

CITY COUNCIL MEETING

NO. 2009-02

JANUARY 19, 2009

The Mayor and City Council of the City of Chadron, Nebraska met in regular session in the City Hall Council Chambers at 234 Main Street on the 19th day of January, 2009, at 5:00 o'clock P.M. The following individuals were present: Mayor Donny Grantham, Vice Mayor John Gamby, Councilmembers John Chizek, Rob Harvey and Steve Duncan, City Manager Sandy Powell, City Clerk Donna Rust, City Attorney Adam Edmund, Chief of Police Tim Lordino, Finance Officer Melany Hughes, Public Works Director Milo Rust and Zoning/Building Official Janet Johnson. Absent: None.

Notice of the meeting was given in advance thereof by publishing notice in The Chadron Record as shown by the affidavit of publication filed in the City Clerk's office. Notice of the meeting was also given in advance to the Mayor and all members of the City Council and a copy of their acknowledgment of receipt of notice and the agenda is attached to the minutes and is filed in the City Clerk's office. Availability of the agenda was communicated in the advance notice and in the notice of the Mayor and City Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

Mayor Grantham called the meeting to order and declared a quorum present. The Mayor also read the following before continuing with the meeting: "As required by Section 84-1412, subsection of the Nebraska Statutes, notice is hereby given that a copy of the Open Meetings Act is posted for your examination on the wall inside the door to these City Council Chambers."

Councilmember Gamby moved to approve the agenda as written and distributed. Seconded by Councilmember Chizek. The following Councilmembers voted Aye: Harvey, Duncan, Grantham, Gamby, Chizek. The following voted Nay: None. Motion carried.

Councilmember Chizek moved to approve the Consent Agenda, which included the following items:

- 1) Minutes for City Council Meeting No. 2009-01, January 5, 2009

The Minutes were approved as written and distributed.

- 2) Correspondence

There was no correspondence to report.

- 3) Claims

NOTE:

*Denotes Check Issued

O-Ordinance, C-Contract, S-Statute
 R-Resolution, F-Federal Law, M-Motion
 N/A-No Authority, D-Discount
 T-Transfers/Pass Through
 E-Electronic Checks

ABC Electric	Supplies/Labor	328.58	
Alltel	Cell Phone Service	121.33	
Arrow Building Center	Supplies	98.74	
Baker & Taylor	Library Materials	513.51	
Black Hills Weekly	12/08 Ads and Subscriptions	781.40	
Brennan Electric	Install Lights & Outlets at Fire Hall	450.33	
Business Connection	Library Office Supplies	22.99	
Century Business Products	Library Copier Lease	59.50	
Chadron, City of	Electronic Withdrawal for Payroll	24,599.16	*C/E
Chadron, City of	FICA through 01/06/09	4,692.99	*F
Chadron, City of	Payroll through 01/06/09	38,703.87	*C
Chadron, City of	01/08 Side Fund	19,299.50	*
Chadron, City of	Utility Refunds	367.34	T
Chadron Community Hospital	LB 840 Funds Distribution	69,334.43	
Chadron Wholesale	Supplies	43.20	
Contractors Materials	Supplies for Street Dept.	435.48	
Culligan	Bottled Water/Dispenser Rent	93.50	
Dawes County Clerk	Election Costs	1,889.02	
DM & E	Stockpile Snow Land Lease	200.00	
Edmund, Adam	12/08 Legal Services	2,211.56	
Failla Law Office	12/08 Legal Services	1,000.00	
FBINAA	Training Conference/Lordino	75.00	
First National Bank of Chadron	Safe Deposit Box Rent	20.00	
FP Mailing Solutions	Postage Meter Resets	80.85	
Gale	Library Materials	46.74	
GMC of Chadron	Vehicle Repair	325.70	
Great Plains Communications	Library Internet Service	99.90	
Guardian	01/09 Dental Premium	260.92	*
Gumdrop	Library Materials	513.70	
Hach	Chlorine/Sensor for Water Dept.	4,435.64	
Hans, Wyatt	Reimb. For Dental Insurance	29.00	
Hansen, Maruta	01/04-01/14/09 Janitorial Services	180.00	

Haynes, Katie	Utility Refund	37.27	
HD Waterworks	Water Department Repairs	1,544.80	
Henkens Equipment	Supplies	8.50	
Hi-Tech Car Care	Handi Bus Wash	36.00	
Hutton, Mark	11/08-12/08 Operations Contract	6,600.00	*
Hutton, Mark	01/09 Operations Contract	3,300.00	
Ideal Linen	Janitorial Supplies	77.23	
Ingram	Library Materials	271.72	
JJ's Engraving	Plaques	54.50	
Kids Reference Company	Library Materials	135.92	
Librarians Book Express	Library Materials	294.99	
Linweld	Argon Cylinders	15.25	
Lordino, Tim	Auto Allowance	200.00	
Manna Systems	Printer Armrest for Police Dept.	149.00	
Metal Products	Furnace Repair for Library	703.58	
Mid States Organized Crime Center	2009 Annual Membership/Lordino	150.00	
Miskimins Motors	Vehicle Repair for Police Dept.	240.84	
Municipal Supply	Parts for Water Dept.	183.82	
Nebraska Assn. Of Airport Officials	2009 Membership/Hutton	200.00	
Nebraska Code Officials Assn.	Annual Dues/Johnson	100.00	
Nebraska DAS Central Finance	Long Distance Service	448.00	
Nebraska Health Laboratory	Water Testing	74.00	
Nebraska LTAP	Asphalt Conf. Reg./Rust & Birnbaum	190.00	
Nebraska Public Power District	12/08 Electric Service	1,680.90	*
Nebraska Public Power District	12/08 Electric Service	986.26	
Northwest Pipe Fittings	Valve for Police Dept.	110.00	
Northwest Rural Public Power	Electric Service	8,256.83	
Outlaw Printers	Letterhead Paper/Envelopes	370.00	
Penworthy	Library Materials	187.90	
Petersen Drug	Supplies/Interview Call/Inoculations	342.87	
Peterson Locksmith	Lock Repair	25.00	
Piper, Sarah	Utility Refund	25.39	
Quality Tire	Wheel for Police Dept.	80.00	
Quill	Office Supplies for City Hall	146.85	
Qwest	12/08 Phone Service	335.03	
Rath, Jim	Hangar Door Repair Reimbursement	50.13	
Regional Care	01/09 Employee Health Ben./Select Flex	12,410.87	*
Roberts Electric	Welder Receptacle for Airport	232.17	
Ron's Repair	Repairs for Parks Dept.	31.20	
Sandhills Computer	Street Internet Service	29.00	
Service Master	Carpet Cleaning for City Hall	470.00	
Star Herald	Yearly Subscription for Library	126.50	
Taste of Home	Library Materials	28.98	

Upper Niobrara White NRD	Trees for Parks Dept.	67.50	
US Postmaster	Annual Fees	180.00	
Vantage Point Trust 401 Employee	Pension to 01/06/09	2,304.99	*C
Vantage Point Trust 401 Police	Pension to 01/06/09	1,259.85	*C
Western Communications	Siren Maintenance	110.00	
Winter Equipment	Snow Plow Repairs	161.96	
Xerox	Monthly Lease/Prints	579.77	
TOTAL		216,919.25	

The foregoing schedule of claims is published in accordance with Nebraska Revised Statutes 19-1102.

4) Minutes for Boards and Commissions

There were no minutes to distribute at this meeting.

5) Monthly Reports

Copies of the monthly Treasurer's Report and Water Report were distributed.

Councilmember Harvey seconded the motion for approval of the Consent Agenda. The following Councilmembers voted Aye: Harvey, Duncan, Grantham, Gamby, Chizek. The following voted Nay: None. Motion carried.

Mayor Grantham proclaimed January 19, 2009, as Martin Luther King Day.

City Attorney Megan Failla was to have been recognized for her service to the City, but was unable to be present at this meeting. The recognition will be rescheduled for a later date.

Mark Hutton, Airport FBO/Operations Supervisor, gave a report and update with regard to the Chadron Municipal Airport.

Councilmember Chizek introduced the following Resolution and moved for its adoption:

RESOLUTION NO. 2009-03

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF CHADRON, NEBRASKA:

1. The Council being fully advised, recommends that the Manager Application of Connie A. Huckfeldt in connection with the Class I-58799 Liquor License for the Ridgeview Country Club, Inc., located at 16611 South Highway 385, Chadron, Dawes County, Nebraska, be approved.

2. The City Clerk is hereby directed to send a copy of this Resolution by first class mail prepaid to the Nebraska Liquor Control Commission.

The foregoing Resolution having been read, Councilmember Gamby seconded the motion for its passage and adoption, and after consideration thereof, the roll was called on the passage and adoption of said Resolution and the following Councilmembers voted Aye: Harvey, Duncan, Grantham, Gamby, Chizek. The following voted Nay: None. The passage of the Resolution having been consented to by more than a majority of the members elected to the Council was declared passed and adopted this 19th day of January, 2009.

CITY OF CHADRON

Mayor

ATTEST:

City Clerk

(S E A L)

The Council considered Ordinance No. 1325 on its second reading:

AN ORDINANCE to amend Chapter 2 “Building Regulations,” Article 1 “Building Code and Permits,” Section 101 “Adoption of Building Code” of Ordinance No. 1000, being the Municipal Code of the City of Chadron, Nebraska; to adopt the current International Property Maintenance Code; to repeal all Ordinances and parts of Ordinances in conflict herewith; directing the publication of this Ordinance and prescribing the time when this Ordinance shall be in full force and effect.

City Manager Sandy Powell and Building/Zoning Official Janet Johnson explained the International Property Maintenance Code and addressed the following questions.

1. **Why is government coming into our lives?**

There are multiple reasons that this subject is being looked at...

A number of citizens have lodged complaints with various agencies asking for something to be done with the unsafe or unsanitary conditions of properties in Chadron.

Longtime residents of Chadron report that property maintenance has declined over the last twenty years. At the present rate of decline, what will we look like in the next 10 to 20 years?

The Chadron Comprehensive Plan suggests that policies need to be adopted to address the poor condition of properties; a recommendation made in 1997 and not acted upon.

As cities compete for new residents and businesses, quality of life issues have become one of the foremost attractions to the city. Dilapidated and unsafe buildings not only market your city as a poor place to buy into/relocate, but also as a potential high crime city.

Chadron has a high rate of rentals versus owner occupied properties. (54% of dwellings are rentals compared to 28.5% in Gordon and 29.5% in Alliance.) A high rental rate can discourage property pride unless the community is proactive.

City staff has been doing a great deal of research to put the right people and policies in place to provide for proactive improvement of the City while maintaining objectivity and constitutional protections.

Why don't you use what you have?

Existing Municipal Code on public health violations is somewhat vague, especially when dealing with buildings. We have unsuccessfully gone to court under the existing code. The existing process is a much lengthier process because the procedure is not spelled out. The IPMC is more descriptive in what a violation is and the notice procedure is very clear as what the due process is.

Does this mean they can just walk in to my house? Do they need a search warrant?

The code allows the code official to make inspections or receive reports to do inspections by agencies or individuals. The code official is authorized to enter a structure or premises at reasonable times to inspect, subject to constitutional restriction on unreasonable search and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law (would require a warrant issued by a judge). The code official must have a reason to enter, and cannot just arbitrarily enter homes. IPMC 104.4 provides language similar to the language in the Building Code and the Residential Code which we are currently using.

What is due process? How is it interpreted? Are we giving up rights that are currently protected?

Due process is a judicial requirement that enacted laws may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of an individual. Due process as set out by the code is very clear. Once a violation has been determined to exist the following process is followed (IPMC 107.2).

Notice shall be in writing. The notice must be served by

Personal delivery

Certified or first class mail

If notice is returned showing that the letter was not delivered, a copy shall be posted in a conspicuous place in or about the structure affected by such notice.

Include a description of the real estate sufficient for identification.

Include a statement of the violation or violations and why the notice is being issued.

Include a correction order allowing a reasonable time to make repairs and improvements required to bring the dwelling unit or structure in compliance with provisions of this code.

Inform the property owner of the right to appeal.

Include a statement of the right to file a lien in accordance with Section 106.3. (Section 106.3 talks about the possibility of being guilty of a misdemeanor or civil infraction)

Currently we have no appeal process in place. With the proposed code, we believe the due process as described would actually give the property owner protection they don't currently have.

Will the new code allow the City to go on a “witch hunt”?

The new code actually offers more protection than the current codes in that it spells out certain violations where the current code is very vague. The new code also allows for a board of appeal to appeal decisions made by the code official.

How will the City decide which cases to pursue?

Our suggested policy is that we work on a complaint basis. Follow up the complaint with an inspection and work with the owners on a reasonable plan of correction. Start with most critical violations of life and fire safety.

How will this be enforced?

The code enforcement official will be the most direct contact with the property representative. However, staff is proposing the adoption of a “Problem Resolution Team” or “PRT” to work on these cases. Rather than have a Health Board only consisting of the Mayor, City Manager, Police Chief, Physician and Member-at-large, the PRT would be a broader board consisting also of health, safety and housing professionals. This added expertise, along with the adoption of an Appeals Board, helps us to assure that people are being treated fairly and in an unbiased manner. It is the PRT’s goal to find solutions.

Who is this protecting/affecting?

This code would affect anyone who owns or occupies property by ensuring property is kept up to a minimum standard.

Owners of well maintained property would ensure that their investment is protected by maintaining the integrity of the buildings around them. Having nice surroundings helps to maintain property values (if not increase them) as well as improve the ability to sell the property in the future.

Owners of property not maintained would work with city staff to identify deficiencies and develop ways to improve or eliminate problems.

Renters could have an avenue to assure that their rented space is maintained in a safe manner without putting themselves in a confrontational relationship with the landlord.

The College and other businesses that must market the city in order to bring people into their establishments for trade or employment have a partner with the City in the overall improvement of the city.

What happens if we don't pass this?

If the IPMC is not passed, we will continue with the existing Municipal Code. Violations will take longer to be resolved and could potentially cost more tax dollars in staff time and court procedures.

If this does pass, how fast can we expect a property to be cleaned up?

Depending on the severity of the complaint, it could take a matter of a couple months to a couple years to clean up a property. Overall, it has taken many years to accumulate the number of poorly maintained buildings that exist today. Likewise, it will take many years to restore our appearance.

How do we dispose of the property?

Should the city have to take over a property in lieu of costs for demolition, the property will be sold as required by law of any city property.

What will taking action against deteriorating properties cost?

The cost to clean up a property will vary depending on the severity of the problem and the willingness of the owner to work with the PRT to take care of the deficiencies.

When would this go into effect?

Although we have had previous complaints on properties, we would start applying the new code to complaints received after the code's adoption.

City Manager Sandy Powell stated that when she became manager almost two years ago, there were three major issues brought to her attention: the availability of reasonably priced housing, the availability of jobs and requests to clean up the community. The City Code is being updated to work with these issues.

Councilmember Chizek questioned the number of calls in support that had been received by City staff. It was noted that there had been several, but most of the calls were from people who did not feel they could speak out publicly. He also questioned whether the City would be liable if improvements were not made to properties. City Attorney Adam Edmund said the City would be liable only if they were aware of a problem and didn't follow up to see that it was remedied.

Janet Johnson stated that the code is to correct issues of life and fire safety or maintenance. She cited an example of an individual who had rented a basement apartment with no avenue of escape except the main entryway. This would constitute a life-threatening issue.

Marguerite Vey-Miller, Executive Director of High Plains Community Development, addressed the Council. She stated that 28 Fair Housing complaints specific to Landlord and Tenant issues received from rental residents within the City have been received during the past 18 months. It was noted that 15 of the 28 complaints were regarding safety or hazardous issues that landlords had refused to resolve or remedy. Ms. Vey-Miller had prepared a written report for distribution to the Council. She stated that the Nebraska Landlord and Tenant Act is specific as to how and when the landlord is to respond to requests for emergency and non emergency repairs. However, enforcement of the Nebraska Landlord and Tenant Act is difficult without the support and concrete mandate from local government officials. The State of Nebraska is reluctant to get involved unless the City has an enforceable code in place.

City Manager Sandy Powell said adoption of the proposed ordinance would speed up the complaint process. A Problem Resolution Team could also be formed to help solve problems.

Councilmember Duncan stated he had received calls, questioning if the Code would be retroactive and if the Code would initiate possible witch hunts, targeting specific properties.

City Manager Sandy Powell said if the ordinance was adopted, the City would start new with a new list of complaints. She said a witch hunt could be done at the present time by City staff, as the current law is gray and more subjective. In addition, there is no appeal process. She also pointed out that the City has limited dollars and staff and is able to do only so much. Currently, a five-member Health Board has a lot of power when determining code violations. The PRT would provide a broader scope when determining violations.

Police Chief Tim Lordino responded to Mayor Grantham's question regarding the visit to Wayne, where the code is in place. Lordino said there is a very noticeable difference in communities.

Janet Johnson said that currently the City of Wayne has 18 cases of code violation on the books and only one or two are ready for demolition. Some properties may be turned over to the city and the City will then sell them with the provision that the buyer has one year to put a new building on the lot.

Dr. Ron Miller pointed out that if property is not kept up that an undesirable element generally moves in and takes over. He cited examples.

Councilmember Duncan said all will be impacted, if the proposed Property Maintenance Code is adopted, but should be a positive impact in the long run.

Councilmember Gamby said he will wait to comment on the proposed ordinance at the next meeting. He said he feels the issues listed in the Code, should be addressed by the City.

The third and final reading of Ordinance No. 1325 will be on February 2, 2009.

Public Works Director Milo Rust gave an update on the Wastewater facility pre-bid conference and reminded the Council of the bid opening on January 22, 2009, at 2:00 p.m. in the Council Chambers.

Police Chief Tim Lordino reported on the change in issuing citations, as they are now being done electronically.

City Manager Sandy Powell reported on the status of ownership of the Chamber of Commerce building. She and Personnel/Insurance Clerk Lynn Hardman are looking at a wellness program. The 90-day Legislative session is starting and she will be watching bills closely, particularly the ones affecting the City.

Councilmember Gamby moved to adjourn the meeting at 6:12 o'clock P.M. Seconded by Councilmember Chizek. The following Councilmembers voted Aye: Harvey, Duncan, Grantham, Gamby, Chizek. The following voted Nay: None. Motion carried.

CITY OF CHADRON

Mayor

ATTEST:

City Clerk

(S E A L)

STATE OF NEBRASKA)
)
County of Dawes) ss
)
City of Chadron)

I, the undersigned City Clerk for the City of Chadron, Nebraska, hereby certify that all of the subjects included in the attached proceedings were contained in the agenda for the regular meeting of January 19, 2009 kept continually current and available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that the said minutes of the City Council of the City of Chadron were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body.

City Clerk

(SEAL)