

CITY COUNCIL MEETING

NO. 2009-28

DECEMBER 21, 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 21<sup>st</sup> day of December, 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, Police Lieutenant Rick Hickstein, Public Works Director Milo Rust, Finance Officer Melany Hughes, 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 Harvey. The following Councilmembers voted Aye: Grantham, Gamby, Chizek, Harvey, Duncan. 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. 2009-28, December 7, 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	Repairs/Materials for Various Depts.	1,323.10
Adamson, Tom	Library Materials	8.00
Arrow Building Center	Supplies for Various Depts.	70.47
Atlas Stationers	Books for Police Dept.	80.97
Baker & Associates	Wastewater Facility Design	4,718.73
Baker & Taylor	Library Materials	752.53
Bauerkemper, Dave	Fire Dept. Incentive Program	100.00
Bauerkempers	Cut Saw for Water Dept.	961.44
Blanford, Jason	Fire Dept. Incentive Program	100.00
Boeselager, Steve	Fire Dept. Incentive Program	50.00
Brennan, Mark	Fire Dept. Incentive Program	50.00
Brice, Kyle	Fire Dept. Incentive Program	100.00
Brice, Rick	Fire Dept. Incentive Program	100.00
Cake & Etc.	Employee Appreciation Reception	46.90
Century Business Products	Library Copier Lease	63.00
Chadron, City of	12/08/09 Electronic Withdrawal	32,944.59
Chadron, City of	FICA through 12/08/09	5,592.12
Chadron, City of	Payroll through 12/08/09	42,808.11
Chadron Rotary Club	Quarterly Dues for Lordino	114.50
Dell	Ink for Library Printer	296.91
Fischer Construction	Wastewater Facility Construction	413,303.00
Gale	Library Materials	70.11
Galls	Exam Gloves for Police Dept.	140.31
Garmin, Darin	Fire Dept. Incentive Program	100.00
Gill, Joe	Fire Dept. Incentive Program	100.00
Gould, Pat	2nd Quarter Fire Dept. Payment	525.00
Grant, Michelle	Fire Dept. Incentive Program	100.00
Great Plains Communications	Internet Service for Library	57.45
Great Plains One Call Service	Locate Requests	33.80
Green, Christopher	Fire Dept. Incentive Program	50.00
Hansen, Maruta	12/03-12/16/09 Janitorial Services	200.00
Grimm's Pump & Supply	Airport Fuel Pump Repair	364.54

Harris, Mike	Fire Dept. Incentive Program	100.00
Hills Materials	Road Base for Street Dept.	4,535.62
Hoffman, Craig	Fire Dept. Incentive Program	100.00
Hughes, Melany	Travel Reimbursement	7.48
Hunter, Tyler	Fire Dept. Incentive Program	100.00
Hutton, Mark	12/09 Operations Contract	3,399.00
Ideal Linen	Janitorial Supplies for Various Depts.	80.71
Ingram	Library Materials	397.71
JJ's Engraving & Awards	Brass Plates/Engraving Characters	37.50
JJ's Engraving & Awards	Clocks for Employee Recognition	94.50
Keiper, Margaret	Refund on Health Insurance Premium	56.16
Kelso, Robert	Fire Dept. Incentive Program	100.00
Knowbuddy	Library Materials	116.70
Lawson Products	Supplies for Street Dept.	261.00
Lesmeister, Dillon	Fire Dept. Incentive Program	100.00
Linweld	Argon Cylinders for Street Shop	16.00
Lliteras, Joe	2nd Quarter Fire Dept. Payment	450.00
Micro Marketing	Library Materials	56.99
Mitchell, Bryan	Fire Dept. Incentive Program	50.00
Municipal Supply	Software Agrmt. Sales Tax for Water	52.50
Nebraska Library Commission	Basic Skills Class for Library	35.00
Nebr Public Power Dist	11/09 Electric Service	2,165.48
NNDC	Meals Annual Mtg./Powell-Grantham	23.00
Northwest Pipe Fittings	Repairs for Water Dept.	55.90
Northwest Rural Public Power	Rural Electric Service	8,068.17
Panhandle Area Dev. District	2009/2010 Membership	2,409.22
Petersen Drug	Batteries for City Hall	4.49
Peterson Locksmith	Lock/Keys Wastewater/Water Dept.	172.40
Pine Ridge Land Surveys	Easement Survey for Water Dept.	75.00
Pizza Hut	Meal for Library Teen Program	26.75
Power Plan	Parts for Street Dept.	146.73
Pressure Services	Repairs for Street Dept.	2,623.80
Pumpkin Books	Library Materials	179.85
Qwest	Phone Service for Various Depts.	339.80
Rapid City Journal	Library Subscription	192.00
Rapid City Journal	11/09 Ads	388.35
Roberts Electric	Repairs/Materials for City Hall	355.49
Ron's Repair	Iron Rod for Street Dept.	17.35

Rust, Donna	Travel Reimbursement	27.81
Schremmer, Scott	2nd Quarter Fire Dept. Payment	450.00
Smithsonian	Library Membership	36.00
Sunland Books	Library Materials	471.21
Vantage Point Trust 401 Emp	Pension through 12/08/09	2,486.67
Vantage Point Trust 401 Police	Pension through 12/08/09	1,459.46
Verizon	Cell Phone Service for Police Dept.	180.21
Voss Lighting	Light Bulbs for Street Dept.	34.85
Wahlstrom Ford	Tow Vehicle for Impound Police Dept.	150.00
Webster, Lynn	Fire Dept. Incentive Program	50.00
Western Communications	Siren Maintenance for Police Dept.	110.00
WPCI	Random Drug Testing	148.50
Young, Jared	Fire Dept. Incentive Program	50.00
<b>TOTAL</b>		<b>538,748.90</b>

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 to the Council at this meeting.

#### 5) Monthly Reports

There were no monthly reports to submit.

#### 6) Resignation from Deb Cottier from the Citizen Advisory Board.

The Council received a letter of resignation from Deb Cottier from the Citizen Advisory Board effective immediately. Ms. Cottier stated in her letter that she feels that her position as Executive Director of the Nebraska Northwest Development Corporation may create a potential conflict of interest and that it would be best that she resign as a member.

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

Mayor Grantham proclaimed the year 2010 as Chadron Quasquicentennial Year. Several members of the 2010 planning committee were in attendance to accept the proclamation.

Rossella Tesch introduced the new children's librarian, Alva Roberts. Theresa Berger, who recently started employment as a secretary in the Police Department, was present and introduced herself to the Council. Water Superintendent Tom Menke introduced Ray Thewke, the new wastewater operator to the Council.

Several employees were recognized for years of service. Jenny Birnbaum received a plaque for 20 years, Scott Schremmer received a certificate for 15 years, and Rick Hickstein received a plaque for 10 years. Derek Bauer, Aron Chrisman and Marlene Scott were not present but were recognized for 5 years of service.

Airport FBO/Operations Supervisor Mark Hutton gave a report and update on Airport activities. Mr. Hutton stated that they are addressing the issue of fixing the wildlife fence and taking necessary steps to keep deer off the runway.

Colette Fernandez, Executive Director, Chamber of Commerce, updated the Council on Chamber activities.

Kalen Peterson, CSC IT intern, gave a presentation on the City's new Twitter page. Mr. Peterson stated this is another option for the public to use in following what is happening in their City government and also an option for the City staff to communicate with the public. It was noted that subscribers to the Twitter page will receive immediate notification of any new announcements and postings that are made by the City.

Councilmember Chizek moved to remove Resolution No. 2009-122 from the table. Seconded by Councilmember Gamby. The following Councilmembers voting Aye: Grantham, Gamby, Chizek, Harvey, Duncan. The following voted Nay: None. Motion carried.

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

#### RESOLUTION NO. 2009-122

WHEREAS, certain property within the City of Chadron, Nebraska, was previously occupied by persons that did not pay the total amount due the City of Chadron for City utilities; and

WHEREAS, this utility bill has been delinquent for more than three (3) months; and

WHEREAS, Section 16-682, R.R.S. 1943 provides for the collection of utility bills which are delinquent and, pursuant thereto, Section 16-113 of the Municipal Code of the City of Chadron provides that when water rent, when delinquent, shall be a lien against the premises or real estate upon, or for which the same is used or supplied and such delinquent water rental remains unpaid after three months after which it became due, may by Resolution of the City Council be assessed against

said real estate after a special assessment which shall be certified by the City Clerk to the County Clerk of Dawes County to be placed on the tax rolls for collection; and

WHEREAS, notices have previously been sent to the owner of the property previously occupied by the person not paying the utility bills in accordance with State Law.

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

That the following delinquent water rental be assessed against the real estate as a special assessment which shall be certified by the City Clerk to the County Clerk of Dawes County to be placed on the tax rolls for collection subject to the same penalty and to be collected in like manner as other City taxes, all as provided in Section 16-682, R.R.S. 1943:

Shane and Marilyn Hays	441 N. Main	\$73.74
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and that proceeds of such special levy be paid over to the City when collected.

The foregoing Resolution having been read, Councilmember Harvey 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: Grantham, Gamby, Chizek, Duncan, Harvey. 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 21<sup>st</sup> day of December, 2009.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

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

RESOLUTION NO. 2009-124

WHEREAS, the City of Chadron has the responsibility to make recommendations to the Nebraska Liquor Control Commission for Special Designated Liquor Licenses (SDLs) within the corporate limits; and

WHEREAS, Chadron City Council assigned staff to develop criteria and policies addressing the approval of SDLs; and

WHEREAS, the City Manager, Police Chief, and City Clerk met with interested liquor license holders within Chadron to discuss criteria and policies addressing the issuance of SDLs and do now present the recommendations that resulted from this meeting; and

WHEREAS, it is the intent of this criteria to encourage license holders to operate within the guidelines of the Nebraska Liquor Control Act, Nebraska State Statutes and other local laws; and

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

The following shall be the criteria and policies for the issuance of Special Designated Liquor Licenses (SDLs).

Definitions

For the purpose of this resolution the term violation and citation shall be synonymous. A violation is an act which is in noncompliance of the Nebraska Liquor Control Act or Nebraska State Statute. If both a violation and a citation are issued at the same time as a result of a single occurrence or single incident regardless of the number of alleged violators, it will be considered one violation.

DL application processing

If an SDL applicant has three (3) or fewer violations during the violation period at the time of application, the City Manager, Police Chief, and City Clerk, or their designees, jointly, shall have the authority to approve or deny the SDL. The City Manager, Police Chief, and City Clerk may also exercise the option of forwarding the SDL application to City Council for an approval or denial. An application processed in this manner shall be submitted to the City Clerk no less than fifteen (15) business days prior to the event. The application will be processed by staff within 48 hours of receipt.

Applications denied by city staff may be appealed to the City Council during a public meeting as prescribed by the laws and policies governing public meetings.

If an SDL applicant has four (4) violations during the violation period at the time of application, the application shall be considered by the City Council during a public meeting as prescribed by the laws and policies governing public meetings. The City Council may decide to approve or deny the SDL application based on the circumstances surrounding the violations and testimony offered by the City staff, the public and licensee.

If an SDL applicant has five (5) or more violations during the violation period, the application will not be accepted or processed by the City.

Violation period

The period in which violations will be considered is the twelve month period immediately preceding the date of the SDL application.

This Resolution shall go into effect January 1, 2010.

The foregoing Resolution having been read, Councilmember Duncan seconded the motion for its passage and adoption.

City Manager Powell presented Resolution No. 2009-124, stating that the City Council had requested that staff work on criteria to assist the City Council in approving applications for Special Designated Licenses (SDL). Ms. Powell stated that she and the Chief of Police decided to meet with liquor license holders to get their input regarding this subject. The resolution presented to the Council at this meeting was drafted based on the discussion with the liquor license holders.

Vince Ryan was present at the meeting to speak on behalf of the liquor license holders. Mr. Ryan stated that he is a member of the Knights of Columbus and the organization has filed for numerous applications in the past for Special Designated Licenses. Mr. Ryan stated that it was the consensus of those attending the meetings that they would like to see a policy implemented that would allow City staff to approve applications for Special Designated Licenses for liquor license holders with three or less violations. It was also proposed that if there are four violations, the applications would need to go before the City Council. If there are five or more violations, applications would not be accepted or processed by the City. The period for violations to be considered is the 12 month period immediately preceding the date of the SDL application.

Mimi Wheeler-Groves, owner of Helen's Restaurant, was also present and spoke in support of the proposed resolution. Ms. Groves also stated that during the meetings, the liquor license holders were informed that there may be liquor related violations issued by a law enforcement agency involving their business and that the liquor license holder is never made aware of this. As a result of this concern, the Chief of Police informed the liquor license holders that in the future the Police Department will inform the liquor license holder of any violations that are issued. Police Lieutenant

Rick Hickstein was present and confirmed that the Police Department has already implemented a policy to use in the future to communicate any liquor related violations to the liquor license holder.

Considerable discussion was held with regard to the proposed resolution. Vice Mayor Gamby stated that he is not in favor of the proposed resolution and that he feels that all SDL applications should come before the City Council for consideration.

The Council questioned the timing of a similar resolution that was brought before the Council that would have allowed the City Manager to solely approve or disapprove applications for Special Designated Licenses and the Council had voted against passage of the proposed resolution. It was noted that this resolution was presented at the December 15, 2008 Council Meeting.

After discussion, Councilmember Chizek moved to amend Section 2. SDL Application Processing (a) to state that if there are zero (0) violations during the violation period, the applications may be approved or denied by City staff and Section 2. (c) if there are one (1) to four (4) violations during the violation period, the applications will be addressed by the City Council. Seconded by Councilmember Gamby. The following voted Aye: Grantham, Gamby, Chizek, Harvey, Duncan. The following voted Nay: None. Motion carried.

After further consideration thereof, the roll was called on the passage and adoption of Resolution No. 2009-124 as amended. The following Councilmembers voted Aye: Chizek, Duncan. The following voted Nay: Harvey, Gamby. Abstaining: Grantham. The passage of the Resolution having **not** been consented to by more than a majority of the members elected to the Council did **not** pass this 21<sup>st</sup> day of December, 2009.

CITY OF CHADRON

DID NOT PASS/DO NOT SIGN  
Mayor

ATTEST:

DID NOT PASS/DO NOT SIGN  
City Clerk

(S E A L)

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

RESOLUTION NO. 2009-125

WHEREAS, the Chadron Chamber of Commerce, 706 West Third Street, Chadron, NE, has applied for a Special Designated License from the Nebraska Liquor Control Commission, and the City Council find that a Special Designated License should be approved so long as said consumption of alcohol is in accordance with and pursuant to licenses granted by the Nebraska Liquor Control Commission, now therefore:

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

1. The City Council being the governing body of the City of Chadron does hereby authorize the consumption of alcoholic liquors by adults, between the hours of 6:00 o'clock p.m. on Saturday, January 16, 2010 and 1:00 o'clock a.m. the following morning on Sunday, January 17, 2010, with a snow date of January 23, 2010, at the Assumption Arena, 364 Cedar Street, which area is 100 by 250 square feet.

2. It is recommended that approval be granted for a Special Designated License to the Chadron Chamber of Commerce on Saturday, January 16, 2010, between the hours of 6:00 o'clock p.m. and 1:00 o'clock a.m. the following morning on Sunday, January 17, 2010, with a snow date of January 23, 2010, at the Assumption Arena, 364 Cedar Street, which area is 100 by 250 square feet for the annual Chamber of Commerce Ag Banquet, pursuant to the rules and regulations of the Nebraska Liquor Control Commission and in accordance with any license issued by said Commission.

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

The foregoing Resolution having been read, Councilmember Chizek 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: Grantham, Gamby, Chizek, Harvey, Duncan. 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 7<sup>th</sup> day of December, 2009.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

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

RESOLUTION NO. 2009-126

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

That the City Council and employees of the City of Chadron join together to extend Holiday Greetings and Best Wishes to the citizens of Chadron and the surrounding area, for a joyous Christmas and a Happy New Year filled with peace, happiness and prosperity; and that the joy which is shared during the Christmas season remain in our hearts throughout the year.

The foregoing Resolution having been read, Councilmember Gamby seconded the motion for the passage and adoption of said Resolution, and after consideration, thereof, the roll was called on the passage and adoption of said Resolution and the following Councilmembers voted Aye: Grantham, Gamby, Chizek, Harvey, Duncan. The following voted Nay: None. A majority of all members elected to the Council having voted in favor of the passage and adoption of said Resolution, the same was by the Mayor declared as passed and adopted this 21<sup>st</sup> day of December, 2009.

CITY OF CHADRON

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Mayor

ATTEST:

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City Clerk

(S E A L)

Tom Menke, Utilities Director, reported on the status of the new wastewater treatment facility, and advised that water is being processed at the plant.

Police Lieutenant Hickstein reported on the progress that the Police Department is making with regard to abandoned vehicles located on City streets and on private property that are in violation of the City ordinances and Zoning Regulations.

The City Manager and City Councilmembers extended holiday greetings to everyone. Councilmember Chizek thanked the City employees for their dedication and commented on sales tax

Councilmember Chizek moved to enter into executive session at 6:10 o'clock P.M. for the purpose of discussing legal issues. Seconded by Councilmember Harvey. The following Councilmembers voted Aye: Grantham, Gamby, Chizek, Harvey, Duncan. The following voted Nay: None. Motion carried.

Councilmember Harvey moved to adjourn the executive session at 6:29 o'clock P.M. and reconvene in open session at 6:29 o'clock P.M. Seconded by Councilmember Gamby. The following Councilmembers voting Aye: Grantham, Gamby, Chizek, Harvey, Duncan. The following voted Nay: None. Motion carried.

Councilmember Gamby moved to adjourn at 6:30 o'clock P.M. Seconded by Councilmember Harvey. The following Councilmembers voted Aye: Duncan, Grantham, Gamby, Chizek, Harvey. The following voted Nay: None. Motion carried.

CITY OF CHADRON

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Mayor

ATTEST:

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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 December 21, 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.

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City Clerk

(SEAL)