

July 5, 2012

## ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 5, 2012

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

The Alliance City Council met in a Regular Meeting, July 5, 2012 at 7:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on June 28, 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 July 5, 2012 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Yeager, Benzel, Lewis, and Seiler. Also present were City Manager Cox, City Attorney Ediger, and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- The first item on Council's agenda was the Consent Calendar.

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

### **CONSENT CALENDAR – JULY 5, 2012**

1. Approval: Minutes of the Regular Meeting, June 21, 2012.
2. Approval: Payroll and Employer Taxes for the period June 9, 2012 through June 22, 2012 inclusive: \$178,077.28 and \$13,049.68 respectively.

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3. Approval: Claims against the following funds for the period June 15, 2012 through June 28, 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; \$935,344.55.
4. Approval: The Certificate of Completion and Release which includes Progress Payment No. 6 and Final Payment No. 7 for Project No. 3-31-0003-14 at the Alliance Municipal Airport. This project is the ARFF Building which was constructed by Paul Reed Construction & Supply, Inc. of Gering, NE. The Certificate of Completion and Release have been approved by the engineer and the Nebraska Department of Aeronautics.
5. Acknowledgement: Receipt of the Annual Report of the Public Library Board Foundation of Alliance, Inc. for the period June 1, 2011 through May 31, 2012.

6. Approval: The issuance of the following Cemetery Certificates:

The South Half of the Southeast Quarter (S1/2-SE1/4) of Lot Nine (9), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Joshua Hernandez.

The Northeast Quarter (NE1/4) Lot Nine (9), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Jacob Hernandez.

The North Half of the Southeast (N1/2-SE1/4) of Lot Nine (9), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Jesse Hernandez.

The South Half of the Northwest Quarter (S1/2-NW1/4) and the Southwest Quarter (SW1/4) of Lot Ten (10), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Cristy Hernandez.

The North Half of the Northwest (N1/2-NW1/4) and the Northeast Quarter (NE 1/4) of Lot Ten (10), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Georgia Hernandez.

The West Half (W1/2) of Lot Nine (9), Section Three (3), Block Two (2), Original Plat to the Alliance Cemetery to Reuben Hernandez.

The Northeast Quarter (NE1/4) of Lot Seven (7), Section Five (5), Block Three (3), Original Plat to the Alliance Cemetery to Leonida Todd and Timothy Wilkins.  
The Northwest Quarter (NW1/4) of Lot Twelve (12), Section Two (2), Block One (1), Original Plat to the Alliance Cemetery to Richard and Linda McCune.

7. Approval: The following Contractor licenses:

General Contractor                      Roger Osland dba Construction Plus, Inc.

Repair & Maintenance                      Scott Bolinger dba Bolinger & Associates

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Master Plumber	Oswaldo Beraun dba Beraun's Plumbing & Heating Co. Joe Weber dba Weber Plumbing
Gas Fitter	Oswaldo Beraun dba Beraun's Plumbing & Heating Co. Joe Weber dba Weber Plumbing

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, Seidler, Lewis, Yeager, Feldges

Voting Nay: None

Motion carried.

- The next agenda item was the City Manager's report by J.D. Cox which follows in outline form:
  - The 4<sup>th</sup> of July activities went very well. The Lunatic Race on Laing Lake was a great success and the fireworks display went well. Fire Chief Shoemaker reported Alliance had 10 fires this year compared with 4 last year. Staff will have a discussion item on the Council agenda in the future regarding fireworks.
  - The water level at Laing Lake is low due to our inability to fill during the "condition red" periods of time that we have experienced.
  - Water usage for June is roughly double this year over last year; 58 million gallons to 114 million gallons.
  - Keno Director Paul Schumacher will be in Alliance later in July.
  - Bytes Computer will be opening a store front in Alliance.
  - The Airport Inspection is scheduled for July 26<sup>th</sup> and 27<sup>th</sup>.
  - Street projects that are underway include: street painting in the downtown area next week; reopening Box Butte Avenue next week to through traffic while continuing to crack seal – which is more difficult in high temperatures; and starting right after Heritage Days with the 16<sup>th</sup> to 18<sup>th</sup> Street portion of Box Butte Avenue to complete the project.
  - Speaker of the Legislature Mike Flood will be visiting Alliance on July 25<sup>th</sup>.
  - Reported the need to establish a date to conduct a Council retreat/workshop to discuss the budget and suggested Thursday, July 19<sup>th</sup>.
  - Distributed an updated version of "The Spirit of Alliance – Vision and Goals"
- Council heard a presentation from Electric Superintendent Larry Heinrich on the on-going electric system improvements. As a result of a system Reliability Study, which was conducted in 2011, many projects have begun with the additional funding provided by the City Council. Mr. Heinrich provided Council with a visual overview of the various components involved in the upgrade and detailed the status of each.

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Tourism Director Kevin Howard also made a presentation to Council providing an overview of the recent accomplishments of the Visitor's Bureau over the past year. Some of the accomplishments mentioned were: web site enhancements, kiosk improvements at Hwy. 2 and Box Butte Avenue; the use of the billboard at the Arby's site, participation in the Home Show in March, creation of a new "jingle", finalizing the adoption of the City logo, the creation and implementation of the "Red Carpet Program", the use of a community-wide web based calendar, the initiation of an airport promotion, and the implementation of wayfinding signage. Mr. Howard distributed to Council a report which contained photographs of some of the signage challenges which were in Alliance and the new signage which is being installed. The signage project was a major undertaking as a new "trails were forged" with the Nebraska Department of Roads to make this happen.

Upcoming project which were reported by Tourism Director Howard were to continue the signage work, with emphasis on the Airport turnoff and facilities in the Airport area; advertising to target markets, and entryway improvements and upgrades.

- The next agenda item was the second reading of Ordinance No. 2708 which will annex the property owned by West Plain, LLC; this includes the new West Plains Grain Facility.

A motion was made by Councilman Seidler, seconded by Councilman Lewis to approve the second reading of Ordinance No. 2708. City Clerk Jines read the Ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2708

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, ANNEXING CERTAIN PROPERTY IN SECTION 22, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6<sup>TH</sup> P.M., BOX BUTTE COUNTY, NEBRASKA.

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

SECTION 1. West Plains, LLC has requested that the following described real estate (the "Real Estate") be included within the corporate limits of the City:

A tract of land in the North Half of Section 22, Township 25 North, Range 48 West of the 6<sup>th</sup> P.M., Box Butte County, Nebraska, more particularly described as follows:

Beginning at the Northeast Corner of Section 22, Township 25 North, Range 48 West of the 6<sup>th</sup> P.M., Box Butte County, Nebraska; thence S 2°52'36" W (an assumed bearing) on the east line of said Section 22, a distance of 2680.44 feet to the East Quarter Corner of said Section 22; thence S 88°34'23" W on the south line of the North Half of said Section 22, a distance of 2051.83 feet to the easterly Burlington Northern Santa Fe railroad right-of-way; thence N 31°17'55" W on said right-of-way, a distance of 3108.39 feet to the north line of said Section 22; thence N 88°45'38" E on said north line, a distance of 1109.86 feet to the North

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Quarter Corner of said Section 22; thence N 88°58'32" E on the north line of said Section 22, a distance of 2691.36 feet to the POINT OF BEGINNING; said described tract containing 180.28 acres, more or less.

SECTION 2. The Real Estate is contiguous or adjacent to the existing corporate limits of the City, is urban or suburban in character, and does not constitute agricultural land which is rural in character.

SECTION 3. The Real Estate is annexed to and included within the corporate limits of the City as of the effective date of this Ordinance.

SECTION 4. The map describing the Corporate Limits as provided for in Section 1-1901 of the Alliance Municipal Code is amended to provide for the addition of the Real Estate to the corporate limits of the City.

SECTION 5. West Plains, LLC, has irrevocable waived the requirements of §16-120 of the Nebraska Statutes, which would otherwise require the City to provide to the Real Estate substantially the same services as are provided to other inhabitants of the City.

SECTION 6. All ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with this Ordinance are repealed.

SECTION 7. 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. 2708 with the following results:

Voting Aye: Benzel, Lewis, Feldges, Seidler.

Voting Nay: Yeager.

Motion carried.

- The third reading of Ordinance No. 2707 concerning the annexation of a portion of railway right-of-way as the request of BNSF Railway Company was the next matter before Council.

A motion by Councilman Benzel, seconded by Councilman Seidler to approve the second reading of Ordinance No. 2707 was made. City Clerk Jines read the Ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2707

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, ANNEXING CERTAIN PROPERTY IN SECTIONS 22 AND 27, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6<sup>TH</sup> P.M., BOX BUTTE COUNTY, NEBRASKA.

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

SECTION 1. BNSF Railway Company has requested that the following described real estate (the "Real Estate") be included within the corporate limits of the City:

That part of Sections 22 and 27, Township 25 North, Range 48 West of the 6<sup>th</sup> P.M., Box Butte County, Nebraska, more particularly described as follows:

Beginning at the point where the westerly right-of-way line of the BNSF Railway Company intersects with the east line of Section 27; then northwesterly along said westerly right-of-way to a point on the north line of Section 22; then easterly along the north line of Section 22 to a point on the easterly right-of-way line of the BNSF Railway Company; then southeasterly along the easterly right-of-way line of the BNSF Railway Company to a point on the east line of Section 27; then southerly along the east line of Section 27 to the point of beginning.

SECTION 2. The Real Estate is contiguous or adjacent to the existing corporate limits of the City, is urban or suburban in character, and does not constitute agricultural land which is rural in character.

SECTION 3. The Real Estate is annexed to and included within the corporate limits of the City as of the effective date of this Ordinance.

SECTION 4. The map describing the Corporate Limits as provided for in Section 1-1901 of the Alliance Municipal Code is amended to provide for the addition of the Real Estate to the corporate limits of the City.

SECTION 5. All ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with this Ordinance are repealed.

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

Councilman Yeager questioned the width of the railroad right-of-way and questioned if the City of Alliance requested the annexation. City Attorney Ediger stated he believed the width of the right-of-way is approximately 114' and reported BNSF Railway Company requested the annexation as a result of a business affiliation with West Plains Grain.

Roll call vote on Ordinance No. 2707 with the following results:

Voting Aye: Benzel, Lewis, Feldges, Seidler.

Voting Nay: Yeager.

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Motion carried.

● The next item for Council's consideration was Resolution No. 12-60 approving the updated Interlocal Agreement with Box Butte County for the road improvements relating to the West Plains Grain project. City Manager Cox provided the following notes regarding this matter:

- a) *Existing Interlocal Agreement 2011-10 covers improvements to CR 61. County has requested that this Agreement be amended. City is agreeable.*
- b) *West Plains request to County to improve Madison Road from CR 59 to CR 61 (County has amended its 2012 One-Year Plan to provide for this) will mean either another Interlocal Agreement or amendment to existing Interlocal Agreement 2011-10. City is agreeable.*
- c) *Estimated Costs of Improvements:*
  - i. *Hard surfacing of intersection of West 25<sup>th</sup> & CR 61 area: \$195,000.*
  - ii. *Widen, build up and aggregate for 1 mile of CR 61 and 2 miles of Madison Road (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 equal \$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 Road 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.*

Motion by Councilman Lewis, seconded by Councilman Benzel to approve Resolution No. 12-60 which follows in its entirety:

#### RESOLUTION NO. 12-60

*WHEREAS*, The City of Alliance and Box Butte County desire to cooperate together to promote and encourage economic development in Box Butte County and the City of Alliance; and

*WHEREAS*, West Plains, LLC ("West Plains") is in the process of completing a grain handling facility (the "Facility") on property which is currently located in the County, but which West Plains has requested be annexed into the corporate limits of the City; and

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*WHEREAS*, The County and the City recognize that the operation of the Facility is having, and will continue to have, an impact on the roads of the County and the City; and,

*WHEREAS*, West Plains has requested that the City adopt a Redevelopment Plan with respect to the Facility under the Nebraska Community Development Law so that the Facility will be eligible for Tax Increment Financing (“TIF”), in order to provide funding for certain expenditures incurred in connection with the development of the Facility, to include road improvements; and

*WHEREAS*, The County and the City have previously entered into an Interlocal Agreement (the “2011 Interlocal Agreement”) concerning the reconstruction of CR 61 between Madison Road and Nance Road; and now desire to expand the scope of the 2011 Interlocal Agreement and replace it with a revised Agreement (the “2012 Interlocal Agreement”); and

*WHEREAS*, The governing bodies of the County and the City have adopted resolutions authorizing the execution of this Agreement pursuant to the Interlocal Cooperation Act (Neb. Rev. Stat. §13-801, et seq.).

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign the 2012 Interlocal Agreement which will provide for road improvements to roads impacted by the West Plains, LLC grain handling facility.

Roll call vote for Resolution No. 12-60 with the following results:

Voting Aye: Benzel, Lewis, Feldges, Siedler.

Voting Nay: Yeager.

Motion carried.

- Resolution No. 12-61 approving the Interlocal Agreement with Box Butte County for the proposed annexation relating to the West Plain Grain project was the next item for Council’s consideration.

Motion by Councilman Lewis, seconded by Councilman Benzel to approve Resolution No. 12-61 which follows in its entirety:

#### RESOLUTION NO. 12-61

*WHEREAS*, The City of Alliance and Box Butte County desire to cooperate together to promote and encourage economic development in Box Butte County and the City of Alliance; and

*WHEREAS*, On July 5, 2012, the County and the City entered into an “Interlocal Agreement” in order to provide for the reconstruction of certain roads as provided for in the

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Interlocal Agreement (the “Roads”) in and around a grain handling facility (the “Facility”) owned and operated by West Plains, LLC (“West Plains”); and

*WHEREAS*, The Facility is part of a Redevelopment Plan which will result in the Facility being eligible for Tax Increment Financing (“TIF”), which will then provide funding for the reconstruction of the Roads; and,

*WHEREAS*, In order for the Facility to be eligible for TIF, certain property must be annexed to the City as provided for in this Agreement.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign the Agreement Concerning Annexations with Box Butte County which will provide for the annexation of property relating to the Facility.

Roll call vote for Resolution No. 12-61 with the following results:

Voting Aye: Benzel, Lewis, Feldges, Seidler.

Voting Nay: Yeager.

Motion carried.

- The next item for Council discussion was Resolution No. 12-59 awarding the Concrete Rehabilitation Contract to K.L. Wood and Company of Alliance, Nebraska. City Manager Cox provided the following information:

[On May 29, Invitations to Bid (ITB) were issued, with a due date of June 21. Only one bid was received – K.L. Wood –for concrete street repair and ADA sidewalk Ramps.

For the amount of \$58,000, this will bring our concrete services through the September 30. In doing so, this will complete the current fiscal year. This will also set the stage for a new contract time table that will eventually match up to a single fiscal year.

The next and second phase of street repair/sidewalk work then run the next fiscal year of October 1, 2012 through October 31, 2013 for the amount of \$338,000. The two phases together total \$396,000. The following year, then, we will be able to run our project cycles November 1 through October 31 so as to optimize our months of November and December.

A full bid tabulation, along with the details of the project areas are included in this section.]

A motion was made by Councilman Yeager, seconded by Councilman Benzel to approve Resolution No. 12-59 which follows in its entirety:

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**RESOLUTION NO. 12-59**

*WHEREAS*, The City of Alliance has authorized competitive quotes to obtain bids for concrete rehabilitation pursuant to Bid Number 2441-12-01; and

*WHEREAS*, Four (4) Invitations were issued, and one (1) response was received; and

*WHEREAS*, The bid of K.L. Wood and Company of Alliance, Nebraska appears to be the lowest, responsive, and responsible bid in the amount of \$212,500.00, which is based on the estimates used in Invitation To Bid; and

*WHEREAS*, The actual amount of the value of the contract will be based on the amount of work completed at the unit prices depicted in the bid of K.L. Wood and Company and will exceed the total amount of the bid based on unit prices; and

*WHEREAS*, Staff estimates that the total amount of concrete rehabilitation to streets, alleys, curb and gutter, and sidewalks under this contract will not exceed Fifty-eight Thousand and No 100ths Dollars (\$58,000.00) for the current year; and Three Hundred Thirty-eight Thousand and No 100ths Dollars (\$338,000.00) which is being proposed for next fiscal year.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, the contract for Bid Number 2441-12-01 is hereby awarded to K.L. Wood and Company of Alliance, Nebraska in an amount not to exceed Fifty-eight Thousand and No 100ths Dollars (\$58,000.00), subject to variation in jobs as specified by the City, which will be charged at the unit prices as quoted in the bid for the remainder of this fiscal year 2011-12.

*BE IT FURTHER RESOLVED*, that the contract for Bid Number 2441-12-01 is hereby awarded to K.L. Wood and Company of Alliance, Nebraska in an amount not to exceed Three Hundred Thirty-eight Thousand and No 100ths Dollars (\$338,000.00), subject to budget authority being granted for the 2012-13 fiscal year, and subject to variation in jobs as specified by the City, which will be charged at the unit prices as quoted.

*BE IT FURTHER RESOLVED*, that the Mayor is authorized to sign the contract with K.L. Wood and Company of Alliance, Nebraska for the concrete rehabilitation to streets, alleys, curb and gutter, and sidewalks as determined by the work completed at the unit prices quoted in the bid.

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

Roll call vote for Resolution No. 12-59 with the following results:

Voting Aye: Yeager, Benzel, Lewis, Feldges, Seidler.

Voting Nay: None.

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Motion carried.

- A Public Hearing to consider and approve a recommendation to the Nebraska Liquor Control Commission of Amanda R. Hanson as the liquor license manager for Fresh Start located at 610 East 3<sup>rd</sup> Street, Alliance was the next matter before Council. City Manager Cox provided the following background information:

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

Testimony will be heard from the Alliance Police Department 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 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 on the application of Amanda R. Hanson as the liquor license manager for Fresh Start located at 610 East 3<sup>rd</sup> Street, Alliance. The public hearing was opened at 8:25 p.m.

A motion was made by Councilman Lewis to accept the following Exhibits for the record.

- 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.

The motion was seconded by Councilman Seiler.

Roll call for the acceptance of Exhibits as follows:

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

Voting Nay: None.

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Motion carried.

Mayor Feldges asked Amanda Hanson, 419 Emerson Avenue to step forward and address the Council. City Attorney Ediger asked Ms. Hanson what prior experience she has had with alcohol sales. Ms. Hanson responded she has received on the job training, her company cards everyone that appears to be forty years of age and younger, she stated she works about 100 hours per week, and that all employees are provided with the company's handbook which describes how alcohol sales are to be handled and sign an acknowledgement. Ms. Hanson also stated all inventory is locked with her being the only staff member with access and there is a camera security system in place.

Police Lt. Hart of the Alliance Police Department reported to Council that a background check had been conducted and found no reason for denial.

Mayor Feldges asked if there was anyone else in attendance that would like to speak either in favor or denial of the application; there being none the public hearing was closed at 8:33 p.m.

Motion by Councilman Benzel, seconded by Councilman Lewis to approve Resolution No. 12-57 which follows in its entirety:

#### RESOLUTION NO. 12-57

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

On July 5, 2012, the matter of the application of Amanda R. Hanson for a Manager's License for Fresh Start located at 610 East 3<sup>rd</sup> Street, Alliance, NE, came on for consideration by the Council.

The following exhibits were offered and received:

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

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

Exhibit 3 - Written statement of Police Chief dated April 27, 2012.

Witnesses were sworn and testimony was received in support of the Manager's Application at the public hearing on this date from Amanda R. Hanson. Police Lieutenant Hart testified on behalf of the City of Alliance.

Upon consideration of the evidence and the criteria to be considered by the City Council pursuant to law, the City Council finds as follows:

Applicant complies with the provisions of Section 53-131.01 R.R.S. (2003).

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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.

Based on the above findings, the City Council recommends to the Nebraska Liquor Control Commission that the application of Amanda R. Hanson to be the manager of the liquor license held by Fresh Start at the premise described in the application be approved.

City Clerk shall transmit a copy of this Resolution to the Commission.

Roll call vote for Resolution No. 12-57 with the following results:

Voting Aye: Benzel, Lewis, Yeager, Seidler, Feldges.

Voting Nay: None.

Motion carried.

- The next item before Council was a Public Hearing to consider and approve a recommendation to the Nebraska Liquor Control Commission of Paul M. Senior as the liquor license manager for Safeway located at 500 East 3<sup>rd</sup> Street. City Manager Cox provided the following background information:

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

Testimony will be heard from the Alliance Police Department and the following exhibits that will be provided:

- Exhibit 1 - Application of Paul M. Senior 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 Safeway 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 Paul M. Senior to be the manager of the liquor license held by Safeway.]

Mayor Feldges stated now is the date, time and place to conduct a public hearing on the

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application of Paul M. Senior as the liquor license manager for Safeway located at 500 East 3<sup>rd</sup> Street, Alliance. The public hearing was opened at 8:35 p.m.

A motion was made by Councilman Seiler to accept the following Exhibits for the record.

Exhibit 1 - Application of Paul M. Senior for Manager's License.

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

Exhibit 3 - Written statement of Police Chief.

The motion was seconded by Councilman Benzel.

Roll call for the acceptance of Exhibits as follows:

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

Voting Nay: None.

Motion carried.

Mayor Feldges asked Paul M. Senior, 936 Missouri Avenue to step forward and address the Council. City Attorney Ediger asked Mr. Senior what prior experience he has had with alcohol sales. Mr. Senior responded he has been with the Safeway organization for 11 years, with two of the years holding a liquor license in the State of Colorado. He reported he will not be on site the majority of the time as he is also responsible for the Scottsbluff store. All inventory is locked and has camera security and the management team members are the only individuals with access. The management team members will be taking the training offered by the Liquor Control Commission in September. Quarter training is conducted with all check staff and alcohol sales are reviewed at each meeting.

Police Lt. Hart of the Alliance Police Department reported to Council that a background check had been conducted and found no reason for denial.

Mayor Feldges asked if there was anyone else in attendance that would like to speak either in favor or denial of the application; there being none the public hearing was closed at 8:41 p.m.

Motion by Councilman Lewis, seconded by Councilman Benzel to approve Resolution No. 12-58 which follows in its entirety:

#### RESOLUTION NO. 12-58

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

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On July 5, 2012, the matter of the application of Paul M. Senior for a Manager's License for Safeway located at 500 East 3<sup>rd</sup> Street, Alliance, NE, came on for consideration by the Council.

The following exhibits were offered and received:

- Exhibit 1 - Application of Paul M. Senior for a Manager's License.
- Exhibit 2 - City Council checklist for Section 53-132 R.R.S. (1984).
- Exhibit 3 - Written statement of Police Chief dated June 29, 2012.

Witnesses were sworn and testimony was received in support of the Manager's Application at the public hearing on this date from Paul M. Senior. Police Lieutenant Hart testified on behalf of the City of Alliance.

Upon consideration of the evidence and the criteria to be considered by the City Council pursuant to law, the City Council finds as follows:

Applicant complies with the provisions of Section 53-131.01 R.R.S. (2003).

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 Safeway in conformance to the rules and regulations of the Nebraska Liquor Control Act.

Based on the above findings, the City Council recommends to the Nebraska Liquor Control Commission that the application of Paul M. Senior to be the manager of the liquor license held by Safeway at the premise described in the application be approved.

City Clerk shall transmit a copy of this Resolution to the Commission.

Roll call vote for Resolution No. 12-58 with the following results:

Voting Aye: Benzel, Lewis, Seidler, Yeager, Feldges.

Voting Nay: None.

Motion carried.

July 5, 2012

- Mayor Feldges stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:47 p.m.”

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Fred Feldges, Mayor

(SEAL)

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Linda S. Jines, City Clerk