

July 15, 2010

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 15, 2010

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

The Alliance City Council met in a Regular Meeting, July 15, 2010 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 8, 2010. 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 15, 2010 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 Interim City Manager 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 – JULY 15, 2010

1. Approval: Minutes of the Regular Meeting, July 1, 2010.
2. Approval: Payroll and Employer Taxes for the period June 12, 2010 through June 25, 2010 inclusive: \$171,928.55 and \$12,254.83 respectively.

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3. Approval: Claims against the following funds for the period June 28, 2010 through July 12, 2010: 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; \$255,369.01.
4. Approval: The issuance of a Cemetery Certificate to Leroy Powell and Arlene Powell for the East One Half (E1/2) of Lot Thirty-six (36), Section Nine (9), Block Twenty (20), Third Addition to the Alliance Cemetery.
5. Approval: Acceptance of a Quitclaim Deed from Leo Frohman for the East One Half (E1/2) of Lot Eighteen (18), Section Seven (7), Block Twenty (20), Third Addition to the Alliance Cemetery and reconvey the same to Terry Frohman and Debra Frohman. Perpetual care and recording fees have been paid for this transfer.
6. Approval: Issuance of the following Contractor Licenses:

General Contractor	Marty Griesbach dba Buland Group, Inc. Brian Townsend dba Townsend Building Specialists
Repair & Maintenance Contractor	Darrell Barber dba APEX Construction ABC Seamless Dan Dye dba American Remodeling Contractors, Inc.
Sign	Tim Marchese dba Tri City Sign Co.
7. FYI: Attached are the most recent dashboard graphs for your information: Utility Delinquent Accounts and Disconnects Utility Data, Water Revenue, Water Usage, Sales Tax Received, Electric Revenue, Electric Usage, Airport Deplaned Passengers, Airport Enplaned Passengers, and Hotel Occupation Tax.

NOTE: Interim City Manager Miller has reviewed these expenditures and to the best of his knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Councilman Benzel questioned a charge to Olsson Associates for tennis court repair. Finance Director Benton advised Council that he would investigate the charge. Councilman Kusek asked what supplemental support the City receives from Bytes Computer. Finance Director Benton advised Council that it provides 24 hour support for the Police Department and provides backup technical services when MIS Director Lund is out of town. Councilman Feldges asked what door at the Fire Station was replaced by Clau-Chin Construction. Interim City Manager Miller advised Council it is a walk in door that needed to be replaced due to settling of the building. He also asked what Parks Foreman Lewis learned in Goose Training School. Mr. Miller advised Council that Mr. Lewis attended a seminar regarding goose control. Councilman Feldges also asked about a charge for arsenic treatment.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was the first reading of Ordinance No. 2664 authorizing the sale of Tracts A and B, Lot 1, Block 1, Grovefield Addition, an Addition to the City of Alliance, Box Butte County, NE.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to approve Ordinance No. 2664 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2664

AN ORDINANCE PROVIDING FOR THE SALE AND CONVEYANCE OF TRACTS A AND B, LOT 1, BLOCK 1, GROVEFIELD ADDITION, AN ADDITION TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA, ACCORDING TO THE RECORDED PLAT THEREOF.

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

SECTION 1. The City of Alliance has received an offer from Jerry B. Johnson and Karen Johnson, husband and wife, to purchase Tracts A and B, Lot 1, Block 1, Grovefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska, under Resolution 07-23 adopted by the City Council of Alliance, Nebraska, February 15, 2007, in the amount of \$6,000.00.

SECTION 2. The real estate is not used in the operation of public utilities, and is not a state armory for the use of the State of Nebraska or the State Armory, as provided in §16-201 R.R.S. Neb. 1943.

SECTION 3. The City Clerk shall cause notice of this sale to be published as required by law. If, within the time prescribed by law, a legally sufficient remonstrance against the sale has not been filed, the Mayor and City Clerk are by this ordinance authorized to execute and deliver to the purchaser the City's quitclaim deed for the herein described property upon payment of the purchase price provided for herein and in the purchase agreement.

Remonstrance against such sale is defined as a petition signed by legal electors of Alliance, Nebraska, equal in number to thirty percent (30%) of the electors voting at the last regular municipal election. Said petition shall be filed with the governing body of the City within thirty days (30) of the passage and publication of this Ordinance. In the event a

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remonstrance is received which is legally sufficient, said property shall not then, nor within one year thereafter, be sold.

SECTION 4. 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 Councilwoman Rowley to suspend the statutory rule requiring three separate readings of Ordinance No. 2664.

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

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

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2664 on final reading with the following results:

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

Voting Nay: None.

Motion carried.

Mayor Yeager stated, “the passage and adoption of Ordinance No. 2664 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The second reading of Ordinance No. 2663 approving the rezoning request of West Plains Company for a tract of land in the North Half of Section 22, T25N, R48W of the 6th P.M., Box Butte County, NE from A (Agricultural) to M-3 (Railroad Industrial) was the next item for Council’s consideration.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Ordinance No. 2663 as amended with the highlight and strikeouts on second reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2663

AN ORDINANCE AMENDING THE MUNICIPAL CODE, ORDINANCE NO. 1890, SPECIFICALLY 10-302, THE ZONING DISTRICT MAP, BY AMENDING THE ZONING OF CERTAIN PARCELS OF LAND AS DESCRIBED HEREIN FROM AGRICULTURAL (A) TO RAILROAD INDUSTRIAL (M-3).

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

SECTION 1. The City of Alliance has zoning authority pursuant to law which provides procedures for changing the zoning designation of certain parcels of property.

SECTION 2. The application of the City of Alliance, Nebraska, has been received, which requests rezoning of certain parcels of real estate from Agricultural (A) to Railroad Industrial (M-3). The description of the real estate requested to be rezoned is as follows:

All that part of the NE $\frac{1}{4}$, Section 22, Township 25 North, Range 48, west of the 6th P.M., Box Butte County, Nebraska, lying east of the C B & Q Railroad, now Burlington Northern Santa Fe Railroad right of way.

and

The E $\frac{1}{2}$ NW $\frac{1}{4}$, Section 22, Township 25 North, Range 48, west of the 6th P.M., Box Butte County, Nebraska, lying east of the C B & Q Railroad, now the Burlington Northern Santa Fe Railroad right of way.

SECTION 3. Notice has been mailed, published, and posted as required by law regarding the proposed change prior to a public hearing held by the Planning Commission. Fourteen property owners were mailed notice. Four responses were in favor, two responses were opposed because they were concerned that the road would not support the traffic; the change would increase their property tax valuation and property taxes.

SECTION 4. After a public hearing held before the Alliance Planning Commission, the Planning Commission recommended approval of the proposed zoning.

SECTION 5. Notice has been given as provided by law for a public hearing by the Alliance City Council, and such a hearing was conducted on July 1, 2010.

SECTION 6. The City Council finds that the proposed zoning change is appropriate for consistent zoning within the zoning jurisdiction of the City of Alliance, Nebraska, and is consistent with the Comprehensive Plan as adopted by the City of Alliance.

SECTION 7. The parcels described herein at paragraph number 2 of this ordinance are hereby rezoned from Agricultural (A) to Railroad Industrial (M-3) as of the effective date of this ordinance.

SECTION 8. Changes to the authentic zoning district map on file in the Planning Commission office shall be made by city staff to reflect this change in zoning designation.

SECTION 9. This ordinance shall be in full force and effect after its passage, approval, and publication according to law.

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Councilman Kusek asked if discussion has taken place regarding upgrading the road. Community Development Director Rick Houck advised Council that the County has looked into making improvements to Madison Road. Councilman Kusek also asked if the area that the railroad tracks cross Madison Road have been checked for semi-truck clearance.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to suspend the statutory rule requiring three separate readings of Ordinance No. 2663.

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

Voting Aye: Yeager, Benzel.

Voting Nay: Rowley, Kusek, Feldges.

Motion failed.

Roll call vote to approved amended Ordinance No. 2663 on second reading 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. 10-85 authorizing the use of \$254,000.00 from the Street Contingency Fund for various projects identified within the resolution.

Motion by Councilwoman Rowley, seconded by Councilman Benzel to approve Resolution No. 10-85 which follows in its entirety:

RESOLUTION NO. 10-85

WHEREAS, The City of Alliance maintains streets, sidewalks, curbs and gutters; and

WHEREAS, Staff has determined additional funds are needed to replace driving lanes, curbs and gutters, patch potholes, perform asphalt chip seal and crack repair and other repairs on the streets, sidewalks, curbs and gutters; and

WHEREAS, Staff has requested Street Department Contingency Funds in the amount of Two Hundred Fifty Four Thousand and No/100ths (\$254,000.00) Dollars to fund street, sidewalk, curb and gutter rehabilitation expenses; and

WHEREAS, The Street Department system has contingency funds available.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska that Two Hundred Fifty Four Thousand and No/100ths (\$254,000.00) Dollars shall be transferred from the Street Department Contingency Fund to fund the following:

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Location	Description	Cost
Laramie Avenue – 12 th to 14 th	Replace Driving Lanes	60,000
3 rd Street and Hwy 87/Flack Avenue	Replace Driving Lane, Curb and Gutter and Widen Lane	35,000
Project Contingency	Unforeseen Costs and Changes	5,000
South Potash Underpass – South Side	Patch Bad Pothole Area (Mill and Overlay in 2011)	9,800
South Potash Underpass – North Side	Patch Bad Street Areas (Mill and Overlay in 2011)	2,200
4 th Street – 100 Blk. East – Alley to Niobrara	Overlay Street	12,000
Kansas Street – Overpass	Taper each apron for smooth transition	8,000
Project Contingency	Unforeseen Costs and Changes	2,000
Laramie Dr., Agate St., Lakefield Drive South, Toedtli Ln, Big Horn Dr., Marvin Cir., Richard Cir., 20 th St., 24 th St. – Box Butte to Sweetwater Ave., Peterson Ct., Colorado Ave – 1600 Block, Hammond Ln., Grove Ave., 6 th St. – Cody to Buffalo Ave, 6 th St. – Buffalo Intersection	Asphalt Street Chip Seal/Crack Repair/Street Patch	120,000
	Grand Total	\$254,000

BE IT FURTHER RESOLVED, That the City Treasurer shall transfer Two Hundred Fifty Four Thousand and No/100ths (\$254,000.00) Dollars from the Streets Department Contingency Fund to the appropriate funds to perform the repairs listed.

Motion by Councilman Benzel to remove the Kansas Street Overpass repairs from the resolution. Motion died for lack of second.

Roll call vote on Resolution No. 10-85 with the following results:

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

Voting Nay: None.

Motion carried.

- The next item to be discussed by Council was Resolution No. 10-86 awarding the 25th Street Overlay project to Simon Contractors of Scottsbluff, NE in the amount of \$61,640.00 and granting authority to Public Facilities Director Lenz to authorize change orders up to 5% of the bid.

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Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Resolution No. 10-86 which follows in its entirety:

RESOLUTION NO. 10-86

WHEREAS, The City of Alliance is responsible for maintenance of streets, alleys and roads in the City of Alliance; and

WHEREAS, The City has determined that 25th Street, east and west of Sweetwater Avenue is in need of improvements and repairs; and

WHEREAS, The City of Alliance utilized M.C. Schaff and Associates, Inc. to obtain bids for the project; and

WHEREAS, The bids were received and the lowest responsible and responsive bidder was Simon Contractors with a total bid of Sixty-One Thousand Six Hundred Forty Dollars and No/100ths (\$61,640.00).

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska that the contract for the 25th Street Overlay project is hereby awarded to Simon Contractors, a Nebraska corporation, of Scottsbluff, NE in the amount of Sixty-One Thousand Six Hundred Forty Dollars and No/100ths (\$61,640.00) pursuant to the price quoted in the bid.

BE IT FURTHER RESOLVED, That the Public Facilities Director will have the authority to authorize change orders up to 5% of the bid.

BE IT FURTHER RESOLVED, That the Mayor is authorized to sign a contract with Simon Contractors for the 25th Street Overlay at the price quoted in the bid.

BE IT FURTHER RESOLVED, That City staff shall notify the successful bidder so that work can proceed according to the bid specifications.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Resolution No. 10-87 authorizing submittal of a grant application to the Nebraska Department of Environmental Quality for street furniture for the Box Butte Avenue Streetscape Project was the next agenda item.

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Motion by Councilman Feldges, seconded by Councilman Kusek to approve Resolution No. 10-87 which follows in its entirety:

RESOLUTION NO. 10-87

WHEREAS, The City of Alliance desires to revitalize the streetscape in downtown Alliance; and

WHEREAS, The State of Nebraska Department of Environment Quality is accepting applications from Nebraska Municipalities for grants to purchase street furniture which is partially made out of recycled plastic; and

WHEREAS, The City of Alliance is eligible to file for the grant and desires to use the grant money to purchase street furniture for the downtown streetscape; and

WHEREAS, The grant requires matching funds of twenty-five percent (25%); and

WHEREAS, The City of Alliance does not have the funds budgeted but if the City receives the grant the City will have to allocate the matching funds.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, that staff is hereby authorized and directed to make application for the grant with the Nebraska Department of Environment Quality in the amount of Forty Eight Thousand Two Hundred Eighty and No/100ths (\$48,280.00) Dollars for and on behalf of the City of Alliance.

BE IT FURTHER RESOLVED that the Interim City Manager of Alliance, Nebraska, is hereby directed to execute the application and any and all other documents necessary to facilitate the grant between the Nebraska Department of Environmental Quality and the City of Alliance.

BE IT FURTHER RESOLVED that the City Treasurer is authorized and directed to sign any and all necessary documents to furnish any assurances to the State of Nebraska as may be required by law or regulation and to receive payment on behalf of the City of Alliance.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was Resolution No. 10-88 authorizing the street closure request of BNSF Railway for their cookout and United Way Fundraiser on July 23 and 24, 2010.

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Motion by Councilman Kusek, seconded by Councilwoman Rowley to approve Resolution No. 10-88 which follows in its entirety:

RESOLUTION NO. 10-88

WHEREAS, BNSF Railway would like to conduct an event during the celebration of “Heritage Days”; and

WHEREAS, BNSF has requested a street closure to facilitate their cookout/United Way fundraiser during Heritage Days; and

WHEREAS, City staff has considered the request for the closure of 1st Street between Box Butte and Laramie Avenues.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the request of BNSF Railway for the closure of 1st Street between Box Butte and Laramie Avenues on Friday and Saturday, July 23 and 24, 2010 is hereby approved.

BE IT FURTHER RESOLVED, The BNSF Railway must provide, at their expense, an acceptable insurance indemnification for the City of Alliance as approved by Interim City Manager Miller prior to the closure being allowed. Interim City Manager Miller shall have the authority to revoke permission for the street closure if an acceptable insurance agreement is not reached.

Kirk Ludlowl, 111 West 1st Street, representative of BNSF Railway was in attendance. Interim City Manager Miller advised Council that the BNSF have agreed to be responsible for guests of the event.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item for Council’s consideration was Resolution No. 10-89 regarding Property Insurance Proposals. Three separate resolutions have been provided to offer a variety of options.

Interim City Manager Miller provided Council with a brief explanation as to the complexities of comparing the policies.

Chris Gray, 1244 Box Butte Avenue, addressed Council on behalf of Wells Fargo Insurance. Scott Crenshaw, 7303 N. 162nd Street, Bennington, NE addressed Council representing Wells Fargo Insurance. Councilman Feldges asked him about Workmen’s Compensation and the possibility of a 40% increase. Mr. Crenshaw told Council there is a

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possibility the premium could also decrease. The Workers Compensation is a statutory coverage so the limits shown are the limits, so there are no hidden charges. The base rates are formed by NCCI which is a bureau that takes all the information for every industry, compile the data and set the base rates. They send the base rates to the State of Nebraska for approval. Berkshire Hathaway has no affect on the base rate, only on the Lost Cost Multiplier.

MalaDon Schuman, 224 Park Knoll, addressed Council as a representative of Gregory's Insurance. Ms. Schuman reiterated the process regarding Workers Compensation rates. Sue Dahlhauser, 14709 South Point Curve, Burnsville, MN of Travelers Insurance addressed Council on behalf of Gregory's Insurance. She advised Council that her company is the largest provider of public entity insurance across the country.

Joanne Jones, representative of BW Insurance addressed Council also agreed with the Workers Compensation rate process.

Motion by Councilwoman Rowley, seconded by Mayor Yeager to approve Resolution No. 10-89B which follows in its entirety:

RESOLUTION NO. 10-89B

WHEREAS, The City of Alliance recognizes the importance of purchasing insurance to protect against significant loss which affect the budget and would impact the operation of the City of Alliance; and

WHEREAS, The City desires to provide the best protection at the lowest cost to give the taxpayers the most insurance for their taxpayer dollar; and

WHEREAS, The City of Alliance published bids for insurance companies to offer proposals to provide insurance for the City of Alliance; and

WHEREAS, Five entities contacted the City and four bids were received; and

WHEREAS, Staff has reviewed the proposals and made recommendation to the Mayor and Council; and

WHEREAS, This Council desires to provide the highest quality insurance at the lowest cost.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of Alliance that the Mayor is authorized to sign a contract for insurance with Wells Fargo Insurance Services, USA, Inc. in the amount of Three Hundred Seventy Thousand Eighty-Seven dollars and NO/100ths (\$370,087.00).

Roll call vote with the following results:

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

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Voting Nay: None.

Motion carried.

- The last item on Council's agenda was an Executive Session to discuss a personnel matter.

Councilwoman Rowley 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 discussing a personnel matter. The motion was seconded by Councilman Kusek.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

The closed session began at 8:32 p.m. and ended at 8:58 p.m.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve a merit increase for Interim City Manager Miller.

Roll call vote with the following results:

Voting Aye: Yeager, Kusek, Benzel, Rowley, 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 8:59 p.m."

Ralph Yeager, Mayor

(SEAL)

Linda S. Jines, City Clerk