

July 16, 2009

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 16, 2009

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

The Alliance City Council met in a Regular Meeting, July 16, 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 July 9, 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 16, 2009 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Yeager, Council Members 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.
- Motion by Councilman Benzel, seconded by Councilwoman Rowley to excuse Councilman Kusek from the meeting as he is attending an Executive Board Meeting of the Nebraska League of Municipalities.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item on Council’s agenda was the Consent Calendar.

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

CONSENT CALENDAR – JULY 16, 2009

1. Approval: Minutes of the Regular Meeting, July 1, 2009.
2. Approval: Payroll and Employer Taxes for the period June 13, 2009 through June 26, 2009 inclusive: \$175,038.56 and \$12,535.53 respectively.
3. Approval: Claims against the following funds for the period December 15, 2008 through January 5, 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; \$671,163.33.
4. Approval: The issuance of the following Contractor Licenses:

Master HVAC	Doug Wilson, dba Source Gas Mark Buche, dba Tessier's, Inc. Bill Schlaepfer, dba Gering Valley Plumbing & Heating, Inc. Steve L. Weinberger, dba Sheet Metal Products, Inc.
Limited & Specialty	Doug Wilson, dba Source Gas Brad VanPelt, dba Van Pelt Fencing Co., Inc. Michael Ferguson, dba Ferguson Signs, Inc. Douglas W. Hoffman, dba D & D Appliance Repair
Gas Fitter	Doug Wilson, dba Source Gas Bill Schlaepfer, dba Gering Valley Plumbing & Heating, Inc.
General Contractor	Paul Reed Construction Roger Solberg, dba Cleary Building Corp. Ray Hashman and Jay Dubs, dba R & J Industries Plus, Inc.
Master Plumber	Chuck Moenning, dba Chuck Moenning Construction Bill Schlaepfer, dba Gering Valley Plumbing & Heating, Inc.
Repair & Maintenance	Dave Knutson, dba Fisher Roofing & Restoration Brannan Homes, LTD
Roofing	Dave Knutson, dba Fisher Roofing & Restoration
Sign	Dale Sexton, dba Lamar Outdoor Advertising

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 asked for clarification regarding a credit card late charge. City Manager Caskie explained there was a misunderstanding of the coding procedure on the clearing account in the new conversion system resulting in late charges to all credit card accounts. An

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attempt will be made to be reimbursed by the credit card company. Councilman Feldges inquired about improper parking fines from the Alliance Public Schools. Budget Officer Leah King explained the school receives a portion of fees collected for improper parking within the City. He also questioned a large euthanasia charge. City Manager Caskie advised Council that she would investigate the details of the charge. Councilman Feldges also asked about a charge to Layne Christensen Company. City Manager Caskie explained the charge is for the equipment that will be installed in all three wells. Councilman Rowley asked if the City had just purchased a jackhammer and inquired if the repair bill was for the new one. City Manager Caskie will check into the charge. Councilman Benzel questioned the Treasurer Combined Cash Fund. City Manager Caskie advised Council the accounts are customer refunds.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was the second reading of Ordinance No. 2643 which will amend the Alliance Municipal Code by adding an article to Chapter 2 regarding a Motel Occupancy Tax.

Motion by Mayor Yeager, seconded by Councilwoman Rowley to approve Ordinance No. 2643 on second reading. City Clerk Jines read the ordinance by title.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to amend 2-1209 to include "tourism related activities that benefit the City of Alliance" and Section 4 to add a commencement date of October 1, 2009.

Roll call vote on the amendment with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

AMENDED ORDINANCE NO. 2643

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.

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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.

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.

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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 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.

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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 tourism related activities that benefit the City of Alliance.

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 October 1, 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.

Marge Turek, 941 CR 70, Hemingford addressed Council representing Holiday Inn Express speaking against the additional tax. She quoted the lodging tax in surrounding communities as follows: Scottsbluff 12%, Chadron 10%, Hot Springs 8%, Sidney 12%, O'Neill 9.5%, Ogalalla 12%, Lincoln 12%. She indicated that revenues are currently down and the projected profits from the tax are unrealistic. Ms. Turek asked where the money would be spent other than the museum. She was advised that advertising would encompass a portion and there would be an opportunity for the hotels to participate in the added value advertising. City Manager Caskie advised Ms. Turek the anticipated Grand Opening of the Knight Museum and Sandhills Center is March 1, 2010. She advised Council that revenue for all the local hotels is down and she asked Council to reconsider the proposed ordinance.

Roll call vote on the second reading of Ordinance No. 2643 as amended with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The third reading of Ordinance No. 2641 which will amend the Alliance Municipal Code at Chapter 1, Article 1, Sections 104 and 112 with regard to requests to be placed on the City Council Agenda was the next item for Council's discussion.

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Motion by Councilwoman Rowley, seconded by Councilman Feldges to approve Ordinance No. 2641 on third 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

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matter before the Council prior to final passage, provided, that the preference shall be given to 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.

Richard Schommer, 1115 Cheyenne Avenue addressed Council voicing his opinion that the ordinance is disgusting legislation and that people should be able to speak before Council. He feels that this is a coward's law designed to cover up and hide what government is not doing right.

Roll call vote on final reading with the following results:

Voting Aye: Yeager, Benzal, Feldges.

Voting Nay: Rowley.

Motion carried.

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Mayor Yeager stated, “the passage and adoption of Ordinance No. 2641 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Resolution No. 09-87 requesting the waiver of building permit fees by Habitat for Humanity was the next item for Council’s consideration.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Resolution No. 09-87A approving the request. The resolution follows in its entirety:

RESOLUTION NO. 09-87A

WHEREAS, The City of Alliance performs building and zoning functions pursuant to State law; and

WHEREAS, The various types of Building Codes adopted by the City of Alliance require building permits, which have fees connected with them; and

WHEREAS, The City of Alliance has received the request from Habitat for Humanity to waive building permit fees on the home to be constructed at 1407 Big Horn, in Alliance, Nebraska; and

WHEREAS, The City Council finds that the permit fees for building the house for Habitat for Humanity should be waived.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the building permit fees for the Habitat for Humanity house to be constructed at 1407 Big Horn, in Alliance, Nebraska, will be waived.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was Resolution No. 09-88 authorizing the acceptance of a donation from Box Butte General Hospital of a storage system and the expenditure of \$14,000 for the removal, transportation and installation of the unit in the Knight Museum and Sandhills Center.

Motion by Councilman Feldges, seconded by Councilman Benzel to approve Resolution No. 09-88 which follows in its entirety:

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RESOLUTION NO. 09-88

WHEREAS, The Eldred Foundation completed a new building to house the Knight Museum and Sandhills Center for the City of Alliance; and

WHEREAS, The City of Alliance desires to have storage for documents, records and artifacts; and

WHEREAS, Box Butte General Hospital has offered to donate a storage system to the City of Alliance; and

WHEREAS, The City of Alliance will incur expenses in removing the storage system from Box Butte General Hospital, transporting it and setting it up at the museum; and

WHEREAS, The museum has funds available that were budgeted for the Heritage Room storage, the funds are not necessary as the Heritage Room is complete; and

WHEREAS, Staff is requesting authorization to spend Fourteen Thousand and No/100ths Dollars, (\$14,000.00), previously allocated for the Heritage Room Storage, for the Knight Museum and Sandhills Center artifact storage room shelving track system, these funds will be sufficient to meet the cost of the removal, transportation, installation of the shelving track system and other related expenses.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that City staff is authorized to expend Fourteen Thousand and No/100ths Dollars, (\$14,000.00) from the Heritage Room Storage fund for the Knight Museum and Sandhills Center artifact storage room including the removal, transportation and installation of a shelving track system.

BE IT FURTHER RESOLVED, that staff is authorized to accept the donation from Box Butte General Hospital of the shelving track system.

BE IT FURTHER RESOLVED, that the shelving track system shall be installed in the basement of the Knight Museum and Sandhills Center in the Artifact Storage Room.

BE IT FURTHER RESOLVED, that staff may proceed with obtaining the track storage system and with obtaining informal quotes for the removal, transportation and installation of the track storage system.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The last item on Council's agenda was Resolution No. 09-89 acknowledging the renewal of the existing contract between the City of Alliance and the Fraternal Order of Police Lodge #51A according to its terms.

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Motion by Councilman Benzel, seconded by Councilman Feldges to approve Resolution No. 09-89 which follows in its entirety:

RESOLUTION NO. 09-89

WHEREAS, Employees of the City of Alliance Police Department are members of the Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A; and

WHEREAS, The City of Alliance entered into a Contract which was effective October 1, 2006 with the Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A; and

WHEREAS, The provisions of the Contract provide that the contract will automatically renew from year to year unless either party shall notify the other in writing of its desire to terminate or modify the terms of the Contract; and

WHEREAS, The City is in receipt of a letter from the Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A dated June 22, 2009 which acknowledged the current economic situation and requests that “the City agree to extend the current contract for one year, as the existing contract stipulates”; and

WHEREAS, The Mayor and City Council appreciate the Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A understanding of the current economic situation that faces the City and deem it expedient to have the Contract with Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A automatically renew according to the terms of the Contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Contract with the Alliance Police Benevolent Association Fraternal Order of Police Lodge 51A shall be extended for an additional year according to the terms of the Contract.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Mayor Yeager stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 7:37 p.m.”

Ralph Yeager, Mayor

(SEAL)

Linda S. Jines, City Clerk

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