

July 1, 2009

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 1, 2009

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

The Alliance City Council met in a Regular Meeting, July 1, 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 June 25, 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 July 1, 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 – JULY 1, 2009

1. Approval: Minutes of the Regular Meeting, June 18, 2009.
2. Approval: Payroll and Employer Taxes for the period May 30, 2009 through June 12, 2009 inclusive: \$172,317.10 and \$12,259.17 respectively.

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3. Approval: Claims against the following funds for the period June 15, 2009 through June 29, 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; \$465,804.52.
4. Approval: Update the roster of the Alliance Volunteer Fire Department by adding Kyle Burton and deleting Dominick Peterson and Jason Underwood.
5. Approval: Resolution No. 09-82 granting a Special Designated License to Helen's Added Touches Catering for an event to be held at the Knight Museum, 908 Yellowstone Avenue, Alliance on Saturday, August 29, 2009.
6. Approval: Resolution No. 09-83 granting a Special Designated License to The Gathering Spot for an event to be held at the Knight Museum, 908 Yellowstone Avenue, Alliance on Friday, July 31, 2009.
7. Approval: The issuance of the following contractor licenses:

Limited & Specialty	Thomas R. Fletcher dba Alliance Water Conditioning Steven A. Hessler dba Protex Central, Inc. Matt Hessler dba Protex Central, Inc. Jeff Weber dba J & V Drain & Sewer Cleaning
Journeyman Plumber	Thomas R. Fletcher dba Alliance Water Conditioning
Master Plumber	Dennis Meng dba Merritt, Inc. Kenneth L. Wood dba KL Wood & Co. Oswaldo R. Beraun dba Beraun's Plumbing
Master HVAC	Jon M. Aid dba J & M Plumbing, Inc. Dennis Meng dba Merritt, Inc. Kenneth L. Wood dba KL Wood & Co.
Gas Fitter	Scott Diehl dba Metal Products Co. Dennis Meng dba Merritt, Inc. Kenneth L. Wood dba KL Wood & Co.
Roofing	Scott Diehl dba Metal Products Co. Weathercraft Co. Lee A. Anderson dba Wildcat Roofing, LLC Forrest A. Rose dba TGri-State Roofing, Inc.
General Contractor	Terry M. Schank dba Twin City Roofing & Sheet Metal Inc Kenneth L. Wood dba KL Wood & Co. Terry Peltz dba Peltz Construction Co., Inc.
Repair & Maintenance	Allan J. Eenhuis dba Morton Buildings, Inc. Wayne VanderSchaaf dba Handy Vandy John Sampson dba John Sampson
Sign	Marvel Buettner dba Buettner Construction Rick Andersen dba Andersen Sign Company T. Eric Farrar dba Rosenbaum's Signs

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Cement & Masonry

Ronald F. Lee dba C & R Plastering
Chad Haskell dba Haskell Masonry

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.

Roll call vote to approve the Consent Calendar with the following results:

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

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was Ordinance No. 2642 approving the Preliminary Plat of a Subdivision of Block 1, Hereford Addition.

Motion by Councilman Benzel seconded by Councilman Rowley to approve Ordinance No. 2642 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2642

AN ORDINANCE APPROVING THE PRELIMINARY PLAT OF A SUBDIVISION OF BLOCK 1, HEREFORD ADDITION TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA.

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

SECTION 1. The City of Alliance has received the application for approval of the Preliminary Plat of a Subdivision of Block 1, Hereford Addition to the City of Alliance, Box Butte County, Nebraska from John F. Paradeis and Judy R. Paradeis.

SECTION 2. The Planning Commission held a public hearing June 9, 2009, and has recommended the approval of the Preliminary Plat with a condition that requested utility easements be contained in the Final Plat.

SECTION 3. The Preliminary Plat contains information required by the City Code at Section 11-305, which is relevant to this request.

SECTION 4. The Preliminary Plat of a Subdivision of Block 1, Hereford Addition to the City of Alliance, Box Butte County, Nebraska, is hereby approved and the subdividers are authorized to proceed with any required public works elements and preparation of a Final Plat with a condition that the Final Plat includes the requested utility easements.

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SECTION 5. This approval shall expire one year from this date unless the Final Plat has been submitted. This approval does not constitute Final Plat approval or guarantee the approval of the subdivision by the City Council or the City Council's authorization to proceed with construction of improvements within the subdivision.

SECTION 6. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Community Development Director Richard Houck provided Council with a brief explanation about the project.

Judy Paradeis, 3017 Cheyenne Drive addressed Council requesting waiver of three separate readings.

Motion by Councilman Kusek, seconded by Councilman Benzel to suspend the statutory rule requiring three separate readings of Ordinance No. 2642.

Roll call vote to waive the statutory reading with the following results:

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

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2642 on final reading with the following results:

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

Voting Nay: None.

Motion carried.

Mayor Yeager stated, "the passage and adoption of Ordinance No. 2642 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published."

- Ordinance No. 2643 which will amend the Alliance Municipal Code by adding an article to Chapter 2 regarding a Motel Occupancy Tax was the next item for Council's consideration.

Motion by Councilwoman Rowley, seconded by Councilman Benzel to approve Ordinance No. 2643 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2643

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AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, CREATING CHAPTER 2, ARTICLE 12, AND ESTABLISHING THE METHOD FOR CALCULATING THE OCCUPATION TAX FOR COMPANIES WHO OPERATE A HOTEL, AND CREATING AN ENFORCEMENT AND REPORTING SYSTEM FOR HOTEL COMPANY OCCUPATION TAXES AND RATES; PROVIDES FOR AN EFFECTIVE DATE; REPEALS ORDINANCE IN CONFLICT.

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

SECTION 1. Hotel Companies provide services within the City of Alliance.

SECTION 2. The City of Alliance has decided to impose an occupation tax on the hotel companies, without regard to the type of business entity that operates the hotel services in the City of Alliance.

SECTION 3. The Alliance Municipal Code at Chapter 2 shall be amended to include the addition of Article 12, as follows:

CHAPTER 2
ARTICLE 12

HOTEL COMPANIES OCCUPATION TAX

2-1201. OCCUPATION TAX; REQUIREMENT TO PAY.

An occupation tax is hereby levied and imposed on every person or business entity who engages in the business of operating a hotel for revenue in the City of Alliance. All hotel companies doing business in the City are required to pay an occupation tax as set forth herein.

2-1202. HOTEL ACCOMMODATIONS.

Each person engaged in the business of operating a hotel in the City shall pay an occupation tax in the amount of two percent (2%) of the basic rental rates charged per occupied room per night.

2-1203. HOTEL DEFINED.

Hotel shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, bed and breakfast accommodations, tourist hotels, campgrounds, courts, lodging houses, inns and nonprofit hotels; but "hotel" shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, dormitories, or facilities operated by an educational institution and regularly used to house students.

2-1204. OCCUPIED ROOM, DEFINED; EXCEPTIONS.

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Occupied room shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations.

The term "occupied room" shall not mean, and no tax imposed by this article shall be measured by or collected for:

Complimentary or other sleeping accommodations for which no consideration is charged;

Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or

Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than thirty (30) consecutive days, and consideration is actually paid for use during at least thirty (30) consecutive days.

2-1205. COLLECTION.

The tax imposed by this article shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

2-1206. RECORDS.

It shall be unlawful for any hotel operator subject to this article to fail to maintain or fail to make available to the City, upon seventy-two (72) hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the amount of occupation tax due or paid under this article, and such other information as is required by the Director of Finance and Administration. Such records shall be maintained for a period of three (3) years after the occupation tax is due.

2-1207. DUE DATE.

Notwithstanding any contrary provision of this chapter, the tax imposed by this article shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the twenty-fifth day of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of ten percent (10%) on all delinquent amounts as well as interest of one percent (1%) per month

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or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

2-1208. REVENUE MEASURE.

The provisions of this Section are enacted solely as a revenue measure of the City.

2-1209. INTENT.

It is the intent of the City Council that a portion of the revenue generated by the occupation tax imposed by this Article shall be appropriated annually to fund the purposes set forth at Neb. Rev. Stat. §13-315 and to fund the operation of the Knight Museum and Sandhills Center.

2-1210. PENALTY.

Any person, partnership, firm or corporation violating any of the provisions of Sections 2-1201 through 2-1207 shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Section 12-101 of this Code. Each distinct act or violation of the terms of Sections 2-1201 through 2-1207 shall constitute a separate offense.

SECTION 4. The Calculation of the amount of occupation tax due under Sections 2-1201 and 2-1202 of this ordinance as amended shall commence _____, 2009.

SECTION 5. That any other ordinance or Section passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with the provisions is herewith repealed.

SECTION 6. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

City Manager Caskie advised Council the majority of the funds generated will be used to promote the Knight Museum and Sandhills Center. Councilman Kusek proposed staff draft language to amend 2-1209 and add a commencement date of October 1, 2009.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The second reading of Ordinance No. 2641 amending the Alliance Municipal Code at Chapter 1, Article 1, Sections 104 and 112 was the next item to be discussed by Council.

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Motion by Mayor Yeager, seconded by Councilman Benzel to approve Ordinance No. 2641 on second reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2641

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING SECTIONS 104 AND 112, ARTICLE 1 AT CHAPTER 1, RELATING TO ADDRESSING THE COUNCIL; AND REPEALING EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HERewith.

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

SECTION 1. The City of Alliance conducts a meeting of the City Council two times each month.

SECTION 2. The City of Alliance has previously permitted anyone to speak before the City Council as long as the individual requested permission to appear before the City Council at least 24 hours in advance of the City Council Meeting.

SECTION 3. As a result of that rule the City is not able to give notice to other citizens of the City who might desire to speak on the same issue and thereby unfairly restricts the ability of all citizens to address the City Council.

SECTION 4. Alliance Municipal Code at Chapter 1, Article 1, Section 104 and 112 shall be amended to read as follows:

1-104. AGENDA, PREPARATION: DIRECTIONS TO STAFF.

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Council shall, if possible, be delivered to the City Clerk, no later than seven (7) business days, prior to the date and time of each regular Council meeting, whereupon the City Clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the Council, the City Manager and the City Attorney with a copy of the same prior to the Council meeting and as far in advance of the meeting as time for preparation will permit. None of the foregoing matters shall be presented to the Council by administrative officials, except those of an urgent nature, and the same, when so presented, shall have the written approval of the City Manager before presentation.

1-112. ADDRESSING THE COUNCIL.

(a) The presiding officer of the City Council shall provide opportunity during Council meetings for discussion by interested persons or their authorized representatives on any Council matter before the Council prior to final passage, provided, that the preference shall be given to

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any person, who, at least twenty-four hours prior to the Council meeting, shall have requested opportunity for discussion by written notice directed to the City Clerk.

(b) Any person may direct a written communication to the City Council on any matter concerning the City's business by directing the communication to the Council through the City Clerk.

(c) Any person desiring to personally address the Council on any matter not then before it shall notify the City Clerk in writing of his or her desire. Such written notice shall include the name and address of the person making the request, the issue and a description of their concern no later than seven (7) business days prior to the Council meeting at which he wishes to appear.

(d) The City staff shall examine every request to determine whether the issue raised can be addressed administratively. If an administrative resolution is determined to be appropriate, the issue shall be delegated to the City Manager to attempt to resolve the issue. The City Manager may delegate the issue to any department head. If the citizen is not satisfied with the administrative resolution the citizen may make another written request to be on the Agenda for the next regularly scheduled City Council Meeting. The City Clerk shall place the request on the agenda of the next regular Council meeting; provided that the next regularly scheduled council meeting is not less than five (5) business days from the date of receipt of the request, under the order of the business entitled "Petitions, Remonstrances and Communications, subject to the requirements of notice under public meetings law. Personnel matters should be initially referred to the Personnel Manager or the City Manager.

(e) The presiding officer of the Council shall, from time to time, make such rules as may be deemed necessary to fulfill and carry out the intent of the provisions of this section.

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.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: Rowley.

Motion carried.

- Resolution No. 09-84 authorizing the solicitation of bids for equipment and services as listed in the Fourth Quarter CIP/CEP listing was the next item to be approved by Council.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to approve Resolution No. 09-84 which follows in its entirety:

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RESOLUTION NO. 09-84

WHEREAS, the City of Alliance annually adopts a Capital Improvements Plan to aid in budgeting and organizing purchasing; and

WHEREAS, the City staff has submitted for City Council review a proposed schedule of capital improvement purchases to be initiated, and in some cases completed, in the fourth quarter of the 2008-2009 fiscal year; and

WHEREAS, the City Manager has reviewed and approved the proposed schedule of capital purchases for the fourth quarter of the 200-2009 fiscal year.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the schedule of capital purchases for the fourth quarter of the 2008-2009 fiscal year, totaling Fifty Thousand and No/100ths Dollars (\$50,000.00) is hereby approved.

BE IT FURTHER RESOLVED, that City staff is authorized to proceed with the purchases of the following:

Museum	Storage System Payment	\$20,000.00
Refuse Department	Skid Steer Loader	\$30,000.00

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. 09-85 authorizing an Agreement with the Nebraska Department of Aeronautics for the rehabilitation of Airport Runways 12-30 and 8-26.

Motion by Councilman Feldges, seconded by Councilman Benzel to approve Resolution No. 09-85 which follows in its entirety:

RESOLUTION NO. 09-85

WHEREAS, the City of Alliance is the operator of the Municipal Airport; and

WHEREAS, the City of Alliance Mayor and City Council of Alliance, Nebraska, authorized and directed staff to complete and submit the Nebraska Department of Aeronautics requests for a state aid project application form for the 2008-2009 projects; and

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WHEREAS, the City of Alliance entered into an agency agreement with the Nebraska Department of Aeronautics for the Nebraska Department of Aeronautics to act as the City's agent for the project; and

WHEREAS, the construction of the pavement rehabilitation is identified as AIP Project No. 3-31-0003-12/13-2009; and

WHEREAS, The City desires to enter into a State Grant Agreement with the Nebraska Department of Aeronautics for Project No. 3-31-0003-12/13-2009 for the purpose of obtaining state financial aid in the development of the Municipal Airport; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska the Mayor is authorized and directed to execute said State Grant Agreement which is attached herewith and made a part hereof as Exhibit "O" on behalf of the City of Alliance.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to attest said execution.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The last item on Council's agenda was Resolution No. 09-86 authorizing an Agreement with the Western Area Power Administration to change the method of revenue metering.

Motion by Councilman Benzel, seconded by Councilman Rowley to approve Resolution No. 09-86 which follows in its entirety:

RESOLUTION NO. 09-86

WHEREAS, the City of Alliance is an authorized member with the Western Area Power Administration (WAPA); and,

WHEREAS, City has received a letter agreement to procure, calibrate and place into commission three JemStar revenue meters and all modification that are necessary to implement the installation of the new meters; and,

WHEREAS, all of the change from the current revenue meter system to the new JemStar revenue meters will be at the expense of the City; and,

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WHEREAS, City determines it is in the best interest of the City and its ratepayers to install the new JemStar revenue meters.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to execute the letter agreement with Western Area Power Administration (WAPA) for the procurement, calibration and installation of three JemStar revenue meters.

BE IT FURTHER RESOLVED, that City staff is authorized to comply with the terms and conditions of the agreement as soon as it has been executed by all parties.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Councilman Kusek announced that he will be at a Nebraska League of Municipalities meeting on July 16, 2009 and will not be able to be in attendance at the next City Council meeting.
- Mayor Yeager stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 7:36 p.m.”

Ralph Yeager, Mayor

(SEAL)

Linda S. Jines, City Clerk