

May 21, 2009

# ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, MAY 21, 2009

STATE OF NEBRASKA            )  
   )  
 COUNTY OF BOX BUTTE        )§  
   )  
 CITY OF ALLIANCE             )

The Alliance City Council met in a Regular Meeting, May 21, 2009 at 7:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on May 14, 2009. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Mayor Yeager opened the May 21, 2009 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Yeager, Council Members Kusek, Benzel, Rowley and Feldges. Also present were City Manager Caskie, City Attorney Miller and City Clerk Jines.

- Mayor Yeager read the Open Meetings Act Announcement.
- The first item on Council’s agenda was the Consent Calendar.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve the Consent Calendar which follows in its entirety:

### CONSENT CALENDAR – MAY 21, 2009

1. Approval: Minutes of the Regular Meeting, May 7, 2009.
2. Approval: Payroll and Employer Taxes for the period April 18, 2009 through May 1, 2009 inclusive: \$159,124.94 and \$11,319.56 respectively.

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3. †Approval: Claims against the following funds for the period May 4, 2009 through May 18, 2009: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$440,334.93.
4. Approval: Resolution No. 09-62 authorizing the use of the remaining funds from the planned bond issue to fund capital improvements at the landfill.
5. Approval: The issuance of the following contractor licenses:

Repair & Maintenance	Monte Hankins dba Panhandle Gutter & Siding
	Jack Hughes dba Jack Hughes Construction
Sign	Thomas Cozad dba Creative Signs by Cozad
Journeyman Plumber	John I. Stabnow dba Tritle Plumbing
	Leo A. Tritle dba Tritle Plumbing
	Jason L. Tritle dba Tritle Plumbing
Gas Fitter	John I. Stabnow dba Tritle Plumbing
	Leo A. Tritle dba Tritle Plumbing
	Jason L. Tritle dba Tritle Plumbing
Limited & Specialty	John I. Stabnow dba Tritle Plumbing
	Leo A. Tritle dba Tritle Plumbing
	Jason L. Tritle dba Tritle Plumbing

NOTE: City Manager Caskie has reviewed these expenditures and to the best of her knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Councilwoman Rowley questioned a charge from the MIS Department for Environmental Systems Maintenance. City Manager Caskie advised Council that she would report back to Council. Councilman Feldges questioned two separate charges for trimmers. City Manager Caskie explained the need for an accurate paper cutter and a paper trimmer. Mayor Yeager asked about a floor for the Water Department. Council was informed the Electric, Water and Sewer Departments are sharing in the cost of the pole barn. Councilwoman Rowley asked about a charge to Jack's Refrigeration at the Alliance Learning Center. City Manager Caskie advised Council that a second drinking fountain needed repair. Mayor Yeager commented on the concrete specifications for the floor in the baler building as noted in Resolution No. 09-62.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was a proclamation for Alexa Check Day.

Councilman Kusek read the proclamation which follows in its entirety:

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## PROCLAMATION

*WHEREAS*, On May 19, 2004, eight year old Alexa Christine Foster tragically lost her life when a wall in a park restroom fell on her during a picnic on the last day of school; and

*WHEREAS*, There are thousands of park shelters and restrooms in Nebraska owned or managed by both public and private entities; and

*WHEREAS*, The City of Alliance has parks and recreation areas which play a major role in the economic and social fabric of our community; and

*WHEREAS*, Alexa Foster's family, along with public and private entities have implemented a statewide volunteer campaign, called Alexa Check, with the goal that each park and restroom shelter structure in Nebraska be reviewed for potential safety issues.

*NOW, THEREFORE*, the City Council of Alliance, Nebraska does hereby proclaim May 22, 2009 as

### ALEXA CHECK DAY

In the City of Alliance, Nebraska, and I urge all citizens to be vigilant while visiting parks and recreation areas.

The proclamation was presented to Culture and Leisure Services Director Chuck Carbert and Park Foreman Joe Lewis.

- The second reading of Ordinance No. 2640 amending the Alliance Municipal Code by adding Section 3-313 in Chapter 3 – Traffic Regulations was the next item for Council's discussion.

Motion by Councilman Feldges, seconded by Councilman Kusek to approve Ordinance No. 2640 on second reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### ORDINANCE NO. 2640

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY ADDING SECTION 310.01, ARTICLE 3 AT CHAPTER 3, RELATING TO SECURING LOADS IN OR ON ANY VEHICLE; AND REPEALING EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HERewith.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ALLIANCE, NEBRASKA:

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SECTION 1. The City of Alliance has prohibitions and regulations for operation of vehicles to provide for public safety and welfare and to regulate traffic flow on City streets highways and alleys.

SECTION 2. To regulate the securing of loads in or on any vehicle on any city street, highway or alley the Alliance Municipal Code at Chapter 3, shall be amended to include Article 3, Section 310.01 as follows:

**3-310.01. SECURING LOADS IN OR ON ANY VEHICLE.**

It shall be unlawful for any vehicle to be driven or moved on any street, highway, or alley unless such vehicle is constructed or loaded so that the load is secured in such a manner as to prevent its contents from dropping, sifting, leaking or otherwise escaping from the vehicle.

Any person who operates, drive or moves any vehicle in violation of this ordinance and the contents of the vehicle drop, sift, leak or otherwise escape from said vehicle shall be responsible for all damages occurring to other persons or property as a result of his or her negligence. Said person shall also be responsible for cleaning any street, highway or alley of any item which drops, sifts, leaks or otherwise escapes onto any street, highway or alley.

All persons violating this provision shall be penalized as provided in 12-101 of this Code.

SECTION 4. That current applicable City Codes of the City of Alliance, Nebraska, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Don Henderson, 1306 E. 3<sup>rd</sup> Street addressed Council indicating he operates a business specializing in demolition work. He feels the expense of tarping will cut into his profit margin. He also voiced a complaint on the communication regarding action on an ordinance.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to amend Ordinance No. 2640 by adding the highlighted areas and removing the words “so, sift, sifting, leak and leaking” from 3-310.01.

Roll call vote on the amendment with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Roll call vote on the second reading of Ordinance No. 2640 as amended with the following results:

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Voting Aye: Yeager, Rowley, Kusek, Benzel.

Voting Nay: Feldges.

Motion carried.

- The next item for Council's consideration was Resolution No. 09-63 approving an Interlocal Agreement between the Hemingford Rural Fire District, Alliance Rural Fire Protection District, Village of Hemingford and the City of Alliance.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Resolution No. 09-63 which follows in its entirety:

### **RESOLUTION NO. 09-63**

WHEREAS, The City of Alliance has considered an Interlocal Agreement pursuant to the authority of the Mutual Finance Assistance Act; and

WHEREAS, In prior years, by motion duly made and adopted, such an Interlocal Agreement has been, approved by and between Hemingford Rural Fire District; Alliance Rural Fire Protection District; City of Alliance, Nebraska; and the Village of Hemingford, Nebraska; which provides for an agreed property tax rate of .03395 for purposes of the Mutual Finance Organization created by such Agreement; and

WHEREAS, The name of the Mutual Finance Organization is Box Butte Fire Protection Mutual Finance Organization.

NOW, THEREFORE, BE IT RESOLVED, that the Interlocal Agreement referenced herein is adopted and approved by the City Council of the City of Alliance, Nebraska.

BE IT FURTHER RESOLVED that the City of Alliance's representative to the Joint Board created by said Agreement shall be Troy Shoemaker, and the alternate shall be Pamela S. Caskie.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item to come before Council was Resolution No. 09-64 authorizing the City to purchase three video cameras for patrol cars.

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Motion by Councilwoman Rowley, seconded by Councilman Benzel to approve Resolution No. 09-64 which follows in its entirety:

**RESOLUTION NO. 09-64**

*WHEREAS*, The City of Alliance Police Department desires to purchase three digital video cameras for patrol cars; and

*WHEREAS*, Staff has determined that additional funds are necessary to purchase three digital video cameras; and

*WHEREAS*, Staff has received notification that the Alliance Police Department has received funding from the "In-Car Camera System (Digital) Mini-Grant Contract Application and Award in an amount not to exceed Ten Thousand Five Hundred and No/100ths (\$10,500) dollars; and

*WHEREAS*, Staff has requested to transfer budget authority from Grant Contingency line item in the amount of Five Thousand Sixty Seven Dollars and No/100ths (\$5,067.00) to Capital Equipment to authorize the purchase of three digital video cameras; and

*WHEREAS*, The Grant Contingency has funds available; and,

*WHEREAS* The Alliance Police Department will receive a grant to partially reimburse the cost of the purchase after the cameras have been purchased by the City of Alliance; and

*WHEREAS*, Council agrees that it is in the best interest of the City to purchase the digital video cameras for the patrol vehicles.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and Council of the City of Alliance, Nebraska, that Five Thousand Sixty Seven Dollars and No/100ths (\$5,067.00) of budget authority shall be transferred from Grant Contingency budget line item to the Capital Equipment budget line item.

*BE IT FURTHER RESOLVED* that the City Treasurer shall transfer Five Thousand Sixty Seven Dollars and No/100ths (\$5,067.00) of budget authority from Grant Contingency budget line item to the Capital Equipment budget line item.

Councilman Kusek suggested a policy be put in place to allow the Police/Citizen Advisory Board to view the tapes randomly.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: Kusek.

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Motion carried.

- Resolution No. 09-65 awarding the Municipal Wells and Treatment Systems Project to K.L. Wood & Company of Alliance, NE in the amount of \$2,178,427.07 was the next item to be presented to Council.

Motion by Mayor Yeager, seconded by Councilman Benzel to approve Resolution No. 09-65 which follows in its entirety:

### **RESOLUTION NO. 09-65**

*WHEREAS*, The City of Alliance operates the Alliance Municipal Water System; and

*WHEREAS*, The United States Government has implemented new rules regulating the allowable amount of arsenic in the municipal water systems which change requires the City of Alliance to mitigate the arsenic level in the Alliance Municipal Water System; and

*WHEREAS*, The City of Alliance let bids for the installation of water treatment plants to mitigate the arsenic level to install chlorine treatment systems, to construct buildings, to drill wells and rehabilitate and modify other wells; and

*WHEREAS*, K.L. Wood d/b/a K.L. Wood & Co., a partnership, located in Alliance, Nebraska appears to be the lowest, responsive, and responsible bid.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign a contract with K.L. Wood d/b/a K.L. Wood & Co., a partnership for an amount not to exceed Two Million Sixty Eight Thousand and Three Hundred Ninety Two and 45/100ths Dollars (\$2,068,392.45) subject to terms and conditions of the bid for the base bid Sections A&B and Alternate Section C with the exception of item 609.

*BE IT FURTHER RESOLVED*, that the Water Superintendent is authorized to make field change orders not to exceed five percent (5%) of the total contract amount without further Council approval.

*BE IT FURTHER RESOLVED*, that City staff shall notify the successful bidder so that land can be possessed by the successful bidder according to the bid specifications.

Councilman Feldges questioned several line items within the proposal, specifically 107, 201 and 206. A representative from Olsson Associates explained the line items. He also asked how long the project was advertised to bidders. Council was advised the project was advertised for five weeks.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

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Voting Nay: None.

Motion carried.

- Resolution No. 09-66 acknowledging the receipt of a Tort Claim from Tony Peterson dba Last Pass Aviation was the next agenda item.

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Resolution No. 09-66 which follows in its entirety:

**RESOLUTION NO. 09-66**

*WHEREAS*, The City of Alliance has received a tort claim from Tony Peterson dba Last Pass Aviation in the amount of \$31,581.34.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, the receipt of the claim of Tony Peterson dba Last Pass Aviation is hereby acknowledged.

*BE IT FURTHER RESOLVED*, that no further action is taken on the claim at this time.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item for Council's consideration was Resolution No. 09-67 which grants staff authority to make an application with the Nebraska Recovery Act: Justice Assistance Grant Program for law enforcement purposes.

Motion by Councilman Feldges, seconded by Councilwoman Rowley to approve Resolution No. 09-67 which follows in its entirety:

**RESOLUTION NO. 09-67**

*WHEREAS*, The Nebraska Recovery Act: Justice Assistance Grant Program has grant funds available for law enforcement; and,

*WHEREAS*, The City of Alliance as a local government unit is eligible to submit an application for the Nebraska Recovery Act; Justice Assistance Grant Program; and

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*WHEREAS*, The provisions of the grant require that applicants must provide an opportunity for the public to comment on the Recovery Justice Assistance Grant Application; and,

*WHEREAS*, The City has conducted a public hearing and provided an opportunity for the public to comment; and

*WHEREAS*, The Alliance Police Department is requesting permission to submit an application to the Nebraska Recovery Act: Justice Assistance Grant Program on behalf of the City of Alliance; and,

*WHEREAS*, Council has determined that it is in the best interest of the City and the Police Department to submit an application to the Nebraska Recovery Act: Justice Assistance Grant Program.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that staff is hereby authorized and directed to make application for the grant with the Nebraska Recovery Act: Justice Assistance Grant Program for and on behalf of the City of Alliance.

*BE IT FURTHER RESOLVED* that the Chief of Police and the City Manager of Alliance, Nebraska, are hereby directed to execute the application and any and all other documents necessary to facilitate the grant between the Nebraska Recovery Act: Justice Assistance Grant Program and the City of Alliance.

*BE IT FURTHER RESOLVED* that the City Treasurer is authorized and directed to sign any and all necessary documents to furnish any assurances to the State of Nebraska as may be required by law or regulation and to receive payment on behalf of the City of Alliance and to disperse the funds as set forth in the Interlocal Agreement.

Councilman Feldges announced the application is available for review in the Municipal Building and on the City's webpage. Comments will be accepted from the public until June 4, 2009.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: Kusek.

Motion carried.

- Resolution No. 09-68 authorizing staff to make an application to the Nebraska Department of Revenue, Energy Conservation Improvement Fund Program was the next item on Council's agenda.

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Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Resolution No. 09-68 which follows in its entirety:

**RESOLUTION NO. 09-68**

*WHEREAS*, The Nebraska Unicameral in 2008 established the Energy Conservation Improvement Fund Program in LB 1001; and,

*WHEREAS*, The Energy Conservation Improvement Fund Program authorizes the City of Alliance to remit a maximum of five percent (5%) of the amount of sales tax on utility sales that the City collected and remitted to the State of Nebraska in the prior calendar year; and

*WHEREAS*, The Energy Conservation Improvement Fund Program provides that the State of Nebraska will match the funds provided by the City which will be placed into a subaccount that the City can utilize to make eligible energy conservation grants; and,

*WHEREAS*, An eligible person is defined as any resident of Nebraska: who is a customer of the participating utility provider, who owns his or her residence, and whose household income is at or below one hundred and fifty percent (150%) of the federal poverty level; and

*WHEREAS*, Staff is requesting permission to submit an application to the Nebraska Department of Revenue, Energy Conservation Improvement Fund Program on behalf of the City of Alliance; and,

*WHEREAS*, Council has determined that it is in the best interest of the City and the citizens of the City of Alliance to submit an application to the Nebraska Department of Revenue, Energy Conservation Improvement Fund Program.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that staff is hereby authorized and directed to file an application with the Nebraska Department of Revenue, Energy Conservation Improvement Fund Program for and on behalf of the City of Alliance.

*BE IT FURTHER RESOLVED* that the City Manager of Alliance, Nebraska, is hereby directed to execute the application.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

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- Resolution No. 09-69 pledging full support, endorsement and cooperation for participation in Nebraska's Economic Development Certified Community Program by Box Butte Development Corporation was the next item to be discussed by Council.

Motion by Councilwoman Rowley, seconded by Councilman Kusek to approve Resolution No. 09-69 which follows in its entirety:

**RESOLUTION NO. 09-69**

*WHEREAS*, Local municipal government, county government and regional economic development entities must provide leadership and coordination for economic development efforts; and

*WHEREAS*, Economic development needs can best be solved through a cooperative effort between local, county, regional and state economic development organizations and entities;

*WHEREAS*, There is a need to recognize and promote our community's organizational readiness, infrastructure investment, ability to respond to business needs; and

*WHEREAS*, The Economic Development Certified Community Program, administered by the Nebraska Department of Economic Development, has been reviewed and found to be a program promoting our community's economic development preparedness.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that the City Council of Alliance does herewith pledge their full support, endorsement and cooperation for participation in Nebraska's Economic Development Certified Community Program by Box Butte Development Corporation.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The presentation of the Second Quarter Financial Report was the next item on Council's agenda.

Motion by Mayor Yeager, seconded by Councilwoman Rowley to accept the Second Quarter Financial Report as presented by Finance Director Leah King.

Councilman Benzel questioned the expenditures for Fleet Services. City Manager Caskie explained that each department has been budgeting for the expense since the work has been outsourced. Councilwoman Rowley asked about the budget for resurfacing the tennis courts.

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City Manager Caskie advised Council the project was included in the Third Quarter Report, however the City is waiting for an engineering report.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- A board resignation was the next item to be presented to Council.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to accept the resignation of Terri McLaughlin from the Alliance Planning Commission.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Mayor Yeager announced his resignation from the Alliance Community Development Agency.

Motion by Councilwoman Rowley, seconded by Councilman Benzel to conduct a Special Meeting of the Alliance Community Development Agency on Tuesday, May 26, 2009 at 4:30 p.m. to review the proposed Redevelopment Contract of MJLC,LLC.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Abstaining: Yeager.

Motion carried.

- The last item on Council's agenda was an Executive Session to discuss a personnel issue.

Mayor Yeager motioned pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943 that the Alliance City Council hold a closed session for the purpose of discussing a personnel issue. The motion was seconded by Councilman Kusek. Mayor Yeager requested

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the presence of City Manager Caskie, City Attorney Miller and City Clerk Jines at the Executive Session.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Rowley, Feldges.

Voting Nay: None.

Motion carried.

The closed session began at 8:36 p.m. and ended at 10:02 p.m.

- Mayor Yeager stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 10:03 p.m.”

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Ralph Yeager, Mayor

(SEAL)

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Linda S. Jines, City Clerk