

November 5, 2009

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, NOVEMBER 5, 2009

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

The Alliance City Council met in a Regular Meeting, November 5, 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 29, 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 November 5, 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 – NOVEMBER 5, 2009

1. Approval: Minutes of the Regular Meeting, October 22, 2009.
2. Approval: Payroll and Employer Taxes for the period October 3, 2009 through October 16, 2009 inclusive: \$157,997.87 and \$11,190.70 respectively.

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3. Approval: Claims against the following funds for the period October 19, 2009 through November 2, 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; \$599,486.24.
4. Approval: The issuance of a Cemetery Certificate to Dennis Eggleston for the South One Half of the North West Quarter (S1/2 NW1/4) of Lot Six (6), Section One (1), Block Seventeen (17), Second Addition to the Alliance Cemetery.
5. Approval: The issuance of a Sign Contractor's License to Tri-City Sign Company.

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 a charge to repair the Kansas Street Overpass which he does not feel has been done satisfactorily. City Manager Caskie advised Council that the repairs that have been made are all that can be completed in a simple fix process. Councilman Kusek asked about a bill for overhead door repair at the baler building. City Manager Caskie explained the doors had to be widened to accommodate the new baler. Councilman Benzel asked about the charge for aerial photographs. City Manager Caskie advised Council that the City had to pay for the photographs.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item before Council was a proclamation for America Recycles Day.

Councilwoman Rowley read the proclamation which follows in its entirety:

Proclamation

WHEREAS, Each year, Americans generate nearly 230 million tons of municipal solid waste. This is more than 4.5 pounds per person per day. While the nation has reached an overall recycling rate of 33 percent, much more can be done; especially in closing the loop and purchasing products made with recycled content.

WHEREAS, The decisions we make concerning recycling and resource consumption every day are critical in determining our quality of life and economic viability for future generations and the City of Alliance, Nebraska has a rich history of being on the leading edge of change throughout history, a history which is the source of our vitality today and our promise for the future and;

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WHEREAS, Waste reduction and the efficient use of our natural and economic resources is critical to a sustainable lifestyle and recycling is fundamental to waste reduction, the America Recycles Day campaign has encouraged recycling activities throughout the United States since 1997 and;

WHEREAS, To focus the nation's attention on the importance of recycling and closing the loop; businesses, industries, government agencies, nonprofit organizations, and individuals have joined together to celebrate America Recycles Day and are encouraging their fellow employees and employers, staff, customers, membership and all citizens to pledge to do more and;

WHEREAS, Waste reduction and the purchase of recycled-content products are critically important elements of an environmentally responsible waste management program and;

WHEREAS, There has been a significant increase in the amount of recycling in Alliance today, we must continue to focus on other initiatives such as waste reduction, composting, the reuse of products and materials, and recycled products and packaging and;

WHEREAS, Recycling is good for the Alliance community.

NOW, THEREFORE, on behalf of the members of the City Council of the City of Alliance, we do hereby proclaim November 15, 2009 as

AMERICA RECYCLES DAY

And encourages all residents to increase their recycling efforts.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Alliance to be affixed on this 5th day of November in the year of the Lord Two Thousand Nine.

The proclamation was presented to Deb Dopheide, Keep Alliance Beautiful Director.

- The next item on Council's agenda was a request by Rich Otto to appear before Council to address excavation expenses on his property located at 5th Street and Box Butte Avenue which he purchased from the City of Alliance.

Mayor Yeager excused himself for this item and passed the gavel to Councilwoman Rowley at 7:12 p.m.

Rich Otto, 1203 Box Butte addressed Council representing MJLC, Inc. He asked Council if the roles were reversed, how Council would feel. Councilman Feldges asked Mr. Otto if demolition would not have taken place on 1st Street, if he would be appearing before Council. Mr. Otto indicated that based on what has been addressed, he would come before Council. He told Council that he doesn't believe the Drake Demolition Project was handled properly.

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Councilman Benzel stated Mr. Otto knew he would have to clean debris out of the property when purchased. Mr. Otto told Council that he is in attendance as a matter of principal because if he had been given all the facts it may have influenced his decision to purchase the property. City Manager Caskie asked Mr. Otto how he arrived at the conclusion that the additional costs he has incurred by the fact that “minimally to code” means that the basement wasn’t broken up. Mr. Otto replied that the time and effort to trench the property mix it with dirt and remove the old unusable dirt make up the additional costs. Councilman Kusek asked where the old dirt went and was advised that it was taken to the Alliance Landfill at no charge.

Terry Curtiss, Attorney at Law addressed Council indicating that his law office abuts this property. He watched the demolition of the Drake Hotel and did not think that it was possible for the casual observer to know whether the basement had been cracked. He believes that neither the City nor Mr. Otto knew everything about the demolition process. He indicated that Mr. Otto is asking Council to step up and admit that things were not as Council thought and to sit down and make a decision that is mutually agreeable to both parties.

Councilman Kusek said that what he is hearing from both Mr. Otto and Mr. Curtiss is the relief from this is that the taxpayer has deep pockets. He reiterated that the City acquired ownership of the Drake Hotel because a local businessman screwed the citizens of the City of Alliance and the building had to be torn down due to disrepair. Councilman Kusek also reminded them that demolition was done to facilitate a future parking lot, not a building. Councilman Kusek also reminded Council that Mr. Otto appeared before Council in July, 2009 asking for financial relief through TIF funding and was unanimously granted approval.

Rachel Gonzalez, 735 Homestead Avenue addressed Council advising them that she had written a newspaper article illustrating that former City Manager Wally Baird was entertaining offers to build a business on the property about the time the demolition of the Drake Hotel was completed. She could find no evidence that the property use was only intended to be a parking lot. She asked Council if it was only going to be a parking lot, why was it seeded and irrigated and then sold to Mr. Otto.

City Manager Caskie advised Council that the specifications which were prepared before the demolition began said a park or parking lot. She believes that the City was probably trying to keep the budget down because the entire project was not anticipated nor budgeted. At some point, a Council member asked staff to try to sell the lot. After the lot did not sell, it is assumed that staff was directed to seed and irrigate the lot because another parking lot was not needed on Box Butte Avenue. She believes that there is an expectation that you take used property as you get it.

Councilman Kusek reminded the public the empty lot had been left as dirt until several business owners and citizens complained about the dirt blowing. Staff had recommended laying down a layer of rock for use as a parking lot; however the Municipal Code had just been changed regarding the surfacing of parking lots. The option of rock was not a viable one because of the cost and the fact the City did not own the lots where the entryway is off the street. The choice of sod was then made which necessitated the addition of the irrigation. A Council Contingency Fund expenditure of \$7,000 was approved to fund the sod and irrigation system to keep the dirt

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from blowing. At that time, the City received inquiries from three people interested in purchasing the property. Mr. Otto approached the City right away and wanted to purchase the property but did not want to build for approximately 3 ½ years. Council decided they would not sell the property on speculation of a building in 3 ½ years when they had people who were interested in building sooner. Mrs. Gonzalez asked if it was correct that not too long after demolition the parking lot was forgotten. Councilman Kusek indicated that the Main Street Players approached the City and asked if they would take ownership of the Drake Hotel because they could not afford the repairs even though the building had been given to them by a local businessman. While the building was being demolished, it was anticipated that all four lots that were owned by the Main Street Players would be transferred to the City. However, the two interior lots were sold to private individuals to allow space for a beer garden for Heritage Days which left 2 narrow lots for the City. Councilman Kusek asked where the oil went that was excavated and if it was destroyed properly. City Manager Caskie advised Council she would investigate the process.

Motion by Councilman Kusek, seconded by Councilman Feldges to pay \$750.00 for the removal of the cylinder and 80 gallons of hydraulic oil and an additional \$1,000.00 for the exposure of the area and removing it for a total of \$1,750.00.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Feldges.

Voting Nay: Rowley.

Not Voting: Yeager.

Motion carried.

- Vice Mayor Rowley passed the gavel back to Mayor Yeager at 8:12 p.m.
- A public hearing on the Class C Liquor License Application of Dondon, Inc. dba Player's Sports Bar located at 209 Box Butte Avenue was the next item to be reviewed by Council.

Mayor Yeager declared, "Now is the date, time and place to conduct a public hearing on the Class C Liquor License Application of Dondon, Inc. dba Player's Sports Bar, located at 209 Box Butte Avenue." Mayor Yeager opened the Public Hearing at 8:09 p.m. Tina Schafer, 620 Platte Avenue addressed Council as the new owner of Player's Sports Bar and indicated that she is purchasing the building and the business and is very excited about her new adventure. K.J. Hutchinson, 936 Big Horn Avenue advised Council the reason Player's Sports Bar is being sold is due to delinquent child support owed by the prior owner, Jon Lulow and his license has been revoked. She expressed concern as to whether Mr. Lulow has sold the business in a maneuver to get his license back through another party. The Public Hearing was closed at 8:12 p.m.

Motion by Councilman Feldges, seconded by Councilman Benzel to approve Resolution No. 09-123 which follows in its entirety.

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RESOLUTION NO. 09-123

WHEREAS, The City of Alliance has received a notice and copy of an application for a Retail Class C Liquor License submitted by Dondon, Inc., dba Players Sports Bar; and

WHEREAS, The Alliance City Council has held a public hearing as provided for by law within forty-five days after the date of receipt of the notice from the Nebraska Liquor Control Commission with the application; and

WHEREAS, Notice of such hearing was given as provided by law; and

WHEREAS, At such hearing, evidence was received by the Council bearing upon the propriety of the issuance of such license; and

WHEREAS, The cost of published notice for the application is \$8.50.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Alliance, Nebraska, that the City Council does recommend the issuance of a Retail Class C Liquor License to Dondon, Inc., dba Players Sports Bar, to be located at 209 Box Butte Avenue, in Alliance, Nebraska.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Resolution No. 09-124 authorizing the renewal of a promissory note for the Central Park Fountain renovation debt was the next item for Council's consideration.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to approve Resolution No. 09-124 which follows in its entirety:

RESOLUTION NO. 09-124

WHEREAS, Nebraska Revised Statutes §16-213, authorizes cities of the first class to borrow money on the credit of the City and pledge the credit, revenue, and public property of the City for the payment thereof; and

WHEREAS, Nebraska Revised Statutes §18-1750, authorizes the City to execute and deliver promissory notes maturing not more than two years from the date thereof; and

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WHEREAS, The City of Alliance entered into an Agreement to obtain a loan in the amount of \$232,000.00 with First National Bank of Alliance, to finance the renovation of the fountain in Central Park; and

WHEREAS, The loan for the fountain renovation costs is maturing and the City needs to refinance the remaining balance; and

WHEREAS, The City of Alliance has negotiated with First National Bank of Alliance and in a letter dated October 23, 2009, First National Bank proposed to re-finance the fountain renovation costs at four percent (4%) interest for an additional two years; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the City of Alliance is authorized to enter into an Agreement to obtain a loan in the amount of One Hundred Forty-Nine Thousand One Hundred Fourteen and 96/100ths Dollars (\$149,114.96) to re-finance the fountain renovation costs for an additional two years at four percent (4%) interest with First National Bank of Alliance, pursuant to the Letter dated October 23, 2009, submitted by the First National Bank of Alliance.

NOW THEREFORE BE IT RESOLVED, that the Mayor of the City of Alliance is authorized to sign, on behalf of the City, promissory notes, pledge agreements, and other necessary documents, and renewals thereof, for the purpose of evidencing a debt to First National Bank in the amount of One Hundred Forty-Nine Thousand One Hundred Fourteen and 96/100ths Dollars (\$149,114.96) on the terms set forth herein.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was Resolution No. 09-125 authorizing the financing of the baler and lift station for the Alliance Landfill in the amount of \$500,000.00.

Motion by Mayor Yeager, seconded by Councilman Benzel to approve Resolution No. 09-125 which follows in its entirety:

RESOLUTION NO. 09-125

WHEREAS, Nebraska Revised Statutes §16-213, authorizes cities of the first class to borrow money on the credit of the City and pledge the credit, revenue, and public property of the City for the payment thereof; and

WHEREAS, Nebraska Revised Statutes §19-2421, authorizes the City to enter into leases with an option to purchase as part of the lease; and

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WHEREAS, The City of Alliance decided to obtain a baler for the landfill and a lift station and to finance the purchase; and

WHEREAS, The City issued requests for quotes, and three responses were received; and

WHEREAS, The Letter dated October 21, 2009 which has been received from Wells Fargo, for a lease purchase in the amount of Five Hundred Thousand and No/100ths Dollars (\$500,000.00) for Sixty months at 3.60% interest appears to be the quote for financing which is the most advantageous to the City.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the City of Alliance is authorized to enter into a lease purchase agreement in the amount of Five Hundred Thousand and No/100ths Dollars (\$500,000.00) to finance the baler and the lift station for the landfill for sixty months at 3.60% interest with Wells Fargo, pursuant to the Letter dated October 21, 2009, submitted by Wells Fargo.

BE IT FURTHER RESOLVED, that the Mayor of the City of Alliance is authorized to sign, on behalf of the City, promissory notes, pledge agreements, and other necessary documents, and renewals thereof, for the purpose of evidencing a debt to Wells Fargo in the amount of Five Hundred Thousand and No/100ths Dollars (\$500,000.00) on a lease purchase for sixty months on the terms set forth herein.

City Manager Caskie advised Council this is not a promissory note, it is a lease/purchase agreement.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The last item on Council's agenda was an Executive Session to conduct a performance evaluation of City Clerk Jines.

Councilman Kusek 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 conducting a performance evaluation of City Clerk Jines. The motion was seconded by Councilwoman Rowley.

Roll call vote with the following results:

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

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Voting Nay: None.

Motion carried.

- The executive session was entered into at 8:41 p.m. and adjourned at 9:17 p.m.

Motion by Councilwoman Rowley, seconded by Councilman Kusek to award City Clerk Jines a \$1,000.00 performance bonus.

Roll call vote with the following results:

Voting Aye: Yeager, Rowley, 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 9:20 p.m.”

Ralph Yeager, Mayor

(SEAL)

Linda S. Jines, City Clerk