

May 17, 2012

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, MAY 17, 2012

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

The Alliance City Council met in a Regular Meeting, May 17, 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 26, 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 May 17, 2012 Regular Meeting of the Alliance, Nebraska City Council at 7:01 p.m. Present were Mayor Feldges, Council Members Yeager, Benzel, Gonzalez and Seiler. Also present were City Manager Cox, City Attorney Ediger and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- Officer Dominick Peterson of the Alliance Police Department was introduced as the newly promoted Sergeant.
- The Consent Calendar was the next matter before Council.

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

CONSENT CALENDAR – MAY 17, 2012

1. Approval: Minutes of the Regular Meeting, May 3, 2012.
2. Approval: Payroll and Employer Taxes for the period April 14, 2012 through April 27, 2012 inclusive: \$168,766.90 and \$11,925.77 respectively.

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3. Approval: Claims against the following funds for the period April 26, 2012 through May 11, 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; \$869,483.77.
4. Approval: Resolution No. 12-46 authorizing the filing of a lien in the amount of \$7,500 against property located at 906 Platte Avenue. In the spring and summer of 2011, the City hired Timothy D. Smith dba Service Maxx Cleaning and Restoration to abate a nuisance at 907 Platte Avenue. The property was in a terrible state of disrepair, and it was impacting the health and welfare of the neighborhood surrounding the property. He did the work for a contract price that you approved at your meeting on September 15, 2011. The property is under foreclosure by the holder of a Tax Sale Certificate and the City has been made a Defendant because of its interest in the property. There are other lien holders with priority dates back as far as 1998 so the likelihood of the City receiving anything back for its lien is remote. Nonetheless, it is important to protect whatever interest the City has, and this lien assessment will do that.
5. Approval: The *Request for Reserved or Exclusive Use of City Streets* of the Cattle Capital Shrine Club for the closure of 14th Street between Box Butte and Sweetwater Avenues starting at 4:00 p.m. Saturday, June 2nd and ending at 8:00 a.m. Monday, June 4th. The Club will be hosting their annual circus and the street will be used to unload & load the circus and to house animals.
6. Approval: The *Request for Reserved or Exclusive Use of City Streets* of the Alliance Chamber of Commerce for Heritage Days 2012 scheduled for July 17th through the 22nd. This year's requests are the same as last year. Proof of liability insurance is required as part of the authorization. A listing of all of the requests are as follows:

Use of City streets for 5k and 10k runs, along the routes shown on the attached map. No closures. Saturday, July 21, 2012.

Closure of involved streets for Heritage Days Annual Parade - 600 Block of Black Hills Avenue, south to Third Street, east to Mississippi - 9 a.m. July 21, 2012 until completion of parade. The City will be required to complete an Application for Special Event Permit with the Nebraska Department of Roads.

Closure of Box Butte Avenue and exclusive use of parking lot at Fourth Street and Niobrara Avenue for Carnival and Vendor area. Box Butte Avenue 300, 400, and 500 Blocks, Lots 1, 2, 3, Block 15, Original Town (the parking lot at Fourth Street and Niobrara Avenue.) Closure beginning 12:01 a.m. July 17, 2012 for all except the 300 Block of Box Butte, which will close at 3:00 p.m. on July 19, 2012. Closures to extend to undetermined time on Sunday, July 22, 2012.

Exclusive use of the East half of Block 28, Original Town (the lots on the West side of Box Butte Avenue between First and Second Streets), parking is allowed July 17th to 21st 2012 for Heritage Days events.

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Street use restriction, Fourth Street from Laramie Avenue to Niobrara Avenue. Use restricted to emergency and postal vehicles from 5:00 p.m. July 18, 2012 through Saturday, July 21, 2012 at 12:00 midnight. Police escorts are required for postal trucks arriving between 8:30 p.m. and 9:00 p.m.

Closure of the 200 Block of Box Butte Avenue. Closure from Wednesday, July 18, 2012 at noon until Saturday, July 21st at midnight.

Exclusive use of Blocks 1 and 4 Box Butte Addition, east of Snake Creek Trail between Tenth and Twelfth Streets on Tuesday, July 17, 2012 between 3:00 p.m. and 9:00 p.m. for Heritage Days Family Night activities.

One-way traffic modifications:

- Niobrara Avenue: Use is restricted to north bound one-way traffic only between the hours of 3:00 p.m. and 9:00 p.m., on Tuesday, July 17, 2012, between 10th and 12th Streets.
- Sweetwater Avenue: Use is restricted to south bound one-way traffic only between the hours of 3:00 p.m. and 9:00 p.m., on Tuesday, July 17, 2012, between 10th and 14th Streets.
- 12th Street - Use is restricted to east bound one-way traffic only between the hours of 3:00 p.m. and 9:00 p.m., on Tuesday, July 17, 2012, between Niobrara and Sweetwater.

7. Approval: Update the roster of the Alliance Volunteer Fire Department by adding Daniel Bigg, Tia Malewski, Kevin Ylander.

8. Approval: Issuance for the following contractor licenses:

General Contractor	Freddie Serda dba L/S Construction Shaun Houchin dba Clau-Chin Construction
Repair & Maintenance	Harley Salway dba Harley's Construction Services Jon Worthman dba Western Energy LLC Tim Overshiner dba Overshiner Roofing
Journeyman Plumber	Jason Tritle dba Tritle Plumbing Leo Tritle dba Tritle Plumbing
Master HVAC & Gas Fitter	Steve Weinberger dba Sheet Metal Products, Inc. Jason Tritle dba Tritle Plumbing Leo Tritle dba Tritle Plumbing
Limited & Specialty	Jason Tritle dba Tritle Plumbing Leo Tritle dba Tritle Plumbing Kevin Turner dba Protex Central, Inc.

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:

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

Voting Nay: None.

Motion carried.

- City of Alliance Public Facilities Director Eric Lenz presented the quarterly Street Report. The following outline was distributed to Council:

PUBLIC FACILITIES
STREETS DIVISION
ACTIVITY REPORT
MAY 17, 2012

MAJOR PROJECTS

Potash Avenue, Kansas Street to 2nd Street – Asphalt Mill and Overlay (Federal Aid Project)
Construction Bid Letting – Summer 2012 / Spring 2013

Emerson Avenue, 18th Street to 25th Street – Asphalt Mill and Overlay (Federal Aid Project)
Construction Bid Letting – Summer 2012 / Spring 2013

10th Street, Box Butte Avenue to Flack Avenue – Total Reconstruction (Federal Aid Project)
10th Street Meadowood Trail, Sweetwater Avenue to Meadowlark Avenue
Engineering Design Services Agreement – Later in Council Meeting

Box Butte Avenue, 3rd Street to 5th Street – Historical Lighting (Federal Aid Project)
Box Butte Avenue, 1st Street to 5th Street – Streetscape (Local Funded Project)
Engineering Design Services Agreement – Later in Council Meeting

Sweetwater Avenue, 18th Street to 25th Street – Concrete Paving (Local Funded Project)
Engineering Consultant Selection – Later in Council Meeting

MAINTENANCE PROJECTS

Roadway Surface Crack Sealing
Approximately 15,000 lineal feet remain – to be used on Box Butte Avenue between 14th
and 18th Streets

Concrete Street Rehabilitation
Contract Extension, 60-Day – Later in Council Meeting
See attached spreadsheet detailing costs and locations completed/to be completed

Asphalt Street Overlay
Work completed – May 17, 2012

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Locations Completed: Cemetery Roads – East 10th Street between Flack Avenue and East Corporate Limits – West 14th Street between Buchfinck Avenue and Hammond Lane – Cody Avenue between 4th and 8th Streets – Airport Taxiway “C” Access Road

MISCELLANEOUS

Refuse Truck Purchase

Later in Council Meeting

Will be talking with City Manager Cox about using the \$19,485 budget savings from the Refuse Truck Purchase to procure approximately 40 Yard Waste Containers.

- The next item before Council was a public hearing on the rezoning application of Thomas and Tammy Fletcher to change Lot 2, Block 2, Grovefield Addition of the City of Alliance from R-3 - Multi-Family Residential to C-3 - Highway Commercial. The following written background information was provided by City Manager Cox:

[The Fletcher’s are in the process of purchasing this property from the City of Alliance and the third reading of the ordinance approving the sale will be the next item on the agenda. The purchase is contingent upon the property being rezoned from residential to commercial. The Fletcher’s did make an application for the rezoning which was considered by the Planning Commission at their meeting held on May 8, 2012.

The Alliance Planning Commission has recommended the rezoning.]

Mayor Feldges stated “now is the date, time and place to conduct a public hearing on the rezoning application of Tom and Tammy Fletcher. The Fletcher’s are requesting to change Lot 2, Block 2, Grovefield Addition of the City of Alliance from R-3 - Multi-Family Residential to C-3 - Highway Commercial. The property is commonly addressed as 1242 14th Street.

The Public Hearing was opened at 7:14 p.m. there being no testimony offered, the hearing was closed at 7:15 p.m.

Motion by Councilman Yeager, seconded by Councilman Gonzalez, to approve the first reading of Ordinance No. 2706. City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2706

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING, AMENDING THE DISTRICT ZONING MAP TO SHOW THAT LOT TWO (2), BLOCK TWO (2), GROVEFIELD ADDITION, TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA, IS NOW INCLUDED AS A C-3 HIGHWAY COMMERCIAL DISTRICT FROM A R-3 MULTI-FAMILY RESIDENTIAL DISTRICT, AND REPEALING PRIOR SECTIONS.

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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 ____ day of _____, 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.

Roll call vote on Ordinance No. 2706 with the following results:

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

Voting Nay: None.

Motion carried.

- The next matter before Council was the third reading of Ordinance No. 2705, approving a lot sale to Thomas R. and Tammy L. Fletcher for Lot 2, Block 2, Grovefield Addition to the City of Alliance. City Manager Cox provided the following written background information:

[This ordinance would authorize the sale of City property located at Lot 2, Block 2, Grovefield Addition to Thomas and Tammy Fletcher for a total amount of \$8,884.75.

The Fletcher’s purchase is contingent upon the property being rezoned from residential to commercial and they have made application to the Planning Commission for the

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rezoning. A copy of the executed *Agreement for Sale of Real Estate* and a map identifying the property has been included in your packet. A down payment of \$500.00 has been received.

This measure was approved on its second reading and is advanced to the third reading.]

Motion by Councilman Yeager, seconded by Councilman Benzel, to approve Ordinance No. 2705 on third 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.

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 for the adoption of Ordinance No. 2705 with the following results:

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

Voting Nay: None.

Mayor Feldges stated “the passage and adoption of Ordinance No. 2705 having been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Ordinance No. 2702, implementing a two hour parking restriction around the Central Park Fountain was the next item before Council. The following written information was prepared by City Manager Cox for Council’s consideration:

[This ordinance would restrict parking to 2 hours in the area nearby the fountain, specifically 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.

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 10th 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;*
- *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;*

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- *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.]*

A motion was made by Councilman Seiler to approve Ordinance No. 2702 on third reading. The motion was seconded by Councilman Benzel. City Clerk Jines read the ordinance by title 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.

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

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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 10th and 11th 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 with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler.

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Voting Nay: Yeager.

Mayor Feldges stated “the passage and adoption of Ordinance No. 2702 having been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Ordinance No. 2703, amending the zoning regulations to allow churches as a permitted use in commercially zoned C-0, C-1, C-2 and C-3 areas was the next item before Council. City Manager Cox provided the following written background information:

[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).

A public hearing has been held in which testimony was heard supporting the measure and even a request by the Pastor of the Heartland Baptist Church to expedite the process and waive the three readings. However, in questioning the Church did not appear to have a property lined up to utilize, and expediting the matter would have seemed to have had no benefit. The Council did advance the measure to the second reading.

Following is information presented in the previous packet concerning this matter... 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. 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

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*

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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](#).

(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.]

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Ordinance No. 2703 on third reading. City Clerk Jines read the ordinance by title, 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 COMMERCIALY 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.

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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:

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).

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

Voting Nay: None.

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Mayor Feldges stated “the passage and adoption of Ordinance No. 2703 having been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Ordinance No. 2704, approving the rezoning application of Wes and Angy Fancher was the next item on Council’s agenda. The following written background information was provided by City Manager Cox:

[This Ordinance would rezone approximately 15 acres located at 304 Woolrich Rd that was formerly a City Landfill and Zone M2 (Heavy Industrial) to C3 (Highway Commercial), at the request of owners Wes and Angy Fancher.

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 has 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 location of 304 Woolrich Road, 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 approval 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.]

Motion by Councilman Benzel, seconded by Councilman Seiler to approve Ordinance No. 2704 on third reading. 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 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:

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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 17th day of May, 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.

Roll call vote to adopt Ordinance No. 2704 with the following results:

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

Voting Nay: None.

Mayor Feldges stated “the passage and adoption of Ordinance No. 2704 having been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The next matter before Council was a public hearing on the application of Wes and Angy Fancher for a Conditional Use Permit and the corresponding legislative document.

Mayor Feldges stated “now is the date, time and place to conduct a Public Hearing on the application of Wes and Angy Fancher for a Conditional Use Permit to operate a RV Park on a tract of land in the SW ¼, Section 31, Township 25 North, Range 47 of the 6th P.M., Box Butte County, Nebraska which is located on East Kansas Street commonly addressed 304 Woolrich Road.” The public hearing was opened at 7:33 p.m.

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Wes Fancher, 304 Woolrich Road addressed Council outlining his proposed plans for the facility and thanked them for their consideration.

Mayor Feldges closed the public hearing at 7:35 p.m.

Motion by Councilman Yeager, seconded by Councilman Gonzalez to approve Resolution No. 12-33. City Clerk Jines read the resolution by title, which follows in its entirety:

RESOLUTION NO. 12-33

WHEREAS, The City of Alliance, through its Community Development Department regulates building and zoning within the City of Alliance and the two mile jurisdiction; and

WHEREAS, Wes and Angy Fancher have requested a Conditional Use Permit on part of the SW¼ of Section 31, Township 25 North, Range 47, West of the 6th P.M. in Alliance, Box Butte County, Nebraska to allow for the development of a recreational vehicle camping facility; and

WHEREAS, The Community Development office has examined the request and finds that the request to allow for the development of a recreational vehicle camping facility in a C-3 Highway Commercial District is appropriate for the granting of a conditional use; and

WHEREAS, The Interim Planning Director has recommended the granting of the Conditional Use Permit; and

WHEREAS, On the 8th day of May, 2012, the Planning Commission for the City of Alliance held a public hearing on behalf of the Conditional Use Permit for Wes and Angy Fancher; and

WHEREAS, The Planning Commission voted to approve the Conditional Use Permit and forward Mr. Fancher's request for the Conditional Use Permit to the City Council for their review and consideration.

WHEREAS, The City Council has reviewed the request and determined that it is in the best interest of the City of Alliance and consistent with the zoning rules and regulations to grant a Conditional Use Permit for Wes and Angy Fancher.

NOW, THEREFORE, BE IT RESOLVED, that the Conditional Use Permit of Wesley A. Fancher to allow for the development of a recreational vehicle camping facility on part of the SW¼ Section 31, Township 25 North, Range 47, West of the 6th P.M., Alliance, Box Butte County, Nebraska, is hereby authorized and approved with the additional condition that fire hydrants be installed as required by the Alliance Fire Chief and staff review of the operation annually.

BE IT FURTHER RESOLVED, that the Conditional Use Permit shall be presumed inactive if the conditional use is not commenced within twelve months of May 17, 2012.

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Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next agenda item was a public hearing to approve the appointment of Amanda R. Hanson as the liquor license manager for Fresh Start. The following written background information was provided by City Manager Cox:

[Our attorney will be present to conduct a hearing and assist the Council in obtaining a level of comfort concerning this application.

Testimony will be heard (including from Police Chief John Kiss) and the following exhibits that will be provided:

Exhibit 1 - Application of Amanda R. Hanson for Manager's license.

Exhibit 2 - City Council checklist for Section 53-132 R.R.S. (1984).

Exhibit 3 - Written statement of Police Chief.

To approve the application, it is Council's obligation to make the findings:

1. Applicant complies with the provisions of Section 53-131.01 R.R.S. (2003).
2. Applicant has met its burden with regard to the checklist that is provided by Section 53-132 R.R.S. (1984) and demonstrates a willingness and ability to properly manage the liquor license held by Fresh Start in conformance to the rules and regulations of the Nebraska Liquor Control Act.
3. Based on the above findings, the City Council recommends to the Nebraska Liquor Control Commission that the application of Amanda R. Hanson be approved to be the Manager of the liquor license held by Fresh Start.]

Mayor Feldges stated "Now is the date, time and place to conduct a Public Hearing to consider and approve the appointment of Amanda R. Hanson as the liquor license manager for Fresh Start located at 610 East 3rd Street, Alliance, NE. I declare the public hearing opened at 7:40 p.m."

Hearing no testimony the public hearing was closed at 7:41 p.m.

Motion by Councilman Benzel, seconded by Councilman Gonzalez to table consideration of Resolution No. 12-34 until our next meeting and that staff request the applicant to be in attendance at that time.

Roll call vote with the following results:

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

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Voting Nay: None.

Motion carried.

- Resolution No. 12-35 accepting a batting cage unit for placement at the Bower Shankland Baseball Field was the next item for Council's review. City Manager Cox provided the following background information:

[Resolution 12-35 will accept a batting cage donation from the Alliance Spartans in advance of an upcoming tournament.

At issue previously was a question regarding the installation (and cost) of fencing around the batting cage. As it turns out, the group's plan will not require the installation of such, because the nets will be retractable upon the completion of each usage.

Therefore we believe the hurdles to accepting the gift have been cleared and can be done according to the City's gift policy.]

Motion by Councilman Seiler, seconded by Councilman Benzel to approve Resolution No. 12-35, which follows in its entirety:

RESOLUTION NO. 12-35

WHEREAS, The City of Alliance owns and operates Bower Shankland Ballfield; and

WHEREAS, The Alliance Spartans would like to donate a "TUFFframe" outdoor tensioned batting cage system to be erected at the ballfield; and

WHEREAS, The gift meets the requirements of the City's Gifts, Bequests, and Memorials Policy established with Resolution No. 06-75; and

WHEREAS, City Council believes it is in the best interest of the City of Alliance to accept the donation from the Alliance Spartans.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the donation from the Alliance Spartans of a "TUFFframe" outdoor tensioned batting cage system be accepted by the City of Alliance.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next items to be discussed by Council were Resolution Nos. 12-36 and 12-37, approving the Economic Development Assistance Agreement between the City of Alliance and

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Box Butte Development Corporation. City Manager Cox provided the following background information:

[Resolution 12-36 would give final approval to a one-year \$75,000 loan to BBDC for the acquisition of 15 acres of prime business park development land, as well as approve the agreement, promissory note and deed of trust.

From April 16 Narrative –

BBDC is proposing the use of LB840 funds in the amount \$75,000 for the acquisition of 15 acres of real estate (\$5000/acre) for the supplemental development of a business park and in advance of an upcoming business deal. After gaining control of the proposed property, it is anticipated that the property will eventually sell to the company that BBDC is confidentially working with. When the property sells, the loan will be repaid. City staff is recommending that City Council, with prior approval, may waive the balance of the \$75,000 interest-free loan, should Council and BBDC agree to sell the land for less than \$75,000.

At the April 5 Council meeting, Resolution 12-26 was approved, clearing the way for the enclosed agreement between the City and BBDC for the one-year loan of \$75,000 for the purchase of 15 acres.

Resolution 12-37 would give final approval to a five-year \$286,200 loan to BBDC for the acquisition of 35 acres of prime business park development land, as well as approve the agreement, promissory note and deed of trust.

From April 16 Packet -

BBDC is proposing the use of \$286,200 of LB840 funds as a 100% match with a Nebraska Department of Economic Development (NDED) also for \$286,200. With a combined project cost of \$572,400, the project will create a new Industrial Park on the east side of Alliance, next to the existing Perrin Manufacturing facility. Included in the \$572,400 project is \$175,000 for the acquisition of 35 acres of real estate (\$5000/acre), construction of streets \$75,000, the installation of sewer and water systems (\$23,000 and \$259,400 respectively), plus an additional \$40,000 for contingency for additional expenses. BBDC worked with this, and received approval from, the Nebraska Department of Economic Development (NDED) this past year on the project, but had to pass on the project at the time due to the impending transaction of item #3 above. We were all recently very pleased to learn that DED has issued to the City of Alliance its commitment and approval of our project for this upcoming funding cycle. When the property sells, the \$175,000 portion of the loan for the property will be repaid.

At the April 5 Council meeting, Resolution 12-27 was approved, clearing the way for the enclosed agreement between the City and BBDC for a loan of \$286,200 for the City's ½ match of a NDED grant for the same that totals \$572,400. The project includes the acquisition of 35 acres, as well as construction of streets \$75,000, the installation of

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sewer and water systems (\$23,000 and \$259,400 respectively), plus an additional \$40,000 for contingency for additional expenses.]

Motion by Councilman Benzel, seconded by Councilman Seiler to approve Resolution Nos. 12-36 and 12-37, which follow in their entirety:

RESOLUTION NO. 12-36

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;

WHEREAS, The application of Box Butte Development Corporation (“BBDC”) has been received for assistance pursuant to the Economic Development Plan, which assistance shall be used for the purchase of approximately 15 acres of real estate which will then be developed for use by a qualifying business pursuant to the requirements of the Economic Development Plan;

WHEREAS, The Application Review Committee has approved the application of BBDC 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 proceeds from the future sale of the Real Estate are to be returned to the Economic Development Fund to the extent of the amounts paid from the Economic Development Fund; and

WHEREAS, The City Council finds 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 BBDC for assistance from the Economic Development Fund pursuant to the Local Option Municipal Economic Development Act is hereby approved in the amount of \$75,000.00.

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

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RESOLUTION NO. 12-37

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;

WHEREAS, The application of Box Butte Development Corporation (“BBDC”) has been received for assistance pursuant to the Economic Development Plan, which assistance shall be used for the purchase of approximately 35 acres of real estate which will then be developed for use by a qualifying business pursuant to the requirements of the Economic Development Plan;

WHEREAS, The Application Review Committee has approved the application of BBDC 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 proceeds from the future sale of the Real Estate are to be returned to the Economic Development Fund to the extent of the amounts paid from the Economic Development Fund; and

WHEREAS, The City Council finds 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 BBDC for assistance from the Economic Development Fund pursuant to the Local Option Municipal Economic Development Act is hereby approved in the amount of \$286,200.00.

BE IT FURTHER RESOLVED, that the Economic Development Assistance Agreement between the City of Alliance and Box Butte Development Corporation 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 on the passage of both Resolution Nos. 12-36 and 12-37 with the following results:

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

Voting Nay: None.

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Motion carried.

- Resolution No. 12-38, authorizing staff to negotiate an Agreement with the firm of M.C. Schaff & Associates to improve Sweetwater Avenue was the next item to be presented to Council. City Manager Cox provided the following background information:

[Resolution 12-38 would approve the selection of MC Schaff for the Sweetwater Avenue project (18TH to 25th Streets).

Upon selection, Streets Superintendant Eric Lenz would be authorized to negotiate with the firm for the cost of the engineering service, whereupon a contract will be brought back to Council for approval. We also received information packets from Baker & Associates and Miller & Associates.

Outlook:

Construction is hoped to commence later in 2012.]

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Resolution No. 12-38, which follows in its entirety:

RESOLUTION NO. 12-38

WHEREAS, The City of Alliance has requested proposals pursuant to Request for Proposal for engineering services in connection with Sweetwater Avenue, 18th to 25th Street; and

WHEREAS, Three proposals were received; and

WHEREAS, The proposal of M.C. Schaff & Associates of Scottsbluff, Nebraska appears to be the most appropriate proposal.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that staff is directed to negotiate an Agreement with the firm of M.C. Schaff & Associates of Scottsbluff, Nebraska to produce final construction plans and specifications to improve Sweetwater Avenue from 18th Street to 25th Street for submittal to Council.

Councilman Yeager voiced concern regarding the quality of services the City received from M.C. Schaff on our 10th Street project. He stated he believed the on-site inspections were not adequate and the appropriate core samples were not taken. Mr. Don Dye of M.C. Schaff responded to Councilman Yeager stating representative of his firm were on-site during the entire 10th Street project and the documentation records could be made available for his review. Mr. Dye apologized if Councilman Yeager had been misinformed. Mr. Dye further reported that an extended one year warranty was granted by the contractor as a result of the initial cracks which were reported. He also reported core samples were taken during the project.

Roll call vote with the following results:

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Voting Aye: Feldges, Benzel, Gonzalez.

Voting Nay: Seiler, Yeager.

Motion carried.

- Resolution No. 12-39, authorizing the City of Alliance to enter into a Professional Service Agreement with Baker & Associates was the next item on Council’s agenda. City Manager Cox provided the following background information:

[Resolution 12-39 would approve the selection of Baker & Associates to complete the Preliminary Engineering for the Downtown Streetscape Project.

NDOR has taken the lead in this combined project – which entails not only street lighting, but also sidewalk removal and replacement.

Of the total \$530,000 budgeted for this project, the City’s cost share in this project is \$46,913.86.

A breakdown of the costs are as follows:

Total Engineering Cost:	\$85,822.38
Fed Participation (80%):	<u>\$48,635.65</u>
City Participation (20%):	\$ 9,727.13
Additional Non-Participation City Share:	<u>\$37,186.73</u>
Grand Total City of Alliance:	\$46,913.86

Our Streetscape/Historic Lighting initiative is a complex project that involves State funds and City funds to pay for different portions of the project. Shortly after awarding the Engineering Contract, NDOR will give us the go-ahead for us to issue a Notice to Proceed to Baker & Associates. Immediately after the issuance of the Notice to Proceed, we will meet with Baker & Associates to discuss a preliminary plan, which will then be followed by meetings with community stakeholders to garner input into the final plans. A clearer timeline will also then be established.

Outlook:

Depending upon the design process and community interaction, current expectations remain hopeful that construction will still begin later this year.]

Motion by Councilman Benzel, seconded by Councilman Gonzalez to approve Resolution No. 12-39, which follows in its entirety:

RESOLUTION NO. 12-39

WHEREAS, The City of Alliance is developing a transportation project for which it intends to obtain Federal Funds; and

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WHEREAS, The City of Alliance as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, The City of Alliance and Baker & Associates, Inc. wish to enter into a Professional Services Agreement to provide preliminary engineering, environmental documentation and final design services for the Federal-aid project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that Fred Feldges, Mayor of the City of Alliance, Nebraska, is hereby authorized to sign the attached Preliminary Engineering, Environmental Documentation and Final Design Services Agreement between the City of Alliance, Nebraska and Baker & Associates, Inc.

NDOR Project Number: URB-6257(2)

NDOR Control Number: 51453

NDOR Project Description: Box Butte Avenue Historic Lighting.

Roll call vote with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler.

Voting Nay: None.

Abstaining: Yeager.

Motion carried.

- The next item for Council's consideration was Resolution No. 12-40, authorizing the City of Alliance to enter into a Professional Service Agreement with M.C. Schaff & Associates for the 10th Street, Box Butte to Flack Avenue Project. City Manager Cox provided the following background information:

[Resolution 12-40 would approve the selection of MC Shaff to complete the Engineering for the 10th Street and the Meadowood Trail (Path) combined projects.

Once again, this is a federal-local share project.

Total engineering costs are estimated at \$158,916.61, of which the Federal Share (80%) is \$127,133.29, while the City of Alliance share is \$31,783.32.

Upon City approval, and NDOR notice to proceed, MC Shaff will commence design services to complete final construction plans and specifications.

This project will be very beneficial to the community as the construction of the new path

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(trail) will link into the City's existing beautiful trails system and will connect to not only Flack Avenue, but also to the YMCA.

Outlook:

Construction on this project is not expected to commence until 2013.]

Motion by Councilman Seiler, seconded by Councilman Benzel to approve Resolution No. 12-40, which follows in its entirety:

RESOLUTION NO. 12-40

WHEREAS, The City of Alliance is developing a transportation project for which it intends to obtain Federal Funds; and

WHEREAS, The City of Alliance as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, The City of Alliance and M. C. Schaff & Associates, wish to enter into a Professional Services Agreement to provide preliminary engineering and environmental documentation services for the Federal-aid project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that Fred Feldges, Mayor of the City of Alliance, Nebraska, is hereby authorized to sign the attached Preliminary Engineering and Environmental Documentation Services Agreement between the City of Alliance, Nebraska and M. C. Schaff & Associates.

NDOR Project Number: URB-6254(7)

NDOR Control Number: 51490

NDOR Project Description: 10th Street, Box Butte – Flack Avenue.

Roll call vote with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler.

Voting Nay: Yeager.

Motion carried.

- Resolution No. 12-41 awarding the purchase of a refuse collection truck was the next item for Council's review. City Manager Cox provided the following background information:

[Resolution 12-41 would award the bid for a 2013 Refuse Truck from Floyd's Truck Center for \$133,515.00.

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The purchase of the 2013 Freightliner Chassis Refuse Truck with 2012 Impac Refuse Body is broken down as follows:

Base Bid:	\$178,515
Less-Trade In	<u>(\$ 45,000)</u>
Net Total Cost:	\$133,515

As compared with our Budget of \$153,000, this final amount is \$19,485 under budget.

Truck Unit #1102 (2007 Sterling Acterra) was selected to be traded in. The unit has had many more problems than its 2001 and 2005 counterparts. The breakdowns have been frequent and expensive – altogether amounting to \$34,352. In addition, the 25-yard Refuse body makes the truck very difficult to maneuver in our narrow alleyways.

Outlook:

If approval is given on 5/17, Delivery is expected on September 21, 2012.]

Motion by Councilman Gonzalez, seconded by Councilman Seiler to approve Resolution No. 12-41, which follows in its entirety:

RESOLUTION NO. 12-41

WHEREAS, The City of Alliance Refuse Department had on their capital improvements for this fiscal year, the purchase of a refuse collection truck; and

WHEREAS, The City of Alliance sent out four Invitations to Bid and received bids from one vendor for various units, which provided the City with three options; and

WHEREAS, The lowest, reasonable, responsive bidder was Floyd's Truck Center, Inc. of Scottsbluff, Nebraska for a 2013 Freightliner Chassis with 2012 Impac Refuse Body for the cost of One Hundred Thirty-three Thousand Five Hundred Fifteen and no/100ths Dollars (\$133,515.00); and

WHEREAS, The Alliance Refuse Department has the funds in its budget and Council believes that it is in the best interest of the City to approve this purchase.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor be and hereby is authorized to enter into a contract for the purchase of a 2013 Freightliner Chassis with 2012 Impac Refuse Body for the cost of One Hundred Thirty-three Thousand Five Hundred Fifteen and no/100ths Dollars (\$133,515.00) from Floyd's Truck Center, Inc. of Scottsbluff, Nebraska.

BE IT FURTHER RESOLVED, that the purchase will be funded from Refuse Account No. 06-41-42-59-960.

Roll call vote with the following results:

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

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Voting Nay: None.

Motion carried.

- The next item to be discussed by Council was Resolution No. 12-42, requesting an extension to the Concrete Rehabilitation Contract with K.L. Wood and Company for an additional sixty days. City Manager Cox provided the following background information:

[Resolution 12-42 would extend the existing concrete contract with KL Wood for an additional 60 days.

On May 19, the City approved and signed a 1-year agreement with KL Wood for the completion of concrete work in the City. The work is not yet completed and this extension will allow such to be finished. It is estimated that approximately \$39,000 of the original \$235,000 remains not yet completed.

Street Superintendent Eric Lenz will provide a detailed report on all street projects earlier in the meeting.

Outlook:

If approval is given, KL Wood is expected to finish all concrete work by July 19.]

Motion by Councilman Benzel, seconded by Councilman Seiler to approve Resolution No. 12-42, which follows in its entirety:

RESOLUTION NO. 12-42

WHEREAS, The City of Alliance previously authorized competitive quotes to obtain bids for concrete rehabilitation pursuant to Bid Number 2441-11-01; and

WHEREAS, At that time the bid of K.L. Wood and Company of Alliance, Nebraska was determined to be the lowest, responsive, and responsible bid; and

WHEREAS, The actual amount of the value of the contract was based on the amount of work completed at the unit prices depicted in the bid of K.L. Wood; and

WHEREAS, Staff estimated the total amount of concrete rehabilitation to streets, alleys, curb and gutter, and sidewalks under this contract would not exceed Two Hundred Thirty Seven Thousand and No 100ths Dollars (\$237,000.00) for the current year.

WHEREAS, The City was unable to complete the anticipated projects within the one year period of time established and there are funds remaining within the previously authorized contract; and the City would now like to extend the contract an additional sixty days.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, the contract for Bid Number 2441-11-01 which was awarded to K.L. Wood and Company of Alliance, Nebraska in an amount not to exceed Two Hundred Thirty Seven Thousand and No 100ths Dollars (\$237,000.00), subject to variation in jobs as specified by the

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City, which will be charged at the unit prices as quoted in the bid is hereby extended an additional sixty days.

BE IT FURTHER RESOLVED, that City staff shall notify K.L. Wood and Company of Alliance, Nebraska of the sixty day extension to the contract so that work can proceed according to the bid specifications.

Roll call vote with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Seiler.

Voting Nay: Yeager.

Motion carried.

- The next matter before Council was Resolution No. 12-43, authorizing the City to enter into an Interlocal Cooperation Agreement for the provision of goods and services with the Alliance Public Schools District No. 0006. City Manager Cox provided the following background information:

[Resolution 12-43 would approve the Interlocal Agreement with Alliance Public Schools.

The State of Nebraska in Statute 13-801 authorized the creation of Interlocal Agreements for joint and cooperative action to provide goods, services and facilities to bring about the best results in terms of geographic, economic, population, and other areas that influence the needs and development of a community.

Items identified to be shared by the APS and the City include the following:

- Technology Services
- Recreation and Educational Facilities
- Cooperative Purchasing
- Transportation
- Employees for Resource and Educational Purposes
- Custodial & Janitorial Services & Supplies
- Other Goods, Services, Facilities or Equipment deemed mutually beneficial

Note that cooperative efforts have already begun this past winter with the sharing of snow removal efforts whereby the APS (with its small snow removal apparatus) removed snow from the steps and landing area of the library, while the City with its larger equipment easily removed snow from the AHS parking lot.

The agreement sets the Superintendent and the City Manager as the Administrators of the Agreement.

Outlook:

Upon approval, by both the City and APS School Board, the one-year Cooperative Agreement would go into effect June 1, 2012 and automatically renews annually on

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September 1.]

Motion by Councilman Benzel, seconded by Councilman Gonzalez to approve Resolution No. 12-43, which follows in its entirety:

RESOLUTION NO. 12-43

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

1. Pursuant to the Interlocal Cooperation Act (“Act”) found at Neb. Rev. Stat. §13-801, two or more public entities may enter into an agreement for joint or cooperative action to make the most efficient use of their taxing authority and powers. The Act enables cities to cooperate with each other on the basis of mutual advantage and in this case, to provide a comprehensive planner, as well as other services.
2. The City Council of the City of Alliance has reviewed an Interlocal Cooperation Agreement for the provision of goods and services with the Alliance Public Schools District No. 0006. After review, the City Council has determined it is in the City of Alliance’s best interest to enter into the Interlocal Cooperation Agreement.
3. This resolution authorizes the City of Alliance to enter into an Interlocal Cooperation Agreement for the provision of goods and services. The City Council determines the Interlocal Cooperation Agreement should be and now is authorized and approved. The City Council directs the Mayor to sign the Interlocal Cooperation Agreement with Alliance Public Schools District No. 0006, to provide for the provision of goods and services.

This resolution shall be in full effect following its passage and approval.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Resolution No. 12-44, approving the Memorandum of Understanding, which authorizes support to the WING Task Force with the assignment of an Alliance officer to the Task Force was the next item to be presented to Council.

Motion by Councilman Benzel, seconded by Councilman Gonzalez to remove this item from the agenda.

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Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- The next item to be discussed by Council was Resolution No. 12-45, requesting the hiring of an employee and making a full disclosure of the hiring of a family member. City Manager Cox provided the following background information:

[Resolution 12-45 provides for approval of the hiring of Cali Cox (daughter of the City Manager) to work as a Cashier at the swimming pool this summer.

Cali was recommended for employment (without the involvement of the City Manager), by Cultural & Leisure Services Director, Shana Brown.

It is my understanding that Alliance has a long history of children/relatives of City Managers being employed as part-time, temporary pool help. In fact, my daughter, who was a lifeguard before coming to Alliance, was also employed last year. At that time, I provided a confidential letter to every Councilmember notifying of the hiring and that Cali would not report to me, but City Clerk Linda Jines would serve as the hiring authority and would oversee all personnel matters regarding Cali's employment.

This year, out of an abundance of caution, we are including this resolution as an additional effort at full and transparent disclosure of not only the hiring, but also of the chain of command, so that no problems would result.

Outlook: n/a]

Motion by Councilman Gonzalez, seconded by Councilman Seiler to approve Resolution No. 12-45, which follows in its entirety:

RESOLUTION NO. 12-45

WHEREAS, The City of Alliance desires to hire Cali Cox as a Cashier for the Big Blue Bay swimming facility for the 2012 summer season. Ms. Cox has been recommended by Cultural and Leisure Services Director Shana Brown as she is responsible for selecting the seasonal parks, pool, golf and cemetery divisional staff; and

WHEREAS, Cali Cox is the teenage daughter of City Manager J.D. Cox; and

WHEREAS, The City of Alliance has made a reasonable solicitation and consideration of applications for this position and Ms. Cox is qualified and able to perform the duties of a Cashier, and will do so at the preapproved standard rate of pay. No other employee will be terminated as the result of this hiring; and

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WHEREAS, Section 49-1499.04 of the Nebraska State Statutes require that the hiring of an immediate family member must be fully disclosed to and approved by the City Council; and

WHEREAS, The City of Alliance hired Cali Cox as a lifeguard for the 2011 season after making a reasonable solicitation and consideration of applications for the lifeguard position. It was determined that Ms. Cox was qualified and able to perform the duties of Lifeguard, and did so at the preapproved standard rate of pay. Ms. Cox's hiring was disclosed to Council and all employment issues involving Ms. Cox were handled by the City Clerk. At the time of Ms. Cox's hiring in 2011 staff acted in a manner that was thought to meet the legislative requirements, but are now retroactively seeking Council's approval of the hiring as Council approval was required.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that pursuant to Section 49-1499.04 of the Nebraska State Statutes a disclosure has been made by J.D. Cox for the hiring of Cali Cox as a Cashier for the 2012 summer season at Big Blue Bay and her employment is approved by the City Council.

BE IT FURTHER RESOLVED that City Manager J.D. Cox will not be involved in any employment issues regarding Cali Cox and all employment issues involving Ms. Cox will be handled through City Clerk Linda Jines.

BE IT FURTHER RESOLVED that City Council retroactively approves the hiring of Cali Cox which was disclosed to Council at the time for the 2011 summer season.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

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

Motion by Councilman Seiler, seconded by Councilman Benzel to appoint James Girard to serve on the Museum Board for a term expiring in May, 2017.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

Motion by Councilman Seiler, seconded by Councilman Gonzalez to appoint Thomas Price to serve on the Museum Board for a term expiring in May, 2017.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

The last item before Council was a review and discussion regarding the West Plains Grain Project. The following outline which follows on the next page was distributed to Council. Mike Bacon the attorney representing West Plains Grain was also in attendance to answer questions of Council. Following the review no action was taken.

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City of Alliance

Council Discussion Items (5/17/2012):

1. Project Background: West Plains Investment: \$13 million (to include rail facilities constructed on the premises).
 - a) Real Property: approx. \$10.8 million - subject to TIF
 - b) Personal Property: approx \$2.2 million - not subject to TIF (personal property).

2. Annexation Required: Project is located approximately 1/2 mile northeast of the closest City Boundary (TIF project must be within the City Limits):
 - a) General Rules:
 - i) Annexed areas must be contiguous or adjacent to existing City Limit.
 - ii) Cannot annex agricultural lands which are rural in character.
 - iii) "Strip" or "Corridor" annexations are generally not acceptable.
 - iv) "Flag" annexations are definitely not permissible.

 - b) Only possible way to accomplish annexation in this case:
 - i) BNSF annexes the rail corridor for an additional 1+ miles.
 - ii) Once rail corridor is annexed, then West Plains land would be contiguous.

 - c) Justification for BNSF corridor annexation: existing strip was annexed in 1985 and this is precedent for continuing the annexation of this corridor.

 - d) Procedure:
 - i) Typical Annexation Procedure: City initiates a Resolution proposing to annex and setting a public hearing. Publish Resolution no less than 10 days in advance of the hearing.
 - ii) But, where BNSF and West Plains Petition for annexation, Resolution and hearing not required.
 - iii) Ordinance approving annexation must be read at 3 separate meetings (3 readings cannot be waived).

 - e) Risk of Annexation:
 - i) One year statute of limitations.
 - ii) At any time within this one year period, the annexation could be contested (Box Butte County is a possible party to contest, so need to have agreement in place with the County).

 - f) County roads adjoining the annexed property are also considered as annexed to the City.

3. Tax Increment Financing:
 - a) Designed to encourage development by using the tax on the "Increment" to support the project infrastructure, site preparation, etc.

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- b) In order to qualify a property must be found to be a substandard and blighted area. Substandard and Blight Study of Stahr & Associates was presented to the Planning Commission on June 14, 2011. Planning Commission recommended approval of the proposed Redevelopment Plan.
- c) Remaining steps:
- i) City Council must hold hearing on substandard & blighted condition.
 - ii) Council, acting as Community Development Authority (“CDA”) holds hearing, makes a recommendation on the Redevelopment Plan.
 - iii) Council holds hearing on the Plan and acts on a Resolution of approval. (theoretically, these 3 actions can take place at the same meeting)
 - iv) CDA acts on bond Resolution and authorize signing of Redevelopment Contract (approx 30 days later).
- In theory, the hearings by the Council acting as the Authority, and by the Council acting as itself, can be held at the same meeting.
- d) Increment will raise over \$200,000 per year for a total in excess of \$2.5 million. There will be two series of bonds (notes) issued:
- i) Payable out of the annual tax on the Increment to West Plains for the improvements which qualify for TIF, to the extent of the available tax on the increment. (West Plains will hold this note.)
 - ii) Likely payable to local bank from the tax on the Increment - \$350,000 of the tax on the increment will be available for road improvements. \$30,000 paid up front by West Plains with the balance paid at up to \$75,000 per year (first year's payment will be approx. half this amount). City will have to come up with the interest on this note.
- e) Benefits from project (as per West Plains): construction, employment, expenditures by owners of trucks who haul grain to the facility (fuel, tires, repairs, etc.). No demand placed on the City for the provision of services - West Plains will waive any such requirements that would otherwise be imposed on the City.
- f) The facility has been built. However, according to West Plains, their lenders are expecting TIF to be in place - critical to the operational success of the project.
- i) Benefits to the City of Annexing the West Plains property:
 - (1) Personal Property Tax from the beginning.
 - (2) After 15 years, City will receive significant real estate taxes.
 - ii) Benefits to the County of the City's annexation:
 - (1) Madison Road (on the North Side) and approx. ½ mile of CR 61 will be the responsibility of the City.

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- (2) If the annexation and TIF are not approved, the traffic on CR 61 and on the two miles of Madison east to Highway 87 will cause those roads to deteriorate rapidly - and the County will have to come up with the funds to rebuild and repair (without the benefit of the \$350,000 from TIF, plus the dirt that West Plains is willing to furnish - valued at approx. \$125,000).
 - g) Payment of Costs incurred by the City and associated with the Project.
- 4. Interlocal Agreement with Box Butte County:
 - a) Existing Interlocal Agreement 2011-10 covers improvements to CR 61. County has requested that this Agreement be amended.
 - b) West Plains request to County to improve Madison Road from CR 59 to CR 61 (County has amended is 2012 one-year plan to provide for this) will mean either another Interlocal Agreement or amendment to 2011-10.
 - c) Estimated Costs of Improvements:
 - i) Hard surfacing of intersection of West 25th & CR 61 area: \$195,000
 - ii) Widen, build up and aggregate for 1 mile of CR 61 and 2 miles of Madison (County's latest estimate at \$73,727 per mile). Note: The City has a portion of the crushed concrete available for the 3" bottom base. Rock would be used for the upper 3" layer as per the County's latest proposal. Total Road improvements total \$416,000+ - which means that there will be a shortage to be made up by County/City
 - iii) To reduce risk, may focus on Madison first. After first year has passed, then complete the intersection and CR 61.
 - d) County would agree to maintain portions of CR 61 and Madison that would be annexed by the City.
- 5. Time Frame / Steps to Complete:
 - a) Redevelopment Plan must be approved and the County Assessor & Treasurer must be notified by August 1, 2012. Annexation and Agreement can follow.
 - b) Annexation:
 - i) BNSF request - no hearing required. Ordinance must be read at 3 separate meetings (example: June 7, June 21 & July 5)
 - ii) West Plains request - no hearing required. Ordinance must be read at 3 separate meetings. West Plains request must come after the BNSF request and Ordinance cannot be approved until after BNSF Annexation Ordinance is approved. (example: June 21, July 5, July 19 - although a little more spacing between the adoption of the two Ordinances may be preferable).

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- c) Redevelopment Plan - all hearings require publication at least once a week for two consecutive weeks, with the hearing at least 10 days following the last publication. Notice must also be given by certified mail at least 10 days in advance to the County Board, School District, WNCC, ESU & NRD.
- i) City Council holds hearing on the blight study (June 21 or July 5).
 - ii) CDA holds hearing on Redevelopment Plan (June 21 - following blight hearing, or July 5 or 19).
 - iii) City Council holds hearing to approve the Redevelopment Plan (June 21 - following CDA hearing, or July 5 or 19).
- d) Ideally, Council would approve the annexation before or at the same meeting as the Redevelopment Plan. However, this is not an absolute requirement, but the effective date of the tax on the increment will not take place until the annexation is complete. Following approval of the annexation, then CDA acts on the Redevelopment Agreement.
- e) Interlocal Agreement - as soon as possible, and certainly before the Redevelopment Plan is approved.
- Mayor Feldges stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 10:23 p.m.”

Fred Feldges, Mayor

(SEAL)

Linda S. Jines, City Clerk