

October 22, 2009

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, OCTOBER 22, 2009

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

The Alliance City Council met in a Regular Meeting, October 22, 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 October 22, 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 October, 22, 2009 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Yeager, Council Members Kusek, Benzel, 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 to excuse Councilwoman Rowley from the meeting.

Motion by Councilman Benzel, seconded by Councilman Fred Feldges to excuse Councilwoman Rowley from the meeting.

Voting Aye: Yeager, Feldges, Kusek, Benzel.

Voting Nay: None.

Motion carried.

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

Motion by Councilman Kusek, seconded by Councilman Feldges to approve the Consent Calendar which follows in its entirety:

CONSENT CALENDAR – OCTOBER 22, 2009

1. Approval: Minutes of the Regular Meeting, October 8, 2009.
2. Approval: Payroll and Employer Taxes for the period September 19, 2009 through October 2, 2009 inclusive: \$159,817.22 and \$11,307.39 respectively.
3. Approval: Claims against the following funds for the period October 5, 2009 through October 19, 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; \$1,073,790.54.
4. Approval: To submit \$772.32 to the Nebraska State Treasurer's Office Unclaimed Property Division. We are forwarding these funds in accordance with the Nebraska Unclaimed Property Act and the City of Alliance Utility Billing Policies. These accounts have been dormant for over three years, and we have been unable to contact the account holder.
5. Approval: Resolution No. 09-116 granting a Special Designated License to Kloch's Liquor for an event to be held on November 5, 2009, at the Knight Museum and Sandhills Center.
6. Approval: The issuance of a Roofing Contractor's License to Ryan Hoey dba Imperial Roof Systems.

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.

Councilman Benzel questioned refuse disposal fees. City Manager Caskie advised Council a surcharge must be paid to the State of Nebraska on the basis of tonnage.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was a Conflict Claim by Councilman Fred Feldges in the amount of \$195.80.

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Motion by Mayor Yeager, seconded by Councilman Benzel to approve the Conflict Claim by Councilman Fred Feldges in the amount of \$195.80.

Voting Aye: Yeager, Kusek, Benzel.

Voting Nay: None.

Abstaining: Feldges.

Motion carried.

- Council discussed Ordinance No. 2653 which will approve the 2010 schedule of regular meetings for the Alliance City Council as the next issue before Council.

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Ordinance No. 2653 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2653

AN ORDINANCE ESTABLISHING THE TIME AND PLACE OF REGULAR COUNCIL MEETINGS FOR THE CALENDAR YEAR 2010.

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

SECTION 1. Nebraska Statutes at Section 19-615 provide that ". . . the Council shall meet at such time and place as it may prescribed by ordinance, but not less frequently than twice each month in cities of the first class."

SECTION 2. The City Code provides at Chapter 1, Section 101, that "The City Council shall hold its regular meetings on the first and third Thursday of each month. The Council may, by adoption of a calendar each year, establish regular meeting dates other than the first and third Thursday of each month."

SECTION 3. Attached hereto is a "proposed 2010 calendar," which is incorporated herein by reference as if fully set forth.

SECTION 4. The City Council of Alliance, Nebraska shall conduct regular meetings during calendar year 2010 on the dates that are indicated on the attached proposed 2010 calendar at the hour of 7:00 o'clock P.M. at the Board of Education Room, 1604 Sweetwater Avenue, Alliance, Nebraska. The time and place of these meetings may be changed from time to time as provided by law.

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

Motion by Councilman Kusek, seconded by Councilman Feldges to suspend the statutory rule requiring three separate readings of Ordinance No. 2653.

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

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2653 on final reading with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Mayor Yeager stated, “the passage and adoption of Ordinance No. 2653 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The final reading of Ordinance No. 2644 regarding the requirements of a Tree Surgeon’s License and a Greenhouse-Nursery Permit was the next item for Council’s consideration.

Motion by Councilman Benzel, seconded by Councilman Feldges to approve Ordinance No. 2644 on third reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2644

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING CHAPTER 2, ARTICLE 3 TO PROVIDE FOR NURSERY – GREENHOUSE PERMITS, TO AMEND CHAPTER 5 BY CREATING ARTICLE 5 TO PROVIDE FOR THE ISSUANCE OF A TREE SURGEON’S LICENSE, TO REQUIRE INSURANCE AND TRAINING FOR A TREE SURGEON’S LICENSE AND TO MODIFY THE APPLICATION AND ISSUANCE PROCESS FOR TREE SURGEON LICENSES; AND REPEAL 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 adopted requirements for Tree Surgeon Permits in the Alliance Municipal Code.

SECTION 2. Concern has been raised regarding requiring training and liability insurance for Tree Surgeons.

SECTION 3. The City desires to adopt the new codes as listed herein.

SECTION 4. Alliance Municipal Code at Chapter 5, Article 5 shall be added as set forth herein.

SECTION 5. The Alliance Municipal Code at Chapter 2, shall be amended at Article 3, Sections 2-321 through 2-323 to read as set forth herein:

5-501. TREE SURGEON'S LICENSE.

All tree surgeons, arborists, landscape gardeners, or others who work with trees and shrubbery and who receive pay therefore and who propose to plant, spray, prune, trim or otherwise provide maintenance for trees and shrubbery within the City of Alliance must apply for and receive a Tree Surgeon's License before doing any planting, spraying, pruning, trimming removal or maintenance of any tree or bush or part thereof.

5-502. INSURANCE REQUIREMENT.

All Tree Surgeons shall obtain and maintain general liability insurance in an amount of at least One Hundred Thousand Dollars (\$100,000). Proof of Insurance shall be provided annually when application for the permit is made.

5-503. TRAINING REQUIREMENT.

Prior to the issuance of a Tree Surgeon License the applicant shall demonstrate knowledge regarding planting, spraying, pruning, trimming and removal of trees and bushes. The City of Alliance Parks Department shall be responsible for determining if an applicant has the required knowledge. The City of Alliance Parks Department shall follow the rules and regulations, as amended, regarding general procedures for planting, spraying, pruning, trimming and removal of trees so that the City of Alliance can remain a member of Tree City USA.

5-504. TREE SURGEON'S LICENSE; CHARGE; TERM.

A charge of \$100.00 shall be made for a Tree Surgeon's License. No bond shall be necessary from a licensee. Said license shall extend to and be in force until January 1 of the next succeeding year. A charge of \$75.00 shall be made for the renewal of a Tree Surgeon's License provided there has been no lapse in the Tree Surgeon's License.

5-505. TREE SURGEON APPLICATION.

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Application for a Tree Surgeon's License shall be made to the Community Development Department. A showing must accompany said application which will indicate the applicant's experience, knowledge and ability. The applicant must provide proof of insurance and proof that applicant has the requisite training as determined by the Parks Department. The Community Development Department shall receive the application and license fee and forward the completed application to the City Clerk for submission to the City Council for approval.

Upon approval of the application by the City Council, the City Clerk through the Community Development Director or his designee shall issue the Tree Surgeon's License to the applicant. Should the Council refuse to approve the application, the applicant shall be notified of such refusal and the application fee shall be refunded.

2-321. NURSERY – GREENHOUSE PERMIT.

All arborists, landscape gardeners, or others who propose to sell or otherwise handle trees and shrubbery within the City of Alliance and receive pay therefore must apply for and receive a Nursery – Greenhouse Permit before doing any such work. Sell or otherwise handle trees and shrubbery does not include providing installation, removal, spraying, pruning or trimming of trees and shrubs.

2-322. NURSERY – GREENHOUSE PERMIT; CHARGE; TERM.

A charge of \$50.00 shall be made for a Nursery – Greenhouse Permit. No bond shall be necessary from a permit holder. Said permit shall extend to and be in force until January 1 of the next succeeding year.

2-323. NURSERY – GREENHOUSE APPLICATION.

Application shall be made to the City Clerk for a Nursery – Greenhouse Permit. A showing must accompany said application which will indicate the applicant's experience, knowledge and ability. Upon being satisfied that said showing is sufficient, the City Manager shall authorize the City Clerk to issue the Nursery – Greenhouse Permit.

The procedures for a Tree Surgeon's License and a Nursery – Greenhouse Permit shall commence effective January 1, 2010.

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.

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

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

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Voting Nay: None.

Motion carried.

Mayor Yeager stated, “the passage and adoption of Ordinance No. 2644 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The next item to be presented to Council was Resolution No. 09-117 awarding the Museum Exhibit Fabrication Contract bid award.

Motion by Councilman Feldges, seconded by Councilman Kusek to approve Resolution No. 09-117 which follows in its entirety:

RESOLUTION NO. 09-117

WHEREAS, The Eldred Foundation generously built an addition to the Knight Museum; and

WHEREAS, The interior of the building needs to be completed including the construction and installation of display cases, exhibits and other interior furnishings; and

WHEREAS, The design for the construction and installation of the display cases, exhibits and other interior furnishings have been completed and bids have been let; and

WHEREAS, There were three bids received and staff believes the bid of 1220 Exhibits, Inc., of Nashville, TN is the lowest, responsive, responsible bid in the amount of Six Hundred Forty-Eight Thousand Eight Hundred Thirty-Five Dollars and 09/100ths (648,835.09).

WHEREAS, Staff is requesting authority to make in the field change orders of up to ten percent (10%) of the total contract price without any further approval from Council; and

WHEREAS, The terms of the contract require the payment of thirty percent (30%) of the contract price upon signing of the contract; and

WHEREAS, The Mayor and Council believe that it is in the best interest of the City of Alliance to approve a contract for the fabrication of the Knight Museum and Sandhills Center Exhibits.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, that the Mayor on behalf of the City of Alliance, is authorized to execute a contract with 1220 Exhibits, Inc. of Nashville, TN in the amount of Six Hundred Forty-Eight Thousand Eight Hundred Thirty-Five Dollars and 09/100ths (648,835.09) for the fabrication of the exhibits for the Knight Museum and Sandhills Center.

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BE IT FURTHER RESOLVED that staff is authorized to issue payment of thirty percent (30%) of the contract price to 1220 Exhibits, Inc. upon execution of the contract.

BE IT FURTHER RESOLVED that the City Manager is authorized to make field change orders not to exceed ten percent (10%) of the total contract amount without further Council approval.

BE IT FURTHER RESOLVED, staff shall contact the successful bidders so that contractual arrangements can be finalized, and work can commence according to the terms of the bid.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Resolution No. 09-118 awarding janitorial services for the Alliance Learning Center, Alliance Municipal Airport, Knight Museum and Sandhills Center and the Alliance Police Department was the next item on Council's agenda.

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Resolution No. 09-118 which follows in its entirety:

RESOLUTION NO. 09-118

WHEREAS, The City of Alliance operates the Alliance Municipal Airport, the Knight Museum and Sandhills Center, the Police Department and the Learning Center; and

WHEREAS, As a result of normal use the buildings require cleaning on a regular basis; and

WHEREAS, The City advertised for janitorial services to be provided at each location and the lowest responsive, responsible bidders are as follows:

Alliance Municipal Airport	Service Maxx	\$4,546.00
Knight Museum and Sandhills Center	Service Maxx	\$9,110.00
Police Department	Service Maxx	\$3,180.00
Learning Center	A & J Janitorial	\$17,100.00

WHEREAS, The Mayor and City Council deem it expedient to employ companies to provide janitorial services to clean and maintain the Alliance Municipal Airport, the Knight Museum and Sandhills Center, the Police Department and the Learning Center on a regular basis.

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NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign an Agreement between Timothy D. Smith d/b/a Service Maxx Cleaning and Restoration and the City of Alliance to provide for janitorial services at the Alliance Municipal Airport in the amount of \$4,546.00 annually.

BE IT FURTHER RESOLVED, that the Mayor is authorized to sign an Agreement between Timothy D. Smith d/b/a Service Maxx Cleaning and Restoration and the City of Alliance to provide for janitorial services at the Knight Museum and Sandhills Center in the amount of \$9,110.00 annually.

BE IT FURTHER RESOLVED, that the Mayor is authorized to sign an Agreement between Timothy D. Smith d/b/a Service Maxx Cleaning and Restoration and the City of Alliance to provide for janitorial services at the Alliance Police Department in the amount of \$3,180.00 annually.

BE IT FURTHER RESOLVED, that the Mayor is authorized to sign an Agreement between Jeff and Angel Sandoz d/b/a A & J Janitorial, LLC and the City of Alliance to provide for janitorial services at the Alliance Learning Center in the amount of \$17,100.00 annually.

BE IT FURTHER RESOLVED, that staff is authorized to contact the successful bidders so that services can be provided and to expend the funds as set forth above in accordance with the agreements to pay for the janitorial services.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item to be discussed by Council was Resolution No. 09-119 approving the Manager's Application of Donald J. Sheldon as the Manager of American Legion Post #7.

Motion by Mayor Yeager, seconded by Councilman Benzel to approve Resolution No. 09-119 which follows in its entirety:

RESOLUTION NO. 09-119

WHEREAS, The City of Alliance has received a notice and copy of a Manager Application for American Legion Post #7, W 3rd and Ramblin Road, submitted by Donald J. Sheldon; and

WHEREAS, City staff has reviewed the application and finds no reason why the proposed manager, Donald J. Sheldon, would be disqualified from serving as manager; and

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NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Alliance, Nebraska, that the Manager's Application of Donald J. Sheldon for American Legion #7, located at W 3rd and Ramblin Road is hereby approved.

BE IT FURTHER RESOLVED, that the City Clerk shall notify the Nebraska Liquor Control Commission of this Council decision.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next agenda item was Resolution No. 09-120 authorizing staff to open an account with First National Bank of North Platte Trust Department for the purchase of brokered Certificates of Deposits.

Motion by Councilman Benzel, seconded by Councilman Feldges to approve Resolution No. 09-120 which follows in its entirety:

RESOLUTION NO. 09-120

WHEREAS, The City of Alliance maintains funds at First National Bank; and

WHEREAS, The current yield of return on the City funds is approximately .41%; and

WHEREAS, Staff in conjunction with John S. McGhehey, President of the Alliance branch, have been examining alternatives to increase the City's return on its deposits; and

WHEREAS, Based upon Mr. McGhehey's advice, Staff believes that the City should open an account with First National Bank North Platte Trust Department and direct them to purchase brokered Certificates of Deposit on behalf of the City of Alliance; and

WHEREAS, The brokered Certificates of Deposit would be diversified so that every dollar was insured by the FDIC; and

WHEREAS, Mr. McGhehey, through the First National Bank, has made a written proposal to reinvest Five Million Two Hundred Sixty Five Thousand and No/100ths Dollars (\$5,265,000.00) through the First National Bank of North Platte Trust Department; and

WHEREAS, Council believes that the reinvestment of the City's deposits in a manner that would increase the rate of return and continue to be FDIC insured would be in the best interest of the City.

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NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, that the City shall open an account with First National Bank of North Platte Trust Department and direct them to purchase brokered Certificates of Deposit.

BE IT FURTHER RESOLVED that the investment shall be diversified so that every dollar of the City is FDIC insured.

BE IT FURTHER RESOLVED that the Certificate terms shall be laddered so that funds are available on a regular basis to meet the cash flow needs of the City.

BE IT FURTHER RESOLVED that staff is authorized to open the account for investment of surplus funds and shall follow prudent investment practices.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Resolution No. 09-121 authorizing the City to write-off or charge-off accounts for Utility Billing in the amount of \$33,278.98 was the next item to be brought before Council.

Motion by Councilman Feldges, seconded by Councilman Kusek to approve Resolution No. 09-121 which follows in its entirety:

RESOLUTION NO. 09-121

WHEREAS, The City of Alliance provides utility services for residents of Alliance and the surrounding area; and

WHEREAS, The City of Alliance charges for providing those services based on reasonable and customary rates; and

WHEREAS, The City of Alliance turns delinquent bills over to a collection agency for collection; and

WHEREAS, Staff has prepared a document outlining the charges that have remained uncollected for over two years, the charges that have been discharged in bankruptcy and the remaining balances from those accounts that have been collected by the collection agency and the City has receive the percentage of the payment due to the City; and

WHEREAS, Staff is requesting authority to charge off the total amount of Thirty Three Thousand Two Hundred Seventy Eight and 98/100ths Dollars (\$33,278.98); and

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WHEREAS, Council agrees that the bills are uncollectable and that they should be written off.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, that the City of Alliance, utility bills which are itemized in the attached list are uncollectable and should be written off.

BE IT FURTHER RESOLVED that the City staff is authorized to write down or write off utility bills in the following amounts for the following reasons:

Discharged in Bankruptcy	\$ 7,712.41
Account assigned to Collection Agency for more than two years	\$20,430.93
Balance remaining on accounts collected by collection agency	\$ 4,813.90
Accounts under \$50 uncollected for more than two years	\$ 321.74
Total	\$33,278.98

BE IT FURTHER RESOLVED that the list of utility bills which were provided to Council are determined to be uncollectable and staff is authorized to write off those bills.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The last item on Council's agenda was Resolution No. 09-122 amending the current Shelter House Rental Policy to reflect a change in rental and deposit collection.

Motion by Councilman Kusek, seconded by Councilman Feldges to approve Resolution No. 09-122 which follows in its entirety:

RESOLUTION NO. 09-122

WHEREAS, The City of Alliance has a Shelter House in Central Park, which the public can rent for private events; and

WHEREAS, The City has established a Shelter House Rental Policy; and

WHEREAS, Staff believes some minor revisions are appropriate to the City of Alliance Shelter House Rental Policy; and

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WHEREAS, Council has reviewed the proposed changes and determined that it is in the best interest of the public and the City of Alliance.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, that the Central Park Shelter House Rental Policy, as revised and set forth herein, are hereby approved and adopted, effective November 1, 2009.

Motion by Councilman Kusek, seconded by Councilman Feldges to amend Resolution No. 09-122 to increase the amount of the deposit to \$50.00.

Roll call vote on the amendment with the following results:

Voting Aye: Yeager, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Roll call vote on Resolution No. 09-122 as amended with the following results:

Voting Aye: Yeager, Kusek, 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 7:38 p.m.”

Ralph Yeager, Mayor

(SEAL)

Linda S. Jines, City Clerk