to mute your microphones so as not to disrupt the meeting progression. If you wish to public comment and or have questions during the scheduled public hearing regarding N-Stant Convenience Redevelopment Plan, you will be asked to provide your name and address at that time. Members of the public may also provide comment for the hearing by calling 308-345-2022, extension 224.

Mayor Gonzales announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for public review on the City of McCook's website and called the meeting to order.

1. Citizen's Comments.

There were no comments from the public.

2. Announcements & Recognitions.

City Manager Schneider gave a COVID-19 update and informed the Council that the City had received an Affordable Care Act grant for the Firefighters/Paramedics to be used for Personal Protective Equipment.

Police Chief Brown announced that after 39 years of service with the City he will be retiring on August 31 of this year.

3. Public Hearings.

3.A. Public Hearing - Regarding the Redevelopment Plan for the N-Stant Convenience 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 with respect to the proposed Redevelopment Plan for the N-Stant Convenience 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 Weedon, passed.

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

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the April 20, 2020 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Redevelopment Plan for the N-Stant Convenience Redevelopment Project (14 pages); Exhibit #4 - copies of notice of public hearing mailed by certified mail to the required taxing jurisdictions (5 pages); and Exhibit #5 - minutes of the April 13, 2020 Planning Commission meeting (4 pages).

City Manager Schneider reviewed the following information contained in Exhibit #1: "A Tax Increment Financing (TIF) application has been filed by Smoker's Outlet d/b/a N-Stant Convenience. Pursuant to Nebraska's Community Redevelopment Law, for every TIF application the City of McCook receives, public hearings must be held by the Planning Commission and City Council. On April 13, 2020, the McCook Planning Commission held a public hearing with regard to N-Stant Convenience's request. The Planning Commission voted unanimously to recommend approval of the application and passed a Resolution as such."

"In January of 2020, Redevelopment Area #4 was approved, declaring an area located near the intersection of Highways 83 and 6/34 as blighted and substandard. Smoker's Outlet, Inc., d/b/a N-Stant Convenience submitted a TIF application after the blight designation was made. City Staff and TIF legal council have had an opportunity to review the application. A Redevelopment Plan was developed based upon the representations in the application, as is required by the Community Redevelopment Law."

“The Redevelopment Plan states that the Redeveloper currently owns a convenience store directly to the northeast of the Highway 83 and 6/34 intersection. To the west of the convenience store, the Redeveloper owns vacant land. The Redeveloper is proposing to expand its business to offer fuel sales on the vacant land. In particular, the project would consist of the construction and development of a fuel station site that will contain 8-fuel pumps, or a 4-island double-sided fuel canopy on the vacant lot (ie. Project Site). The Redeveloper is requesting the CDA to consider issuing a TIF note in order to assist with the project's eligible TIF expenses. The Redeveloper asserts that but for the approval of TIF assistance, the project will not occur.”

“According to the Redevelopment Plan, the project contains a number of eligible costs that would qualify for TIF consideration. The eligible costs include: 1) land acquisition (\$125,000); 2) site preparation/stabilization which requires retaining wall improvements (\$75,000); 3) sewer line relocation (\$25,000); 4) CDA required administrative fee (\$6,000), and 5) cost of issuance (\$6,000). In total, the Redeveloper has \$237,000 of total estimated TIF uses. A cost-benefit analysis was conducted as part of the Redevelopment Plan to determine the amount that could be financed with the proceeds of the TIF generated by the improvements to the Project Site. Based on the analysis, it is anticipated that a TIF note in the amount of \$196,500 can be issued. The eligible uses exceed the amount of the anticipated note, assuring there will be enough costs to justify the issuance amount.”

“On examination of the cost-benefit analysis, the current project valuation is \$125,000. It is estimated the completed project will be assessed at \$1,107,724, generating a projected tax increment base of \$982,724. At the estimated tax levy of 1.9115555, the annual projected tax shift is \$18,785. This tax shift amount would be available to the Redeveloper to pay TIF related indebtedness that would be memorialized by a Redevelopment Agreement. The exact terms of a TIF backed note would be for a principal amount of \$196,500 with interest at 5% over a term of 15 years. The Redeveloper estimates that the total project costs will be \$1,110,000. This means that for every \$1 dollar of TIF assistance, the Redeveloper will privately spend \$5.64.”

“As for any TIF project, the Redeveloper must show that the requirements of Nebraska's Community Redevelopment Law are met. The proposed Redevelopment Plan demonstrates the proposed project's compliance with State law. First, the project will not negatively affect population density in the project area. Second, the project will meet the applicable land-coverage ratios and zoning requirements. Third, there will be no adverse impacts with respect to traffic flow. Fourth, there are no parking concerns related to the project. Finally, the land is zoned appropriately for the intended use.”

“With respect to the City's Comprehensive Plan, the proposed Redevelopment Plan meets the City's stated goals. The Redevelopment Plan encourages local reinvestment in McCook by both the public and private sectors. It provides needed amenities to support future growth of commercial, industrial, and residential areas. Finally, the Plan utilizes available public programs of financing to fund development.”

Nic Nothnagel, Developer, addressed questions from the Council. He noted that this parcel, which was included in the highway right-of-way, was not available to the public before 2015. He thanked

Kurt Vosburg, Nebraska Department of Roads- District 7 Engineer, for getting the Electronic Bidding process started on this parcel. Without his input, the parcel would have never been available. He also thanked MEDC staff and City staff for their assistance in completing this process.

Andy Long, McCook Economic Development Corporation, and Dawson Brunswick, McCook Chamber of Commerce, spoke in support of the project.

Councilmember Calvin inquired about the sewer line relocation, if approval was received from the State for additional traffic in the area; and noted he had received an inquiry from a citizen asking if they would be able to serve commercial trucks.

Mr. Nothnagel stated that there would not be an increase in traffic because no additional curb cuts were requested and that they would not be able to serve semi-trucks.

Motion to adjourn the public hearing and to reconvene as a City Council. This motion, made by Calvin and seconded by Weedon, passed.

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

3.B. Meeting of the Community Development Agency.

Motion to recess as a City Council and to convene as the McCook Community Development Agency for consideration of CDA Agenda at 6:08 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

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 6:08 o'clock P.M. on April 20, 2020, at the McCook Municipal Center in McCook, Nebraska. Agency Members present were: Gonzales, Calvin. Agency Members present via audio/teleconference means: Hepp, Weedon, Muehlenkamp. 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. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and all members of the Council. Mayor Gonzales 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 via audio/teleconference means.

The Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for public review on the City of McCook's website..

3.B.3. Adopt Resolution No. CDA 2020-03 approving an amendment to the Redevelopment Plan for the City of McCook, to the City Council, and adopting a Cost Benefit Analysis for the

N- Stant Convenience Redevelopment Project.

Motion to adopt Resolution No. CDA 2020-03 approving an amendment to the Redevelopment Plan for the City of McCook, to the City Council, and adopting a Cost Benefit Analysis for the N-Stant Convenience Redevelopment Project. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

City Manager Schneider reviewed the proposed contract and the developer, Nic Nothnagel, was available to address any questions from the Council.

3.B.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 Weedon, passed.

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

3.C. Adopt Resolution No. 2020-07 approving an amendment of the Redevelopment Plan of the City of McCook, Nebraska, including the N-Stant Convenience Redevelopment Project.

Motion to adopt Resolution No. 2020-07 approving an amendment of the Redevelopment Plan of the City of McCook, Nebraska, including the N-Stant Convenience Redevelopment Project. This motion, made by Calvin and seconded by Gonzales, passed.

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

3.C.1. Recess as a City Council.

Motion to recess as a City Council and to convene as the McCook Community Development Agency for consideration of CDA agenda item. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

3.D. Approve Resolution No. CDA 2020-04 authorizing and approving a Redevelopment Agreement including the use of Tax Increment Financing for the N-Stant Convenience Redevelopment Project, and taking other actions required or permitted under the Community Development Law.

Motion to approve Resolution No. CDA 2020-04 authorizing and approving a Redevelopment Agreement including the use of Tax Increment Financing for the N-Stant Convenience Redevelopment Project, and taking other actions required or permitted under the Community Development Law. This motion, made by Calvin and seconded by Muehlenkamp, passed.

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

3.D.1. Adjourn the McCook Community Development Agency.

Motion to adjourn the meeting of the McCook Community Development Agency at 6:21 P.M. and to reconvene as the McCook City Council. This motion, made by Calvin and seconded by Hepp, passed.

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

3.E. Adopt Resolution No. 2020-08 approving the form of the Redevelopment Agreement for the N-Stant Convenience Redevelopment Project and authorizing the Community Development Agency to enter into said agreement.

Motion to adopt Resolution No. 2020-08 approving the form of the Redevelopment Agreement for the N-Stant Convenience Redevelopment Project and authorizing the Community Development Agency to enter into said agreement. This motion, made by Calvin and seconded by Hepp, passed.

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

4. Consent Agenda.

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

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

4.A. Approve the minutes of the April 6, 2020 regular City Council meeting.

4.B. Receive and file the City of McCook - Tax Increment Financing Annual Report - dated April 2020.

4.C. Receive and file the Financial Report for the period ending March 31, 2020.

4.D. Receive and reject all bids for the construction of a new garage at Memorial Park Cemetery.

4.E. Adopt Resolution No. 2020-09 granting a Waiver of Payment in Lieu of Taxes to the McCook Housing Agency.

4.F. Approve an addendum to the existing rental lease between the City of McCook and the Southwest Nebraska Community Theater Association for a portion of the southwest basement of the City Auditorium.

4.G. Approve a lease between the City of McCook and the Southwest Nebraska Community

Theater Association to allow for the occupation and use of the southeast portion of the City Auditorium.

- 4.H. Approve the agreement between the City of McCook and Red Willow County for provision of Dispatch Services to Red Willow County Sheriff's Department and authorize the Mayor to sign the agreement.
- 4.I. Receive and file the minutes of the April 13, 2020 Planning Commission meeting.
- 4.J. Receive and file the claims for the month of March 2020 as published April 10, 2020.

5. Regular Agenda.

- 5.A. Approve Resolution No. 2020-10 authorizing city staff to temporarily suspend utility disconnections and to waive utility administrative handling charges and required utility deposits due to the economic hardships caused by the federal, state, and local Covid-19 health emergency.

City Manager Schneider noted that the authorization to waive disconnects, the administrative handling fee, and deposit will expire on June 30, 2020.

Motion to approve Resolution No. 2020-10 authorizing city staff to temporarily suspend utility disconnections and to waive utility administrative handling charges and required utility deposits due to the economic hardships caused by the federal, state, and local Covid-19 health emergency. This motion, made by Calvin and seconded by Gonzales, passed.

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

- 5.B. Approve on its second reading Ordinance No. 2020-3005 amending Chapter 31: City of McCook Policies, of the City of McCook Code of Ordinances, Section 31.56 - Sale or Conveyance of Property.

Mayor Gonzales asked the Clerk to read Ordinance No. 2020-3005 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 31: CITY POLICIES, OF THE CITY OF MCCOOK CODE OF ORDINANCES; SECTION 31.56 - SALE OR CONVEYANCE OF PROPERTY; TO UPDATE LANGUAGE REGARDING REMONSTRANCE AND PETITION; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

Ordinance No. 2020-3005 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Hepp, passed.

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

- 5.C. Approve on its second reading Ordinance No. 2020-3006 amending Chapter 30: Government Officials, of the City of McCook Code of Ordinances, Section 30.002 - Bonds Required and Section 30.040 - City Clerk.

Mayor Gonzales asked the Clerk to read Ordinance No. 2020-3006 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 30: GOVERNMENT OFFICIALS, OF THE CITY OF MCCOOK CODE OF ORDINANCES; SECTION 30.002 - BONDS REQUIRED; RELATING TO OFFICIAL BONDS AND OATHS; TO CHANGE PROVISIONS RELATING TO FILING REQUIREMENTS; SECTION 30.040 - CITY CLERK; TO CLARIFY CLERK IS UNDER THE DIRECTION OF THE CITY MANAGER; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

Ordinance No. 2020-3006 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Weedon, passed.

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

5.D. Council Comments.

Council comments included thanking staff for all they have done to make the audio conferencing meetings happen; proud to be part of a community that helps each other out; encouraged all to stay home, stay safe, keep social distancing, shop alone, help kids, exercise daily, and help your neighbors; and sending thanks to all of our hero's.

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 6:49 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer

McCook City Council
April 30, 2020
Special Meeting
12:00 PM Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, special/audio conferencing, and public session at 12:00 o'clock P.M.

Present: Mayor Gonzales, Councilmembers Hepp, Weedin.

Present via audio/conference means: Councilmember Muehlenkamp, City Attorney Mustion.

Absent: Councilmember Calvin.

City Officials present: City Manager Schneider, City Clerk Doak, Deputy City Clerk Burkey.

Members of the public present via audio/conference means: Mark Kool, Frank Bonini.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on April 28, 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 reminded those attending via public audio/teleconference means, to please mute their microphones so as not to disrupt the meeting progression.

Mayor Gonzales announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for public review on the City of McCook's website and by the entrance to the Council Chambers.

1. Regular Agenda.

- 1.A. Approve the requests from Janssen Kool Honda to close West 8th Street between West "B" Street and West "C" Street, on Friday, May 1, 2020, from 5:30 P.M. to 9:00 P.M., for a concert to be held in their south parking lot.

City Manager Schneider stated that four attendants will be available to help with the parking, contact has been made with the three area businesses and none have any issues, and KICX Radio will be broadcasting the concert.

Mark Kool addressed questions regarding what will be done to address COVID-19 concerns and how

the cars will enter and exit.

Motion to approve the requests from Janssen Kool Honda to close West 8th Street, between West "B" Street and West "C" Street, on Friday, May 1, 2020, from 5:30 P.M. to 9:00 P.M., for a concert to be held on their south parking lot. This motion, made by Hepp and seconded by Weedin, passed. Gonzales: YEA, Hepp: YEA, Calvin: ABSENT, Weedin: YEA, Muehlenkamp: YEA
YEA: 4, NAY: 0, ABSENT: 1

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 12:13 P.M.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: 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 May 30, 2020 from 12:00 P.M. to 1:00 A.M.

BACKGROUND:

JBN will be catering this event. They are making application to allow them to serve alcohol at this temporary location. Approval of the City Council is required with all applications. Approval of this request is also approving consumption of alcohol in the auditorium. Because of COVID-19, the wedding party does not feel that it will work out, but are hoping for the best and request that the application be considered.

**FISCAL
IMPACT:** None.

APPROVALS:

Lea Ann Doak, City Clerk

April 29, 2020



Nathan A. Schneider, City Manager

April 29, 2020

**Special Designated License
Local Recommendation (Form 200)**
Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

JBN INC DBA HI TIMES LIQUOR MART 1

Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

502 EAST B STREET, MCCOOK, NE. 69001

Retail Liquor License Address or Non-Profit Business Address

DK 100025

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only

Event Date(s):

5-30-20

Event Start Time(s):

12:00PM

Event End Time(s):

1:00AM

Alternate Date: NONE

Alternate Location Building & Address: NONE

Event Building Name: MCCOOK CITY AUDITORIUM

Event Street Address/City: 302 WEST 5 TH STREET

Indoor area to be licensed in length & width: 150 X 100

Outdoor area to be licensed in length & width: ___ X ___ (Diagram Form #109 must be attached)

Type of Event: WEDDING RECEPTION Estimate # of attendees: 400

Type of alcohol to be served: Beer Wine Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: LINDA SCHIFLEBEIN Event Contact Phone Number: 308-344-9170

Event Contact Email: johnnothnagel@yahoo.com

*Signature Authorized Representative:  Printed Name John Nothnagel

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license

*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of MCCOOK OR County of RED WILLOW approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature

Date

OUTDOOR AREA DIAGRAM

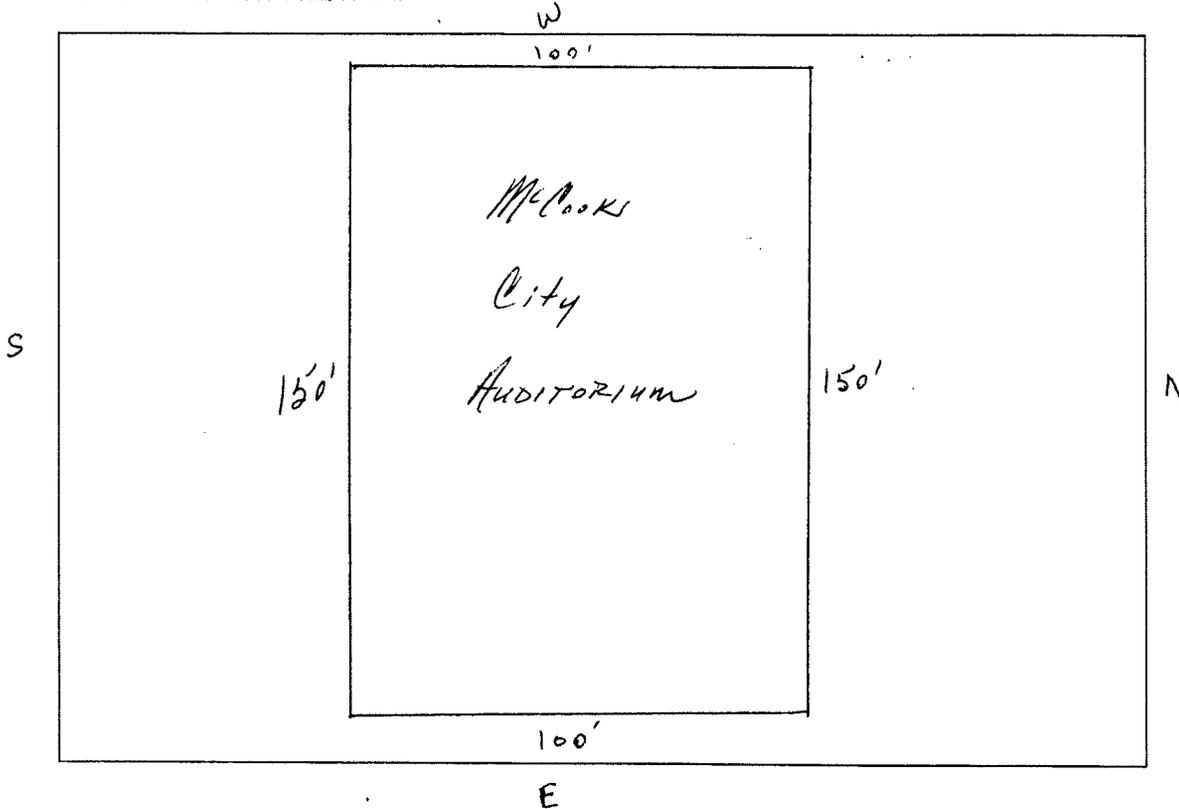
WE WILL HAVE CERTIFIED ALCOHOL

SERVERS AT EVENT ALONG WITH

HOW AREA WILL BE PATROLLED SOME ONE WATCHING THE DOORS

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:



CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING

ITEM: 4.C.

RECOMMENDATION:

AUTHORIZE GREAT PLAINS COMMUNICATIONS TO OCCUPY CITY RIGHT OF WAY TO INSTALL FIBER OPTIC CABLE ON WEST "C" and WEST 9TH STREETS SUPPLING SERVICE TO THE STAGEMEYER COMPLEX AND THE YMCA.

BACKGROUND:

Great Plains Communications (GPC) of Blair, NE is seeking permission to occupy City right-of-way to extend a fiber optic cable that will provide service to the Stagemeyer complex at 801 West "C" and the YMCA.

The route will originate on the south side of West "C" Street at the alley between West 9th and West 10th. Crossing to the north side of West "C" where it turns east to the intersection of West "C" and West 9th, here it turns north on the west side of West 9th. The route will continue north along the west side of West 9th terminating at the YMCA.

A drop will cross from the west side of West 9th to the back of the Stagemeyer building located on the east side of the street.

This application is a replacement for an earlier permit (3-2-2020) that utilized aerial installation on existing poles. The current application changes the installation from overhead to entirely underground.

FISCAL IMPACT:(None) GPC will provide the required \$2,500 performance deposit prior to construction

APPROVALS:



Jesse Dutcher Utilities Dir.

April 28,2020



Kyle Potthoff, Public Works Dir.

April 28,2020



Nate Schneider, City Manager

April 28,2020



P.O. BOX 1059 • 505 WEST C • McCook, NE 69001-1059 • PHONE (308) 345-2022 • FAX (308) 345-1461

APPLICATION TO OCCUPY RIGHT-OF-WAY

APPLICANT NAME: Great Plains Comm DATE: 4-17-2020
ADDRESS: 1009 West B St. PHONE: 402-278-2325
FAX: 308-364-9060 START DATE: May 2020 FINISH DATE: August 2020

A CASH BOND IS REQUIRED FOR ALL RIGHT-OF-WAY ENCROACHMENTS

Type: (circle) Over-Cross Under-Cross <u>Occupy</u> Miscellaneous	With a: (circle) Water Line Sewer Line Gas Line Telephone Line <u>(Underground)</u> Aerial	<u>Fiber</u> Tree Trimming/Removal Grading Other Electric Line (Underground Aerial)
---	---	--

Location: Beginning 200 feet (East) West North South) of Intersection West 10th & C
and ending (East West (North) South) 150 feet of Intersection
West 9th & C St.

Requirements: The applicant agrees to complete this work in accordance with the terms and conditions of the City of McCook. Any permit issued will be cancelled if the work specified is not completed within the term listed on the permit or within any additional length of time granted. Request for an extension of time to complete the work must be made in writing. Any extension granted will be acknowledged in writing by the City of McCook. The Applicant may cancel the permit with written notification at any time prior to beginning work on right-of-way.

Performance Guarantee: (Make Payable to City of McCook)

Amount: \$ _____ Check No. _____ Or FID No. _____

This guarantee is for the faithful compliance by the Applicant to the terms of the permit. It is understood that should the Applicant fail to perform the work as set forth in the permit, the City of McCook will have the right to keep the performance guarantee as liquidated damages for its necessary supervisory and inspection expenses and to initiate such legal proceedings as are necessary to secure either performance of the work in compliance with the terms of the permit or the restoration of the right-of-way to its previous condition prior to the activities of the Applicant.

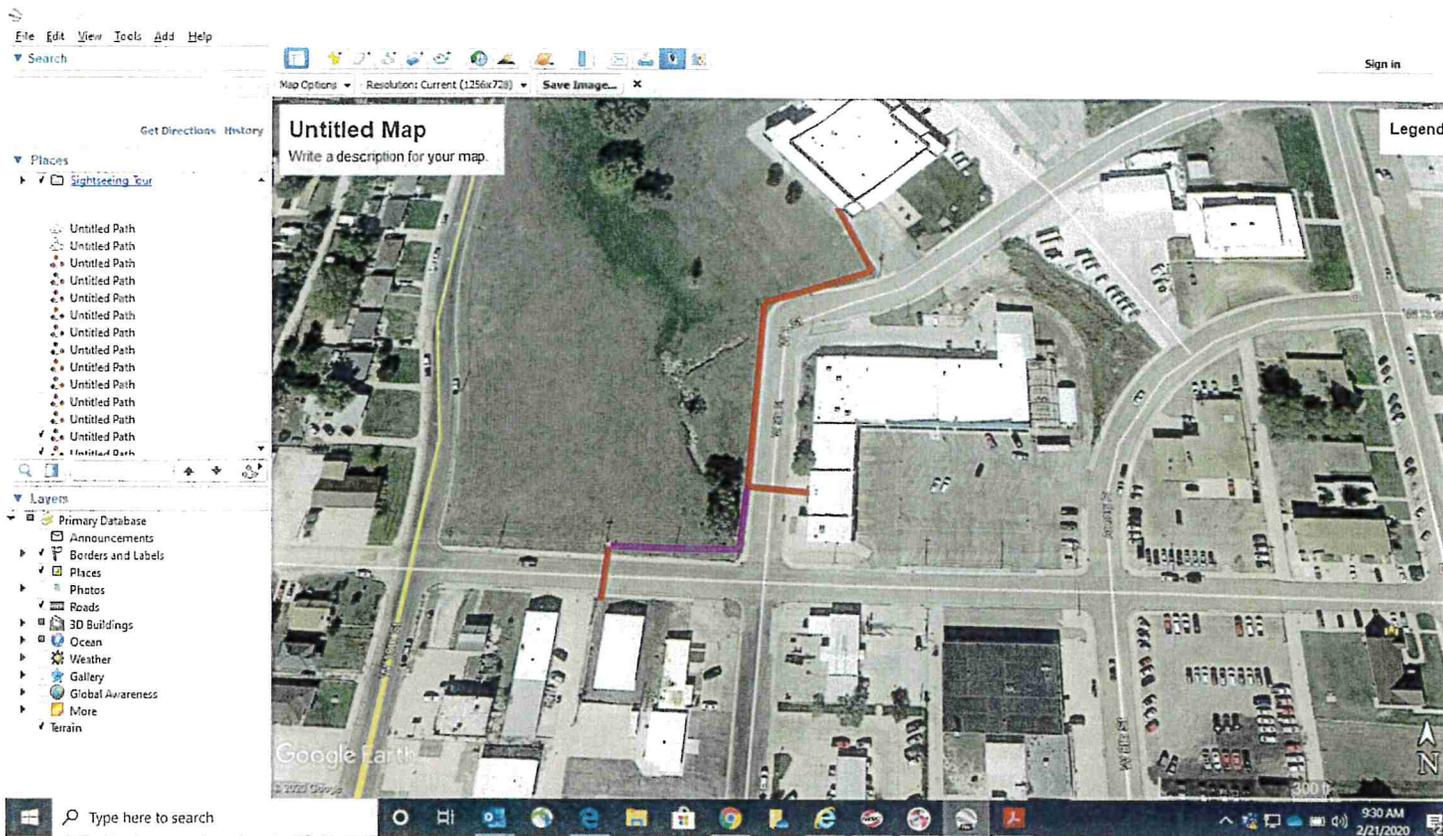
NOTE: Please provide a location plan for over-cross or under-cross of location to occupy City of McCook right-of-way. When your project requires engineering plans, please submit four sets of plans, no larger than 18"x24". The engineering plans shall show the general features of the work to be completed and all information such as sizes, distances, dimensions, sleeves, cuts and fills, erosion control measures, etc., when applicable. City of McCook Municipal Code §94.34.

Bruce [Signature]
Applicant's Signature

Recommended By _____

Date _____

Director of Public Works Approval _____



CITY MANAGER'S REPORT
MAY 4, 2020 MCCOOK CITY COUNCIL MEETING

ITEM **4.D.** Authorize the City Attorney for the City of McCook to commence litigation against William T. Baker and Marie Baker, owners of a nuisance property located at 406 East 1st Street, enjoining the maintenance of the nuisance property, ordering the owners to abate the nuisance, and in the absence of action by the owners permitting the City of McCook to abate the nuisance or demolish the structure.

BACKGROUND:

On August 13, 2019, the City of McCook Health Board held a hearing to determine whether the property located at 406 East 1st Street was a nuisance property in need of abatement per the City of McCook Code of Ordinances. On August 13, the Health Board members physically observed the property. Following the on-site review, a hearing was held. At the hearing, evidence was presented detailing the code violations found at the site. The members of the Health Board unanimously found the property to be a nuisance property in need of abatement. Notice of the determination was sent to the owners and recorded at the Red Willow County Clerk's office. Since August 13, 2019, the owners have failed to abate the nuisance as required, despite the best efforts of the City to get the owners to comply with the City's Code of Ordinances.

Staff is requesting authorization to proceed with litigation against the owners of 406 East 1st Street in order to abate the nuisance.

APPROVALS:



Nathan A. Schneider, City Manager

April 28, 2020



Isaac Brown, Police Chief

April 28, 2020



Lea Ann Doak, City Clerk

April 28, 2020

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: 4.E.

RECOMMENDATION:

RECEIVE AND FILE CHANGE ORDER NUMBER 1 FOR THE MCCOOK PUBLIC LIBRARY HVAC PROJECT IN THE AMOUNT OF \$3,612 AND AUTHORIZE THE MAYOR TO SIGN.

BACKGROUND:

This change order is part of the McCook Public Library HVAC project. McCook Mechanical Services LLC failed to include the Cost of Performance and Payment Bonds in the Original Contract Sum. The Change Order would increase the new Contract Sum to \$124,012. The new Contract Sum is still less than the second place bid by approximately \$5,000.

FISCAL IMPACT:

\$3,612

APPROVALS:



Lea Ann Doak, City Clerk

April 28, 2020



Nate Schneider, City Manager

April 28, 2020



AIA[®]

Document G701™ – 2017

Change Order

PROJECT: *(name and address)*
McCook Public Library - HVAC
802 Norris Ave, McCook, NE

OWNER: *(name and address)*
City of McCook
505 West C Street
McCook, NE 69001

CONTRACT INFORMATION:
Contract For:
Date:

ARCHITECT: *(name and address)*
James N Marshall Eng, LLC
74681 K ROAD
ELM CREEK

CHANGE ORDER INFORMATION:
Change Order Number: 001
Date: April 17, 2020

CONTRACTOR: *(name and address)*
McCook Mechanical Services LLC
217 W B St
McCook, NE 69001

THE CONTRACT IS CHANGED AS FOLLOWS:

(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)

Cost of Performance and Payment Bonds were not included in Original Contract Sum.

The original	Contract Sum	was	\$	<u>120,400</u>
The net change by previously authorized Change Orders			\$	<u>0</u>
The	Contract Sum	prior to this Change Order was	\$	<u>120,400</u>
The	Contract Sum	will be increased by this Change Order in the amount of	\$	<u>3,612</u>
The new	Contract Sum	, including this Change Order, will be	\$	<u>124,012</u>
The Contract Time will be unchanged by (0) days.				
The new date of Substantial Completion will be April 6, 2020				

NOTE: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

James Marshall Engineering LLC
ARCHITECT *(Firm name)*


SIGNATURE

James N. Marshall
PRINTED NAME AND TITLE

April 17, 2020
DATE

McCook Mechanical Services LLC
CONTRACTOR *(Firm name)*

SIGNATURE

PRINTED NAME AND TITLE

DATE

City of McCook
OWNER *(Firm name)*

SIGNATURE

PRINTED NAME AND TITLE

DATE

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: 4.F.

RECOMMENDATION:

APPROVE THE LAND LEASE WITH CHRIS WAGNER FOR USE OF HIS PROPERTY FOR PRACTICE FIELDS AND AUTHORIZE THE MAYOR TO SIGN.

BACKGROUND:

This lease is for property located along North Hwy 83 that is owned by Chris Wagner. This property will be used for practice fields for youth softball and baseball. Backstops will be installed and will be positioned so that there is plenty of buffer from the highway. This is a year to year lease and is not a permanent location for practice fields.

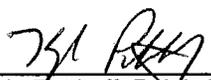
In lieu of rent to Mr. Wagner, the City has agreed to maintain the leased property including mowing and trash pickup.

**FISCAL
IMPACT:** None.

RECOMMENDATION:

APPROVE THE LAND LEASE WITH CHRIS WAGNER FOR USE OF HIS PROPERTY FOR PRACTICE FIELDS AND AUTHORIZE THE MAYOR TO SIGN

APPROVALS:



Kyle Potthoff, Public Works Director

APRIL 30, 2020



Nate Schneider, City Manager

APRIL 30, 2020

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into this 1ST day of May, 2020, by and between W.A.G.S. Properties LLC, C/O Chris Wagner hereinafter referred to as "Owner", and the City of McCook, Nebraska, a Municipal Corporation, hereinafter referred to as "Tenant".

In consideration of the mutual covenants herein, the parties agree as follows:

1. Description of Property

1.1 Owner hereby leases to Tenant and Tenant leases from Owner the following described real property:

THE EAST 200' OF 0 3 29 FOUR CORNERS ADDITION MCCOOK
PT BLK 1 See attached Exhibit A

2. Term of the Lease

2.1 This lease shall commence March 1, 2020, and shall continue for a term of 1 year unless terminated by the Owner or Tenant upon giving 6 months written notice. This lease may be renewed for additional years if agreed upon, in writing, by both parties.

3. Use of Land

3.1 The above-described premises are leased to the Tenant for the purposes of providing practice fields for the McCook Midget League baseball participants and other teams as authorized by the Tenant, with McCook Midget League authorized to do the scheduling.

3.2 Tenant shall have the right to complete such grading, seeding, sodding, chemical application, erection and placement of removable structures, included but not limited to backstops, fencing, storage facilities, and other alterations consistent with

the intended use of the premises as determined by the Tenant. Tenant shall be responsible for mowing and maintaining property, including trash pickup.

Tenant agrees that said structures and alterations shall be removed and the land restored to a condition reasonably similar to when lease began, within ninety days following termination of the lease.

4. Lease Payment

4.1 In Lieu of payment, the Tenant shall maintain said property including mowing and trash pickup.

5. Possession

5.1 It is understood and agreed by the parties that possession of the property shall be given to the Tenant on the date this lease commences.

6. Right of Entry

6.1 The Owner hereby grants to Tenant and its assigns the right of entry to the subject property in a manner suitable to the Owner and Tenant and for the Tenant's uses as set forth herein. The Tenant and McCook Midget League baseball will prevent any participants or spectators from utilizing said property for driving or parking purposes.

The legal description for access to the subject tract is reflected on the attached Exhibit A.

7. Obligations of Owner

7.1 Owner shall not interfere with the Tenant's use of the property for the purposes set forth in this lease agreement.

8. Transfer of Property

8.1 If Owner should sell or otherwise transfer title to the property, Owner will do so subject to the provisions of this lease.

9. Indemnification

9.1 Tenant shall indemnify Owner against any loss or liability arising by reason of Tenant's use of the premises or any part thereof during the lease term, provided that no such indemnification shall be required with respect to losses or liabilities arising by reason of the affirmative negligence of the Owner, their successors or assigns.

10. Insurance

10.1 Tenant shall provide Premises Liability and Existence Hazard Insurance during the term of this lease agreement in the amount of \$1,000,000.00 with a \$4,000,000.00 umbrella coverage.

11. Failure to Insist

11.1 The failure or delay of the Owner or Tenant to exercise any of their respective rights or privileges under the rental provision of the lease, or any other terms of this agreement, shall not be held a waiver of any of the terms, covenants, or conditions of said lease agreement, nor of any of the respective rights or privileges of either party under the same.

12. Personal Property

12.1 All personal property kept, stored, or maintained on the subject premises shall be at the risk of the Tenant.

13. Taxes and Mortgage Payments

13.1 The Owner shall be responsible for payment of all taxes and mortgage payments concerning the lease property.

14. Notices

14.1 Any notices envisioned by this agreement or required or permitted hereby shall be in writing and sent by certified mail, return receipt requested, to the parties as follows:

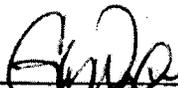
Owner: Chris Wagner
1411 East 5th Street
McCook, NE 69001

Tenant: City of McCook, Nebraska
City Manager
Auditorium
P.O. Box 1059
McCook, NE 69001

17. Miscellaneous

17.1 This agreement constitutes the entire agreement between the Owner and the Tenant with respect to the subject matter hereof; there are no covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, either oral or written, between them concerning the property other than those expressly set forth in this agreement. No amendment of or supplement to this agreement shall be binding upon the Owner or Tenant unless in writing and signed by both Owner and Tenant.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement the day and year first above written.



Chris Wagner, Owner

CITY OF McCOOK, NEBRASKA,
A Municipal Corporation, Tenant

Michael Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk

EXHIBIT A



PROPERTY MAP



NORTH

SCALE: 1" = 100'-0"

W DESIGN ASSOCIATES
214 E. 157 ST. MALDEN, ME 02901 | 208-345-2370 | ENGINEERS | ARCHITECTS
2624 W. 2162 ST., HASTINGS, ME 04901 | 402-853-2377 | WWW.WDESIGNME.COM

CITY MANAGER'S REPORT
MAY 4, 2020 MCCOOK CITY COUNCIL MEETING

ITEM **5.A.** Receive and file a discussion regarding COVID-19 updates.

BACKGROUND:

This agenda item has been included to discuss COVID-19. Staff would like to discuss the City's response to COVID-19 and its impact on our community. This agenda item is intended to prompt a broad discussion. Staff has invited the Southwest Nebraska Public Health Department to participate in the discussion if there is a representative available on Monday evening. Staff would like to add a COVID-19 related discussion item to each of the next few meetings. There is no action item associated with this discussion.

APPROVALS:



Nathan A. Schneider, City Manager

April 28, 2020



Lea Ann Doak, City Clerk

April 28, 2020

**CITY MANAGER'S REPORT
MAY 20, 2020 MCCOOK CITY COUNCIL MEETING**

ITEM NO. 5.B. Authorize City Staff to close the McCook Public Pool for the 2020 Summer.

BACKGROUND:

During a weekly phone conference with Governor Ricketts in early April, Governor Ricketts stated July 15th was considered the earliest date public pools should open. Governor Ricketts reiterated during the phone conference that the 6 foot social distancing requirement and 10 person rule would need to be observed by public pools. Taken as a whole, these directives make it difficult to open the pool and comply with the social mandates.

The question becomes, should the City of McCook open the public pool on July 15th? In a typical year, advertisements for life guards and basket helpers would have already ran and the positions would have been filled by now. With the uncertainty associated with public pool openings, City Staff has not hired pool employees for the Summer of 2020. Staff is concerned that potential pool employees will find different summer jobs that would make it difficult to staff the pool after July 15th. Additionally, a significant majority of our lifeguards and basket helpers are college or high school students. Typically, the pool employees have obligations that start at the beginning of August that would limit our ability to effectively operate and staff the pool for longer than a few weeks.

Based on the information we have at this time, City Staff believes it would be in the best interest of our citizens' safety and welfare to close the pool for Summer 2020. Staff is asking the City Council for guidance on this matter in the form of an action item.

APPROVALS:



April 28, 2020

Nathan A. Schneider, City Manager



April 28, 2020

Lea Ann Doak, City Clerk



April 28, 2020

Kyle Potthoff, Public Works Director

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: 5.C.

Approve Ordinance No. 2020-3005 on its third and final reading, amending Chapter 31: City of McCook Policies, of the City of McCook Code of Ordinances, Section 31.56 - Sale or Conveyance of Property.

BACKGROUND:

LB 133 made numerous changes to update and modernize the language in Neb. RS Chapter 17 and revised provisions related to sale and conveyance of real property. Staff recommends amending Section 31.56 to harmonize with state law.

**FISCAL
IMPACT:** None.

APPROVALS:



Lea Ann Doak, City Clerk-Treasurer

April 29, 2020



Nathan A. Schneider, City Manager

April 29, 2020

ORDINANCE NO. 2020-3005

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 31: CITY POLICIES, OF THE CITY OF MCCOOK CODE OF ORDINANCES; SECTION 31.56 - SALE OR CONVEYANCE OF PROPERTY; TO UPDATE LANGUAGE REGARDING REMONSTRANCE AND PETITION; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Chapter 31: City of McCook Polices, of the City of McCook Code of Ordinances, Section 31.56 - Sale or Conveyance of Property, shall be amended to read as follows:

§ 31.56 SALE AND CONVEYANCE; REAL PROPERTY.

(A) Except as provided in division (G) of this section, the power of the municipality to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of that property and the manner and terms of such sales, except that the property shall not be sold at public auction or by sealed bid when:

(1) The property is being sold in compliance with the requirements of federal or state grants or programs;

(2) The property is being conveyed to another public agency; or

(3) The property consists of streets and alleys.

(B) The governing body may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms of such sales shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the municipality.

(D) (1) If within 30 days after the third publication of the notice a remonstrance petition against the sale is signed by registered voters of the municipality equal in number to 30% of the registered voters of the municipality voting at the last regular municipality election held therein and is filed with the governing body, that property shall not then, nor within one year thereafter, be sold. If the date for filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

(2) Upon the receipt of the remonstrance, the governing body, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the petition. The governing body shall deliver the petition to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail,

return receipt requested.

(3) Upon receipt of the petition, the Election Commissioner or County Clerk shall issue to the governing body a written receipt that the petition is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the governing body. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and municipality or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and municipality or post office address match the registration records and that the registration was received on or before the date on which the petition was filed with the governing body. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the governing body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the governing body the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the governing body within 40 days after the receipt of the remonstrance from the governing body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than 20 signatures on one signature page shall be counted.

(6) The governing body shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The governing body shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the municipality may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

(F) Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and passing of the 30-day right-of-remonstrance period, the property shall then be sold. The sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (Neb. RS 17-503)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the municipality for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. RS 17-503.01)

SECTION 2. Any other ordinance or code section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

SECTION 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED THIS ____ day of _____, 2020.

Michael D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer
(Mayor/Chairperson)

**CITY MANAGER'S REPORT
MAY 4, 2020 CITY COUNCIL MEETING**

ITEM: 5.D.

Approve Ordinance No. 2020-3006 on its third and final reading, amending Chapter 30: Government Officials, of the City of McCook Code of Ordinances, Section 30.002 - Bonds Required and Section 30.040 - City Clerk.

BACKGROUND:

LB 311 pertained to elected and appointed officials. It made revisions to the time frames in which elected and appointed officials must file bonds or insurance for the faithful performance of duties. The League of Nebraska Municipalities Codification Service review recommended the proposed revisions. Council and appointed officials with remain under the City's Blanket Policy.

Staff recommends amending Section 30.040: City Clerk. The proposed change clarifies that the Clerk is appointed by the Council, but is under the direction of the City Manager.

**FISCAL
IMPACT:** None.

APPROVALS:



Lea Ann Doak, City Clerk-Treasurer

April 29, 2020



Nathan A. Schneider, City Manager

April 29, 2020

ORDINANCE NO. 2020-3006

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 30: GOVERNMENT OFFICIALS, OF THE CITY OF MCCOOK CODE OF ORDINANCES; SECTION 30.002 - BONDS REQUIRED; RELATING TO OFFICIAL BONDS AND OATHS; TO CHANGE PROVISIONS RELATING TO FILING REQUIREMENTS; SECTION 30.040 - CITY CLERK; TO CLARIFY CLERK IS UNDER THE DIRECTION OF THE CITY MANAGER; TO HARMONIZE WITH STATE LAW; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Chapter 30: Government Officials, of the City of McCook Code of Ordinances, Section 30.002 - Bonds Required, shall be amended to read as follows:

§ 30.002 BONDS; REQUIREMENTS.

(A) The city may enact ordinances or bylaws to require from all officers and servants, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The city may pay the premium for such bonds or insurance coverage. (Neb. RS 17-604)

(B) (1) All official bonds of officers of the city shall be in form joint and several and made payable to the city in such penalty as the City Council may fix.

(2) In place of the individual bonds required to be furnished by municipal officers, a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance may be given by municipal officers, or a single corporate surety fidelity, schedule, position, or blanket bond or undertaking, or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, may be furnished. The municipality may pay the premium for the bond or insurance coverage. The bond or insurance coverage shall be, at a minimum, an aggregate of the amounts fixed by law or by the City Council, and with such terms and conditions as may be required. (Neb. RS 11-104)

(3) The penalty amount on any bond shall not fall below the legal minimum, when one has been set by the state, for each particular official.

(C) (1) Official bonds, with the oath endorsed thereon, shall be filed in the City Clerk's office within the following time:

(a) Of all officers elected at any general election, following receipt of their election certificate and not later than ten days before the first Thursday after the first Tuesday in January next succeeding the election;

(b) Of all appointed officers, within 30 days after their appointment; and

(c) Of officers elected at any special election and city officers, within 30 days after the canvass of the votes of the election at which they were chosen.

(2) The filing of the bond with the oath endorsed thereon does not authorize a person to take any official action prior to the beginning of his or her term of office pursuant to Article XVII, section 5, of the Constitution of Nebraska. (Neb. RS 11-105)

(D) All official bonds of city officers shall be executed by the principal named in such bonds and by at least two sufficient sureties who shall be freeholders of the county in which such bonds are given, or any official bond of a city officer may be executed by the officer as principal and by a guaranty, surety, fidelity, or bonding company as surety, or by two or more such companies. Only such companies as are legally authorized to transact business in this state shall be eligible to suretyship on the bond of a city/village officer. (Neb. RS 11-109)

(E) The City Clerk shall carefully record and preserve the bonds in his or her office and shall give certified copies thereof, when required, under the seal of his or her office, and shall be entitled to receive for the same the usual fee allowed by law for certified copies of records in other cases. (Neb. RS 11-110)

(F) (1) The approval of each official bond shall be endorsed upon such bond by the officer approving the same, and no bond shall be filed and recorded until so approved. (Neb. RS 11-111)

(2) No bond shall be deemed to be given or complete until the approval of the City Council and all sureties are endorsed in writing on the instrument by the Mayor and City Clerk pursuant to the approval of the City Council.

(G) All official bonds shall obligate the principal and sureties for the faithful discharge of all duties required by law of such principal and shall inure to the benefit of any persons injured by a breach of the conditions of such bonds. (Neb. RS 11-112)

(H) No official bond shall be rendered void by reason of any informality of irregularity in its execution or approval. (Neb. RS 11-113)

(I) No city official shall be taken as security on the bond of any administrator, executor, or other officer from whom by law bond is or may be required. (Neb. RS 11-114)

(J) If any person elected or appointed to any office neglects to have his or her official bond executed and approved as provided by law and filed for record within the time limited by this section, the City Clerk shall immediately issue an order to such person to show cause why he or she has failed to properly file such bond and why his or her office should not be declared vacant. If such person properly files the official bond within ten days of the issuance of the show cause order for appointed officials or before the date for taking office for elected officials, such filing shall be deemed to be in compliance with this section. If such person does not file the bond within ten days of the issuance of such order for appointed officials or before the date for taking office for elected officials and sufficient cause is not shown within that time, his or her office shall thereupon ipso facto become vacant and such vacancy shall thereupon immediately be filled by election or appointment as the law may direct in other cases of vacancy in the same office. (Neb. RS 11-115)

(K) Any person appointed to fill a vacancy, before entering upon the duties of the office, must give a bond corresponding in substance and form with the bond required of the officer originally elected or appointed, as herein provided. (Neb. RS 11-116)

(L) When the incumbent of an office is reelected or reappointed, he or she shall qualify by taking the oath and giving the bond as above directed, but when such officer has had public funds or property in his or her control, his or her bond shall not be approved until he or she has produced and fully accounted for such funds and property. When it is ascertained that the incumbent of an office holds over by reason of the nonelection or nonappointment of a successor or of the neglect or refusal of the successor to qualify, he or she shall qualify anew within 10 days from the time at which his or her successor, if elected, should have qualified. (Neb. RS 11-117)

(M) No person shall be surety for the same officer for more than two successive terms of the same office, but this provision shall not apply to incorporated surety companies.
(Neb. RS 11-118)

(N) If the sureties on the official bond of any appointed officer of the city, in the opinion of the City Council, become insufficient, the Council may, by resolution, fix a reasonable time within which the officer may give a new bond or additional sureties as directed. If the officer fails, refuses, or neglects to give a new bond or additional sureties to the satisfaction and approval of the Council, the office shall, by such failure, refusal, or neglect, become vacant and it shall be the duty of the Council to appoint a competent and qualified person to fill the office.

SECTION 2. That Chapter 30: Government Officials, of the City of McCook Code of Ordinances, Section 30.002 - Bonds Required, shall be amended to read as follows:

§ 30.040 CITY CLERK.

(A) The City Clerk shall be appointed by the City Council and under the direction of the City Manager. Except when some other person is specifically appointed, the Clerk shall be, and assume the duties of, the City Treasurer. It shall be the duty of the City Clerk to attend every meeting of the Council and keep a record of the proceedings thereof. Whenever required by the Mayor, or requested by two members of the Council, or the City Manager, he or she shall deliver a notice to the members of the Council of any special meeting thereof, and shall notify any and all committees of the Council of the business entrusted to them. The Clerk shall keep and carefully preserve all papers and books which may come into his or her possession as Clerk, filing and arranging them in a manner convenient for reference. The Clerk shall keep the seal of the city and duly attest thereby the Mayor's signature to all ordinances and all deeds and papers required to be attested, when ordered by the governing body. The Clerk shall keep a register of all licenses granted and the purpose for which they were issued, and report to the Council at every meeting. At the beginning of each month, he or she shall, if required by the governing body, furnish the Police Department with a true copy of the register of all licenses then in force. He or she shall issue licenses and collect license fees connected therewith as provided by the laws of the state or the city.

(B) Within 30 days after any meeting of the Council, the Clerk shall prepare and publish the proceedings of the Council in a legal newspaper, or more than one legal newspaper if directed by the Council. The charge for the publication shall not exceed the rates provided by law. The publication charge shall be paid and allowed as other claims against the General Fund. Wherever the Clerk is required to issue licenses, occupation tax receipts, or permits, the City Collector shall collect the amount required to be paid by the applicant therefor. The Clerk shall have additional duties and receive a salary as the governing body may prescribe. (Prior Code, § 1-311)

(C) The City Clerk shall publish within 30 days after the close of each month the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position.

(Prior Code, § 1-312)

(Ord. 1680, passed 4-4-1983)

Statutory reference:

Authority, see Neb. RS 19-618

Similar state law provisions, see Neb. 16-317, 19-615, 19-1102 through 19-1104

SECTION 3. Any other ordinance or code section passed and approved prior to passage, approval, and publication or posting of this ordinance and in conflict with its provisions is repealed.

SECTION 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED THIS _____ day of _____, 2020.

Michael, D. Gonzales, Mayor

ATTEST:

Lea Ann Doak, City Clerk-Treasurer