

April 16, 2012

## **ALLIANCE CITY COUNCIL**

REGULAR MEETING, MONDAY, APRIL 16, 2012

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

The Alliance City Council met in a Regular Meeting, April 16, 2012 at 7:00 p.m., in the Alliance Library/Learning Center Meeting Rooms, 1750 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on April 9, 2012. 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 Feldges opened the April 16, 2012 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Yeager, Benzel, Gonzalez and Seiler. Also present were City Manager Cox, City Attorney Olsen and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement which was posted on the West wall.
- Jessica Prella was introduced as the newly hired Public Safety Dispatcher.
- The next item on Council's agenda was the Consent Calendar.

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

### **CONSENT CALENDAR – APRIL 16, 2010**

1. Approval: Minutes of the Regular Meeting, April 5, 2012.

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2. Approval: Payroll and Employer Taxes for the period March 17, 2012 through March 30, 2012 inclusive: \$163,380.26 and \$11,572.58 respectively.
3. Approval: Claims against the following funds for the period March 29, 2012 through April 12, 2012: 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; \$188,200.34. We have added a new report which is found behind your normal claims report in the packet. This new report will be done quarterly in the future. The report lists checks that have been issued which are not expenses within the budget. These are primarily made up of meter deposit refunds and utility overpayments. This listing is longer than you would normally receive, as it is the first time it is being reported.
4. Approval: Update the roster of the Alliance Volunteer Fire Department by adding Jordan Perkins and Sean Winters.
5. Approval: Resolution No. 12-30 authorizes the City of Alliance to participate in two projects with Keep Alliance Beautiful (KAB). The first project is to provide \$375.00 in advertising support for the Household Hazard Waste Disposal Program which will take place at the Landfill on April 20, 2012. The second project will designate May 1 – 5, 2012 and Landfill Amnesty Week for all Alliance residents to promote the general cleaning throughout the community.
6. Approval: The Alliance City Council at their regular meeting, February 16, 2012 with the passage of Resolution No. 12-16 authorized the purchase of a 2012 Ford Fusion Model S Sedan from Cover Jones Motor Company of Alliance, NE for the new City travel vehicle. The Council authorized the purchase in the amount of \$15,668.00 which included a \$1,100.00 trade-in of the City's previous fleet vehicle. It has since been determined that at this time the City would be better off retaining the vehicle for use by the GIS Analyst and as a backup vehicle for other departments until such time as it is not financially reasonable to operate. The additional \$1,100.00 will be made with savings in various operational funds.
7. Approval: To accept the amended Exhibit D – Related Projects to the Service Schedule M Contract with MEAN. The City of Alliance has received notification from the Municipal Energy Agency of Nebraska (MEAN) of amendments to the listing of projects which Service Schedule M participants are committed. The City is a Service Schedule M participant for our electric power supply. The MEAN Board of Director's at their January 19, 2012 meeting approved the listing. The listing will be formally accepted by the City of Alliance unless we file an objection within 60 days; which at that time would require Alliance to change our participant status and become a Contract Purchaser.
8. Approval: The issuance of the following Contractor licenses:

General Contractor

Ray Hashman/Jay Dubs dba R & J Industries Plus, Inc.  
Doug Cullan dba Cullan Supply Contractors

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Ken Mickey dba Morton Buildings, Inc.  
Terry Peltz dba Peltz Construction Inc.

Repair & Maintenance Cassidy Odean dba Odean Construction  
Larry Lybarger dba Expedient Claim Services, Inc.  
Steve Yekel dba Caretaker Home Services  
Doug Fritzler dba Fritzler Construction

Master HVAC & Gas Fitter Doug Wilson dba Source Gas  
Greg Sanders dba Jack's Refrigeration  
Dana Daniels dba Advance Air

Limited & Specialty Travis Collins dba Lamar Outdoor Advertising  
Charles Hamm dba C&J Steel Erectors  
Virgil Kohler dba Kohler Underground Sprinkler

NOTE: City Manager Cox 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.

Roll call vote with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler, Yeager.

Voting Nay: None.

Motion carried.

- Councilman Yeager read the following proclamation in honor of Arbor Day.

## PROCLAMATION

WHEREAS, In 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, This holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, Trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, Trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

WHEREAS, Trees in our city increase property values, enhance the economic vitality of

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business areas, and beautify our community; and

WHEREAS, Trees are a source of joy and spiritual renewal; and

WHEREAS, The City of Alliance has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW, THEREFORE, the City Council of Alliance, Nebraska, does hereby proclaim April 27, 2012 as:

## ARBOR DAY

in the City of Alliance, Nebraska, and I urge all citizens to support efforts to care for our trees and woodlands and to support our City's community forestry program; and

FURTHER, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

- Councilman Gonzalez presented the following proclamation to Lori Rowley and Donna Salzbach in honor of National Infant Immunization Week.

## PROCLAMATION

WHEREAS, Giving babies the recommended immunizations by age two is the best way to protect them from 14 serious childhood diseases.

WHEREAS, Currently, the United States has the safest most effective vaccine supply in its history.

WHEREAS, Vaccine-preventable diseases still circulate in the United States and around the world, so continued vaccination is necessary to protect everyone from potential outbreaks. Even when diseases are rare in the U.S., they can be brought into the country, putting unvaccinated children at risk.

WHEREAS, Most parents vaccinate their children, resulting in high vaccine coverage rates in the U.S.

WHEREAS, When people are unvaccinated, outbreaks of diseases like pertussis (whooping cough) and measles can-and-do-return.

WHEREAS, It is important to vaccinate children on time, according to the childhood immunization schedule, to provide the best protection early in life, when babies are vulnerable and before they are likely to be exposed to diseases.

WHEREAS, For 18 years, National Infant Immunization Week has encouraged parents, caregivers, and health care professionals to participate in educational, recognition, and media events to increase the awareness of the importance of immunizing children before

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their second birthday.

WHEREAS, This year, National Infant Immunization Week will be celebrated as part of the first World Immunization Week, an initiative of the World Health Organization (WHO) where all six WHO regions, including more than 180 member states, territories, and areas will simultaneously promote immunization, advance equity in the use of vaccines and universal access to vaccination services, and enable cooperation on cross-border immunization activities in April 2012.

WHEREAS, The week of April 21-28, 2012 has been declared National Infant Immunization Week to help ensure that children should be protected against 14 vaccine-preventable diseases by the age of two.

NOW, THEREFORE, on behalf of the Members of the City Council of the City of Alliance, Nebraska, we do hereby proclaim the week of April 21-28, 2012 as:

## INFANT IMMUNIZATION AWARENESS WEEK

in the city of Alliance, Nebraska and encourage parents to make vaccinating their children a priority and to talk to family and friends about protecting their children with vaccines. I also encourage businesses, government agencies, community-based organizations, and service groups to spread the immunization message throughout their communities.

- Mayor Feldges read the following proclamation in support of ACE.

## PROCLAMATION

WHEREAS, ACE, the Public Alliance for Community Energy is a community-owned and not-for-profit natural gas supplier made up of 69 Nebraska member communities, serving 28,000 customers; and

WHEREAS, ACE was formed to provide competition in the Choice Gas program in helping natural gas customers get the lowest price possible and keeping money in Nebraska; and

WHEREAS, The mission of ACE is to offer competitive rates and work to keep the cost of natural gas as low as possible for all consumers; and

WHEREAS, The City of Alliance received \$11,928.59 in a revenue return from ACE and the City Manager has recommended these funds be utilized to enhance the quality of life for our youth; and

WHEREAS, The funds are proposed to be used in a joint project between the City of Alliance and the Oldtimers Ball Association to complete a number of projects at the softball-quad complex to improve the usability of the facility.

NOW, THEREFORE, the City Council of Alliance, Nebraska, does encourage the Citizens of

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Alliance to select your natural gas supplier during the Choice Gas selection period which begins April 13<sup>th</sup> and runs through April 26<sup>th</sup>, 2012.

- City Manager J.D. Cox gave his report to Council, which follows in outline form:
  - Provided an update on the West Plains Grain Project
    - Box Butte County has requested an Addendum to the Interlocal Agreement for the use of the crushed concrete
    - TIF Process
      - City has not yet accepted the Blight & Substandard Study or Redevelopment Plan
      - Redevelopment Plan must be approved by August 1
      - Waiting on Letter of Request of Annexation from BNSF
      - West Plains Grain requesting to move forward with the Redevelopment Plan
  - Council Retreat potential dates which will be facilitated by Corrine Pedersen – by consensus Council selected May 3, 2012
  - LB357 – ½ cent additional sales tax authority; approved on a 30-15-4 vote
    - Governor is expected to veto; an override vote is being anticipated
    - A Press Conference was held in Scottsbluff (4/13)
    - Lawmakers to vote on override April 18
  - Police Department Annex remodel commenced last week
  - ARFF Truck & Building “Hose Cutting”
  - New Laing Lake Fountain is now operational
  - Youth Entertainment – Kirk Felker pursuing (Surveying; include schools and YMCA)
  - Summer hires include:
 

Cemetery	Mike Alvarado
	James Essex
Golf Course Mtc.	Michael Vera
Pool	Mary Berglund – Manager
	Kelli VanMeter – Asst. Manager
	Marissa Curtiss
	Broc Anderson
	Lyndsey Block
	Murphy Erickson
	Shawn Gasseling
	Gabe Gauthier
	Mikenzie Nordeen
- The next item before Council was a public hearing on Ordinance No. 2703, amending the Municipal Code zoning regulations to allow churches within commercial districts. City Manager Cox provided the following background information:

[Proposed is an Ordinance to change our Municipal Code to allow churches within commercial districts. Presently, churches are not allowed in commercial districts due to our code being written prior to the legislature updating state law that provides for an orderly way and stipulations concerning the location of the sale of liquor and churches.

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This matter was brought to our attention a while back when a church was searching for a location and was frustrated by the constraints of lack of parking in residential neighborhoods, and not being able to locate in commercial areas. Staff began researching the matter and took the issue to the Planning Commission for study and review. The Planning Commission at its March 13, 2012 meeting unanimously approved a code text change that added #4:

**10-311.01. DISTRICT C-O, PERMITTED USES**

1. Professional, governmental and business office buildings.
2. Health, dental and eye care offices/clinics.
3. Day care facilities.
4. Churches, places of worship and religious assemblies (~~to be at least 150' from any business that sells alcoholic liquor~~).

Further, this recommendation occurred prior to our attorneys having completed their review of the State law and our local ordinance. Following this review they opined that language in parentheses was not necessary, in light of the fact that State law had apparently changed since our Ordinance was enacted. That opinion follows: *“If the Church moves in to a building that is within the 150’ restricted area, the establishment is protected in the first part of the statute as long as it has been there two years. If a liquor establishment moves into a building that is within 150’ of an established church, the church will be given notice and hearing on the issue. There is a Federal law that requires us as a City with regard to our zoning to treat churches the same as non-churches. If a church wanted to locate right next to the Players Sports Bar, it would be prevented by our permitted use condition and they would have to ask the Commission to hold a hearing, when a non- church would not have to follow that process. It seems to us that the state statute covers it.”*

Below is the excerpt from State Statute 53-177, and shows the new paragraph (2) which was referenced above.

***53-177. Sale at retail; restrictions as to locality.***

*(1) Except as otherwise provided in subsection (2) of this section, no license shall be issued for the sale at retail of any alcoholic liquor within one hundred fifty feet of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children. This prohibition does not apply (a) to any location within such distance of one hundred fifty feet for which a license to sell alcoholic liquor at retail has been granted by the commission for two years continuously prior to making of application for license, (b) to hotels offering restaurant service, to regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquor is not the principal business carried on, if such place of business so exempted was established for such purposes prior to May 24, 1935, or (c) to a college or university in the state which is subject to section [53-177.01](#).*

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*(2) If a proposed location for the sale at retail of any alcoholic liquor is within one hundred fifty feet of any church, a license may be issued if the commission gives notice to the affected church and holds a hearing as prescribed in section [53-133](#).*

Therefore the Ordinance prepared with the concurrence of Staff, continues we believe, the original intent of the Planning Commission, but without the “extra” language in the parentheses. The intent of the recommendation was to permit churches in commercial areas. I believe that intent has been upheld with the slight language revision.

Approval of this Ordinance would allow Churches – with stipulations – to locate in any of our Commercial Zones (C0: Commercial Office; C1: Neighborhood Commercial; C2: Central Business District; C3: Heavy Commercial).]

Mayor Feldges opened the Public Hearing at 7:30 p.m. No testimony was offered and the Public Hearing closed at 7:31 p.m.

Motion by Councilman Gonzalez, seconded by Councilman Benzel, to approve Ordinance No. 2703 on first reading, which follows in its entirety:

#### ORDINANCE NO. 2703

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING, SPECIFYING THE AREAS OF ZONING AND AMENDING THE MUNICIPAL CODE TO ALLOW FOR CHURCHES AS A PERMITTED USE IN COMMERCIAL ZONED AREAS C-0, C-1, C-2 AND C-3, TO INCLUDE CHURCHES, PLACES OF WORSHIP AND RELIGIOUS ASSEMBLIES; REPEALING EXISTING PROVISIONS OF THE CITY CODE NOT CONSISTENT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. Section 10-311.01 of the Alliance Municipal Code is amended to provide as follows:

#### **10-311.01. DISTRICT C-O, PERMITTED USES**

1. Professional, governmental and business office buildings.
2. Health, dental and eye care offices/clinics.
3. Day care facilities.
4. Churches, places of worship and religious assemblies.

No equipment, material or vehicle other than motor passenger cars shall be stored outside a building in this district.

SECTION 2. Section 10-312.01 of the Alliance Municipal Code is amended to provide as follows:

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**10-312.01. DISTRICT C-1, PERMITTED USES**

1. Barber shop.
2. Beauty shop.
3. Convenience food stores.
4. Day care or nursery schools.
5. Library.
6. Pharmacy.
7. Schools and colleges.
8. Health, dental and eye care offices/clinics.
9. Churches, places of worship and religious.

SECTION 3. Section 10-313.01 of the Alliance Municipal Code is amended to provide as follows:

**10-313.01. DISTRICT C-2, PERMITTED USES**

1. Retail and wholesale sales establishments, not including adult book stores.
2. Medical, professional and governmental offices.
3. Public libraries, utility facilities and parks.
4. Eating and drinking establishments.
5. Hotels, motels and other lodging facilities.
6. Single and multi-family dwellings above the first floor of commercial establishments.
7. Service establishments such as banks, credit unions, salons, dry cleaners and laundries.
8. Theaters, not including adult theaters.
9. Health facilities such as spas.
10. Printers and newspapers.
11. Repair shops - indoor only and not including repair facilities which could be considered noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
12. Building supply stores (indoor display and storage only).
13. Lodges and fraternal orders.
14. Parking lots and facilities.
15. Churches, places of worship and religious.

SECTION 4. Section 10-314.01 of the Alliance Municipal Code is amended to provide as follows:

**10-314.01. DISTRICT C-3, PERMITTED USES**

1. Retail and wholesale sales establishments, not including adult book stores.
2. Medical, professional and governmental offices.
3. Public libraries, utility facilities and parks.
4. Eating and drinking establishments.
5. Hotels, motels and other lodging facilities.
6. Single and multi-family dwellings above the first floor of commercial establishments.
7. Service establishments such as banks, credit unions, salons, dry cleaners and laundries.
8. Theaters, not including adult theaters.
9. Health facilities such as spas.

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10. Printers and newspapers.
11. Repair shops - indoor only and not including repair facilities which could be considered noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
12. Building supply stores (indoor display and storage only).
13. Lodges and fraternal orders.
14. Parking lots and facilities.
15. Automobile dealers, implement dealers and related services.
16. Truck parking, truck repair services, and related services.
17. Commercial storage units.
18. Building, landscaping supplies and yards including well drillers.
19. Animal feeds and supply services, not including grain elevators.
20. Contractor yards, provided material storage is in the rear yard and screened.
21. Swimming pool – commercial.
22. Churches, places of worship and religious assemblies.

SECTION 5. Previously existing sections 10-311.01, 10-312.01, 10-313.01, 10-314.01, and all ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with the revisions set forth herein are hereby repealed.

SECTION 6. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote with the following results:

Voting Aye: Gonzalez, Feldges, Yeager, Benzel.

Voting Nay: Seiler.

Motion carried.

Following the roll call vote on the first reading of Ordinance No. 2703, John Powers, 13894 Hwy 385 asked Council if he should have spoken during the public hearing as there are several members here of the Heartland Baptist Church for this item. City Attorney Olsen recommended that Council entertain a motion to reconvene the public hearing to allow those in the audience to address Council.

A motion was made by Councilman Gonzalez, which was seconded by Councilman Yeager to re-open the public hearing.

Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Yeager, Benzel, Gonzalez.

Voting Nay: None.

Motion carried.

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The public hearing was re-opened at 7:55 p.m.

Dennis Gruber, 619 Platte Avenue, stated he is the pastor for the Heartland Baptist Church. Their congregation of 60-70 members were previously using the Senior Center located in the 200 block of Sweetwater Avenue and were asked to relocate as the use of a public building for religious services is not allowed. He stated it has been very difficult to find another location which would have adequate parking that is not in a commercially zoned area. Mr. Gruber stated he would like to see the City waive three readings on this matter.

There being no additional testimony offered the hearing was closed at 7:59 p.m.

- A Public Hearing on the rezoning request of Wes and Angy Fancher was the next item before Council. City Manager Cox provided the following background information:

[Applicants Wes and Angy Fancher have requested consideration of changing the zoning of approximately 15 acres that was formerly a City Dump located at 304 Woolrich Rd from Zone M2 (Heavy Industrial) to C3 (Highway Commercial).

The Fanchers wish to put in a Recreational Vehicle Camping facility, which would be allowed in a C3 with a Conditional Use Permit, but is not allowed in an M2. According to Interim Planning Director Kevin Kubo, the proposed change would not be in conflict with the current Comprehensive Plan. The only impact of the change of zoning that have been identified to this point is the expected increase in traffic activity in and out of the facility. Additionally, the Fire Chief is requiring fire hydrants be installed.

On March 13, 2012, the Planning Commission met and reviewed this proposal. Of all of the interested parties within 300 feet around the 304 Woolrich location, only one response was received – and it indicated “disinterested.” The Planning Commission unanimously passed this measure.

It is my understanding that the Fanchers would like to get approvals and have the RV Park installed and ready to go prior to the tourism season. As they will also be required to obtain a Conditional Use Permit, they have requested that the approval process be expedited. Staff concurs, and is recommending, if there are no objections raised at the City Council’s Public Hearing, that the statutory three readings be waived.]

A motion was made by Councilman Benzel to approve Ordinance No. 2704 on first reading. The motion was seconded by Councilman Gonzalez. City Clerk Jines read the ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2704

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING, AMENDING THE DISTRICT ZONING MAP TO SHOW THAT PART OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 25 NORTH, RANGE 47 WEST OF THE 6TH P.M., BOX BUTTE COUNTY, NEBRASKA, IS NOW INCLUDED AS A C-3

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HIGHWAY COMMERCIAL DISTRICT FROM AN M-2 HEAVY INDUSTRIAL DISTRICT,  
AND REPEALING PRIOR SECTIONS.

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

SECTION 1. Section 10-302 of the Alliance Municipal Code is amended to provide as follows:

10-302. DISTRICT MAP ADOPTED

Boundaries of the districts, as enumerated in Article 3 of these regulations, are hereby established as shown on a map prepared for that purpose, which map is hereby designated as the Zoning District Map; and said map, and all the notations, references and information shown thereon is hereby made as much a part of these regulations as if the same were set forth in full herein. The City Planning Commission shall keep on file in their offices an authentic copy of said map, and all changes, amendments, or additions thereto.

When definite distances in feet are not shown on the Zoning District Map, the district boundaries are intended to be along existing street, alley or platted lot lines, or extensions of the same, and if the exact location of such lines is not clear, it shall be determined by the Building Inspector, due consideration being given to location as indicated by the scale of the Zoning District Map.

This is to certify that the Zoning District Map described in the Alliance Municipal Code, passed this 16th day of April, 2012, is now the official Zoning District Map.

SECTION 2. Previously existing Section 10-302, and all ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with the revisions set forth herein are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Mayor Feldges opened the Public Hearing at 8:01 p.m.

Mr. Wes Fancher, 304 Woolrich Road addressed Council and stated he was interested in providing 24 to 25 rv parking spaces within this property. He stated he is currently in the process of applying for a Conditional Use Permit for the property which will go before the Alliance Planning Commission at their next meeting. He is doing this in anticipation of the rezoning being approved by the City Council.

Interim Planning Director Kevin Kubo described the Conditional Use Process for the City Council.

No additional testimony was offered and Mayor Feldges closed the public hearing at 8:08 p.m.

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Roll call vote on the first reading of Ordinance No. 2704 with the following results:

Voting Aye: Seiler, Yeager, Benzel, Gonzalez, Feldges.

Voting Nay: None.

Motion carried.

Councilman Gonzalez made a motion to withdraw the previous action by Council to allow consideration of waiving the statutory requirement of reading the ordinance on three separate dates. Motion died for a lack of a second.

- Ordinance No. 2705, approving a lot sale to Thomas and Tammy Fletcher was the next item before Council.

Motion by Councilman Seiler, seconded by Councilman Yeager to approve Ordinance No. 2705 on first reading. City Clerk Jines read the ordinance by title, which follows in its entirety:

#### ORDINANCE NO. 2705

AN ORDINANCE PROVIDING FOR THE SALE AND CONVEYANCE OF LOT 2, BLOCK 2; 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 Thomas R. Fletcher and Tammy L. Fletcher, to purchase the following described real estate:

Lot 2, Block 2, Grovefield Addition, an Addition to the City of Alliance, Box Butte County, Nebraska, in the amount of \$8,884.75.

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 Agreement for Sale of Real Estate.

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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 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.

Roll call vote on the first reading of Ordinance No. 2705 with the following results:

Voting Aye: Yeager, Benzal, Gonzalez, Feldges, Seiler.

Voting Nay: None.

Motion carried.

- Ordinance No. 2702, implementing a two hour parking restriction around the Central Park Fountain was the next item on Council's agenda. City Manager Cox provided the following background information:

[At the last Council meeting the ordinance to update the traffic "improvements" in the fountain area was withdrawn pending staff updates to remove/update provisions to the prohibited parking measures of Section 3-202 of the Code. Of concern had been the inability of emergency vehicles to travel through and respond to emergencies due to the narrower width areas and parking on both sides of Sweetwater, which also causes extreme congestion during major events at the football stadium or park. However, following the Council meeting, our attorneys found that the City Manager (delegated through our Police Department) had sufficient authority in the Code to take those measures necessary to temporarily make parking or traffic changes necessary to ensure the orderly flow of traffic – especially for special events. Therefore, the previous update to Section 3-203 was removed.

Remaining in the proposed Ordinance 2702, is language to address the issues of permanently parked vehicles blocking the view of the fountain. To address this issue, the proposed ordinance as written, would: Restrict parking around the fountain to two hours for the north side of 10<sup>th</sup> Street from Sweetwater to Niobrara and the east side of Niobrara in front of the fountain. In order to increase the public's viewing of the fountain, staff is recommending that a two hour parking limitation be implemented for a half block on the north side of 10th Street and the east side of Niobrara Avenue in front of the fountain for viewing purposes.

Below are the current restrictions listed in the Section 3-203 "Limited Time Parking in Designated Places," with the proposed addition highlighted in the final bullet.

- *Box Butte Avenue from the north line of First Street to the south line of Sixth Street;*

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- *Laramie Avenue from the north line of Third Street to the north line of Fourth Street;*
- *Third Street from the west line of Niobrara Avenue to the east line of Cheyenne Avenue;*
- *Fourth Street from the west line of Niobrara Avenue to the east line of Laramie Avenue;*
- *Fifth Street from the west line of Niobrara Avenue to the east line of Laramie Avenue;*
- *Laramie Avenue north of Fourth Street for two parking spaces on the east side of the street and three parking spaces on the west side of the street.*
- *No person shall park a vehicle for a period of time longer than 15 minutes, or 30 minutes, in a parking space or spaces in the municipal parking lot located southwest of the Library/Learning Center, Lot 1, Block 1, Library/Attendance Center Addition, which time-limited spaces are plainly marked, painted on the curb or posted.*
- *No person shall park a vehicle for a period of time longer than 15 minutes in a parking space, or spaces, on Box Butte Avenue, which time-limited spaces are plainly marked, painted on the curb, or posted.*
- *No person shall park a vehicle between the hours of 6:00 p.m. to 6:00 a.m. on the east side of the 400 block of Niobrara Avenue from the north line of Fourth Street to a point 87 feet north of the north line of Fourth Street in the parking space or spaces which are plainly marked, painted on the curb, or posted.*
- *No person shall park a vehicle for a period of time longer than two hours in a parking space or spaces, for the west one-half block on the north side of Tenth Street between Niobrara and Sweetwater and the east side of Niobrara Avenue between Tenth and Eleventh, which time-limited spaces are plainly marked, painted on the curb or posted.]*

Motion by Councilman Benzel, seconded by Councilman Seiler to approve Ordinance No. 2702, which follows in its entirety:

ORDINANCE NO. 2702

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, CONCERNING PARKING, AMENDING §3-203 TO REGULATE PARKING AND DESIGNATE LIMITED TIME PARKING IN PLACES ADJACENT TO THE FOUNTAIN ON TENTH STREET AND NIOBRARA AVENUE; AND REPEALING PRIOR SECTIONS.

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

SECTION 1. Section 3-203 of the Alliance Municipal Code is amended to provide as follows:

§3-203. LIMITED TIME PARKING IN DESIGNATED PLACES.

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No person shall park a vehicle for a period of time longer than twelve minutes at any time from Monday through Friday of any week between the hours of eight o'clock a.m., and six o'clock p.m., and between the hours of eight o'clock a.m. and nine o'clock p.m. on Saturdays, holidays excepted (a) the posted area in front of the U. S. Post Office building located on the northeast corner on Box Butte Avenue and Fourth Street; and (b) no vehicle shall be parked more than two hours on the following described streets:

Box Butte Avenue from the north line of First Street to the south line of Sixth Street;

Laramie Avenue from the north line of Third Street to the north line of Fourth Street;

Third Street from the west line of Niobrara Avenue to the east line of Cheyenne Avenue;

Fourth Street from the west line of Niobrara Avenue to the east line of Laramie Avenue;

Fifth Street from the west line of Niobrara Avenue to the east line of Laramie Avenue;

Laramie Avenue north of Fourth Street for two parking spaces on the east side of the street and three parking spaces on the west side of the street.

No person shall park a vehicle for a period of time longer than 15 minutes, or 30 minutes, in a parking space or spaces in the municipal parking lot located southwest of the Library/Learning Center, Lot 1, Block 1, Library/Attendance Center Addition, which time-limited spaces are plainly marked, painted on the curb or posted.

No person shall park a vehicle for a period of time longer than 15 minutes in a parking space, or spaces, on Box Butte Avenue, which time-limited spaces are plainly marked, painted on the curb, or posted.

No person shall park a vehicle for a period of time longer than two hours in a parking space or spaces, for the west one-half block on the north side of Tenth Street between Niobrara and Sweetwater Avenues and the east side of Niobrara Avenue between 10<sup>th</sup> and 11<sup>th</sup> Streets, which time-limited spaces are plainly marked, painted on the curb or posted.

No person shall park a vehicle between the hours of 6:00 p.m. to 6:00 a.m. on the east side of the 400 block of Niobrara Avenue from the north line of Fourth Street to a point 87 feet north of the north line of Fourth Street in the parking space or spaces which are plainly marked, painted on the curb, or posted.

SECTION 2. Previously existing Section 3-203, and all ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with the revisions set forth herein are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote on the first reading of Ordinance No. 2702 with the following results:

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Voting Aye: Benzel, Gonzalez, Feldges, Seiler, Yeager.

Voting Nay: None.

Motion carried.

- The next matter before Council was Resolution No. 12-31, approving the City of Alliance entering into the Economic Development Agreement for Crossman Trailer, Inc. City Manager Cox provided the following background information:

[Mark Tolstedt has requested a \$100,000 loan (forgivable or non-forgivable) to be used to fund a portion of a new business endeavor to manufacture, assemble and sell medium duty aluminum gooseneck flatbed trailers. As proposed, the LB840 funds would represent just a little more than 1/3 of the capital startup needs of approximately \$285,000. A detailed breakdown of the funding is included in your packet. Please note after submitting the application document, Mr. Tolstedt updated me to let me know that he was changing the owner equity home loan noted on page three entitled source and uses of funds of the application into a "cash position." Mr. Tolstedt proposes to initially create 5 new jobs, with the prospect of adding more as business grows. Finally, Mr. Tolstedt has considerable experience in this field with prior employment as an engineer with companies that built similar products.

The EDPARC met and recommended to the City Manager that the proposed \$100,000 loan be approved, and that up to 50%, or \$50,000, be forgiven if the company meets certain targets and criteria.

At the April 5 Council meeting, Resolution 12-28 was approved, clearing the way for the enclosed agreement between the City and Crossman Trailer for a loan of \$100,000. If certain minimum criteria are met, then up to 50% of the loan will be forgiven on an annual basis.]

A motion was made by Councilman Seiler, seconded by Councilman Yeager to approve Resolution No. 12-31.

#### RESOLUTION NO. 12-31

WHEREAS, The voters of the City of Alliance approved an Economic Development Plan which had been adopted by the City Council in 2001 and in 2010, pursuant to the authority of Nebraska Revised Statutes 18-2701 through 18-2738;

WHEREAS, An Application Review Committee has been appointed by the City Council pursuant to law to review applications for assistance under the Economic Development Plan;

WHEREAS, The Economic Development Plan is funded by a portion of City sales tax which was also approved by the voters in 2001 and in 2007;

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WHEREAS, The application of Mark and Jill Tolstedt dba Crossman Trailer, Inc. has been received for assistance pursuant to the Economic Development Plan, and Mark and Jill Tolstedt dba Crossman Trailer, Inc. is a qualifying business pursuant to the requirements of the Economic Development Plan;

WHEREAS, The Application Review Committee has approved the application of Mark and Jill Tolstedt dba Crossman Trailer, Inc. and recommended to the Program Administrator that the project be approved;

WHEREAS, The Program Administrator has accepted the recommendation of the Application Review Committee, and recommends that the City Council approve the project;

WHEREAS, The Economic Development funds in the project requesting assistance are not the sole or primary funding source; and

WHEREAS, The City Council finds that Mark and Jill Tolstedt dba Crossman Trailer, Inc. is a qualifying business and that this allocation of funds does not exceed the limitations of Section 18-2717 of the Nebraska Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the application of Mark and Jill Tolstedt dba Crossman Trailer, Inc. for assistance from the Economic Development Fund pursuant to the Local Option Municipal Economic Development Act is hereby approved in the amount of \$100,000.00; of which \$50,000.00 may be forgivable.

BE IT FURTHER RESOLVED, that the Economic Development Assistance Agreement between the City of Alliance and Crossman Trailer, Inc. is hereby approved and the Mayor is authorized to execute the Agreement for and on behalf of the City of Alliance, Nebraska.

Roll call vote with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler, Yeager.

Voting Nay: None.

Motion carried.

Mr. Mark Tolstedt, 1204 Cheyenne Avenue, appeared before Council and thanked them for their support of his project.

- The last item on Council's agenda were board appointments.

Motion by Councilman Seiler, seconded by Councilman Yeager to appoint Dr. John Argyle to the Board of Health as the physician representative.

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Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Yeager, Benzel, Gonzalez.

Voting Nay: None.

Motion carried.

Motion by Councilman Seiler, seconded by Councilman Benzel to appoint J.J. Smith, Edwin Hinman, and Joseph L. Digmann, Sr. to the Temporary Community Garden Committee. These appointments are being made for this growing season.

Roll call vote with the following results:

Voting Aye: Seiler, Benzel, Gonzalez, Feldges.

Voting Nay: None.

Abstaining: Yeager.

Motion carried.

Prior to adjourning Councilman Benzel requested City Manager Cox to research the City's participation ability in the West Plains Grain Project if the property is not annexed.

- Mayor Feldges stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:42 p.m."

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Fred Feldges, Mayor

(SEAL)

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Linda S. Jines, City Clerk