

February 7, 2013

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, FEBRUARY 7, 2013

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

The Alliance City Council met in a Regular Meeting, February 7, 2013 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 January 31, 2013. 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 February 7, 2013 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Benzel, Lewis, Yeager, and Seiler. Also present were City Manager Cox, City Attorney Olsen, and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- The first item on the Council's agenda was the introduction of Josh Bell our new City of Alliance employee. Josh has been hired as a Street Maintenance Worker. Terry Jensen was also recognized for his promotion to Street Foreman.
- The next matter on the Council's agenda was the Consent Calendar. Councilman Benzel made a motion, which was seconded by Councilman Lewis to approve the Consent Calendar as follows:

CONSENT CALENDAR – FEBRUARY 7, 2013

1. Approval: Minutes of the Regular Meeting, January 17, 2013.
2. Approval: Payroll and Employer Taxes for the period January 5, 2013 through January 18, 2013 inclusive: \$174,429.15 and \$12,354.71 respectively.

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3. Approval: Claims against the following funds for the period January 10, 2013 through January 31, 2013: 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; \$1,112,413.79.
4. For Your Information: Attached is a listing of Demand Checks which were generated over the last financial quarter ending December 31, 2012. The report lists checks that have been issued which are not expenses within the budget. These are primarily made up of meter deposit refunds, utility overpayments and an occasional check which was required to be reissued.
5. Approval: Resolution No. 13-07 re-appoints Larry Heinrich as the City of Alliance's Representative on the Members' Council of the Nebraska Municipal Power Pool, MEAN Management Committee, and to the MEAN Board of Directors.
6. Approval: The issuance of a Tree Surgeon's License to Gordon Hoff dba Alliance Floral Hoffhaus.
7. Approval: The issuance of Cemetery Certificates to the following:

To Glen and Jessie Ward Lots Nine (9) and Ten (10), Section Three (3), Block Twenty-eight (28), Alliance Cemetery Fourth Addition, an Addition to the Alliance Cemetery.

To Box Butte County the South One Half (S1/2) of Lot Sixteen (16), Section Two (2), Block Seventeen (17), Second Addition to the Alliance Cemetery.

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, Lewis, Feldges, Yeager, Seiler.

Voting Nay: None.

Motion carried.

- City Manager Cox provided his report which follows in outline form:
 - Reviewed the following bills which are being considered by the Legislature during this session:
 - LB643 which will allow cities of the First Class to have local control regarding the height of weeds, grasses or worthless vegetation being regarded as nuisances.
 - LB66 which will allow cities of the First Class to annex noncontiguous property.
 - LB266 would repeal LB357 the authorized ½ cent sales tax and eliminate provisions relating to increases in the local option sales tax.
 - LR12CA is a Constitutional Amendment which would allow for the creation of a County/Manager form of government.

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- Congratulations to Vice-Mayor Wally Seiler for being presented the Service Excellence Executive Sponsor Pinnacle Award.
 - Provided an update on the Streetscape Project. The City's project south of 3rd Street is progressing well and should be completed by mid-July. The State's portion has been delayed to 2014.
 - As part of the 125th Birthday celebration for Alliance, there will be a Fall festival named "*Autumn on the Bricks*" which will be held during the second week of October. The event will be in conjunction with Homecoming and efforts are in the works to include a marching band competition.
- The second reading of Ordinance No. 2720 was the next agenda item before Council. Ordinance No. 2720 will approve the Rezoning Application of Peltz Companies for approximately 2.92 acres located on the north side of East 12th Street and west of 1200 Flack Avenue, to C-3 (Highway Commercial) from R-3 (Multi-Family Residential). City Manger Cox provided the following background information:

[At the last Council meeting a public hearing was held concerning the recommendation from the Planning Commission to approve a request by Peltz Companies to rezone approximately 3 acres of a 10-acre parcel from R-3 (Multi-family residential) to C-3 (Highway Commercial) show outlined in yellow in the image on the left.

The stated purpose of the rezone is for the installation of storage units. However, once rezoned, any listed C-3 use may be allowed.

At the 1/17 Council meeting, Terry Peltz spoke on behalf of the rezone, while one other citizen/neighbor, Robin Rust, attended and spoke against the rezone. Mr. Peltz stated that the intent is to enlarge the business area for equipment use and plans to put in gravel and a large storage unit for the equipment to be parked/placed under. Mr. Rust opposed the rezone as he expressed concern about the need to keep a buffer between housing and a business area. Mr. Peltz further explained that he planned to use a chain link fence for the buffer.

As stated earlier, at the time of the Planning Commission hearing on December 11, there were a number who provided negative responses. The reasons stated by those opposed included traffic (impacting neighborhood and children), noise, junk, traffic, cost of the assessment for paving, the entryway not be off of Potash. Those responses are included in your packet.

The Planning Commission approved sending a favorable recommendation to Council to approve the rezone with the following stipulations:

- The property be rezoned to "C-3;"
- City not allow or grant access from East 12th Street without prior review and approval of the Council;

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- Any outdoor storage be screened from view of the highway and from residential areas.]

A motion was made by Councilman Seiler, seconded by Councilman Lewis to approve the second reading of Ordinance No. 2720. The motion was withdrawn.

An amendment was offered to Ordinance No. 2720 with a motion by Councilman Seiler to add “setting forth conditions for passage” within the title and adding a new Section 2 “This Ordinance is passed and approved subject to and on the following two conditions: (1) the property owner and the City will not allow or grant access to the property from East 12th Street without prior review and approval of the City Council and (2) any outdoor storage on the property shall be screened from view of the highway and from residential areas” and renumbering the following sections accordingly. The motion was seconded by Councilman Lewis.

Councilman Lewis questioned how screening would take place when their equipment is up to 15’ tall. City Planner Johnson addressed Council and described screening options.

Roll call vote on amending Ordinance No. 2720 with the following results:

Voting Aye: Feldges, Seiler.

Voting Nay: Yeager, Benzal, Lewis.

Motion failed.

A motion was made by Councilman Lewis, seconded by Councilman Seiler to approve the second reading of Ordinance No. 2720. City Clerk Jines read the Ordinance by title which follows in its entirety.

ORDINANCE NO. 2720

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING AND AMENDING THE DISTRICT ZONING MAP TO SHOW THAT A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6TH PRINCIPAL MERIDIAN, BOX BUTTE COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 1, WHEELER SUBDIVISION, AS PLATTED IN THE CITY OF ALLIANCE, NEBRASKA; THENCE, ON THE WEST LINE OF SAID BLOCK 1 AND THE TRUE NORTHERLY EXTENSION, N01°02'37"E FOR A DISTANCE OF 708.58 FEET; THENCE, PARALLEL WITH THE SOUTH LINE OF SAID SECTION 25, N89°35'10"W FOR A DISTANCE OF 179.70 FEET; THENCE, PARALLEL WITH THE CENTERLINE OF POTASH AVENUE, AS PLATTED, S01°03'05"W TO THE NORTHERLY RIGHT-OF-WAY LINE OF 12TH STREET, AS DESCRIBED IN MISCELLANEOUS BOOK 53, PAGES 618 THRU 620, BEING A

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DISTANCE OF 708.81 FEET; THENCE, ALONG SAID NORTHERLY RIGHT-OF-WAY, S89°39'25"E FOR A DISTANCE OF 179.80 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING AN AREA OF 2.92 ACRES, MORE OR LESS; 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.

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 February, 2013, 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.

Robin Rust, 1210 Potash Avenue appeared before Council and reiterated his objection to the proposed rezoning. Mr. Rust stated he preferred to the property maintain for the R-3 designation to provide a buffer zone.

Roll call vote on Ordinance No. 2720 with the following results:

Voting Aye: None.

Voting Nay: Seiler, Yeager, Benzal, Lewis, Feldges.

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Motion failed.

- Resolution No. 13-08, authorizing the City of Alliance to enter into an updated Agreement with the Panhandle Men's Club Inc. for the use of the clubhouse at Skyview Golf Course, was the next agenda item for Council's review. City Manager Cox provided the following background information:

[After reviewing the Panhandle Golf Club Contract from 1998 where the terms and provisions and items discussed in the agreement had changed, a new agreement was pursued. The proposed agreement in your packets represents that agreement.

In doing so, the City requested financial statements, information on fees collected for sub-leasing, insurance with the city as the named insured per our policy and a clarification of the gifting policy. The Panhandle Golf Club gladly and promptly sent us all the aforementioned requested information.

The updated agreement reflects the following additions/clarifications:

1. Financial – Requires annual financial report (similar to service organizations)
2. Insurance – Requires to maintain per City policy
3. Subleasing – City not charge; (Panhandle receiving approx \$400 revenue)
4. Rent – Remain at \$2400 per year (Note: Current 1998 Contract reflects \$1800/year)
5. Other Participation: Panhandle Club Cleaning of Clubroom & Bar and Bathrooms (especially tournaments & parties)
6. Gifting Policy Clarification
 - Equipment/Additions/Sidewalks, etc – City Council approve all facility “permanent” or “attached” items
 - Other - remain with Panhandle Golf Club

Additional information that may be interesting or pertinent to SkyView Golf Course is included on the following page.

The Goals of the experience of SkyView Golf Course remain:

1. Fun, Sustainable, profitable, successful
2. Encourage Golf Advisory Board, course and city administration, superintendent, men's, women's club & advisory committee collaborating to increase & generate course play
3. Promote and market the golf course
4. Continue working with golf professional to increase play and keep accurate records.

Benefits: Economic Development & Reflection of Community Success

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Financial Contributions/Support Made by the City of Alliance:

	Cash	Capital	
2012-2013:	\$135,000	\$ 64,000	Mower (\$24K), HVAC (\$40K)
2011-2012:	\$ 95,568	\$ 22,304	Club House
2010-2011:	\$ 76,165	\$ 20,216	Equipment
2009-2010:	\$174,000	\$133,870	Irrigation
2008-2009:	\$ 82,999	\$ 8,500	Equipment
2007-2008:	\$ 77,441		

Recent Investments Made at Nearby Golf Courses:

Gering	\$0	Sold homes, Lot sales to make bond payment
Kimball	\$166,000	\$83,000 - City; \$83,000 – County
Torrington	\$300-344K	Well problems & flooding 2011 & 12 (over \$500K)
Sidney	\$150,000	Planning a \$1.6M Improvement

Upcoming Panhandle Men's Club Projects:

Upgrade of sales system
 Committed to Youth Initiative
 Regular Health Inspections
 Patrol Inspection]

A motion was made by Councilman Lewis, seconded by Councilman Benzel to amend the Resolution to correct all references of Panhandle Golf Club to Panhandle Men's Club Inc.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

Motion by Councilman Lewis, seconded by Councilman Benzel to approve amended Resolution No. 13-08 which follows in its entirety:

RESOLUTION NO. 13-08

WHEREAS, The Panhandle Men's Club, Inc. has a current contract with the City of Alliance for use of the club house building at the Municipal Golf Course; and

WHEREAS, The current agreement has not been updated for several years, and is in need of updating to outline the current practices and use of the club house building and rights and responsibilities of both the Panhandle Men's Club, Inc. and the City of Alliance; and

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WHEREAS, City staff and the Board of Directors of the Panhandle Men's Club, Inc. have reached an updated agreement which has been signed by the Panhandle Men's Club, Inc. officers and is ready for consideration by the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, the contract with the Panhandle Men's Club, Inc. submitted to City Council is hereby approved, and the Mayor is authorized to execute the contract on behalf of the City.

Roll call vote for Resolution No. 13-08 with the following results:

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

Voting Nay: None.

Motion carried.

- The next matter before Council was Resolution No. 13-09, authorizing the City to enter into the recently negotiated Interlocal Cooperative Agreement for the Regional Law Enforcement Center with Box Butte County. The Box Butte County Commissioners approved this Agreement at their meeting on January 21, 2013. City Manger Cox provided the following background information:

[Included in your packet is a red-line version of the Law Enforcement Agreement.

To reflect, this matter has been going on for over a year.

1. County requested to bill the County at full invoice and then the County would invoice City – Agreed.
2. County requested to modify the utility County-City Utility split from 75%-25% (MEAN Study supports 68%-32%) – Agreed and settled at 70%-30%.
3. County requested to establish a term of 3 years – Agreed.
4. County requested to cost-share cost system replacements in lieu of collecting rent – Agreed.
5. County requested to continue routine repairs as currently handled – Agreed.
6. County requested to launch a Facility Planning Committee (Sheriff, Chief, others) – study long-term facility planning – Agreed.
7. County requested to cost share insurance as appropriate – Agreed.
8. County requested Request to bill County **at cost of MEAN bill** (not include internal costs) – Declined

Additionally, I have received a question regarding paragraph #4c whereby a split 50%-50% of such things as costs of a generator, fuel for generator, furnace maintenance, parking lot, janitorial, insurance, when a study done to show space usage is approximately 77% for County and 23% City. Although it would probably be more standard to charge a rent and have these types of items included in the rent, there is no rent proposed in this version.

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It is my understanding that the County approved this measure at its meeting on January 22.

The two items below represent the largest changes to the agreement.

Electrical Billing

As long as the City supplies electricity to the Center, the City shall bill for electricity based on the lowest rate in effect under the City electrical rate schedules which have potential application to the Center, as determined by the electrical usage at the Center. The rate applied to the Center may change from time to time as the City comprehensively reviews and modifies its rate structure, classes and philosophy. The City shall not otherwise unilaterally change only the rates applicable to the Center except as required to apply the lowest effective rate as provided for in this paragraph. The rate being applied shall be reviewed at the end of June and December of each year during the term of this Agreement and a report issued to the County Clerk and City Manager. If the report indicates that in order for the Center to be receiving the lowest rate as described above, the rate shall be changed appropriately and applied prospectively to the next review date. No changes will be made to the preceding six month billing cycle notwithstanding the fact that a lower rate might have been applied given actual usage during the term. The initial rate shall be based on a review of the usage for past billings beginning with July 2012.

Billing Procedure. The City will send the entire bill to the County, whereupon, following approval, the county will then pay the entire bill and then invoice the City for its new share: 30% of all electric bills; 30% of all water, sewer and solid waste/sanitation bills. Also, the City's share of the natural gas bills will be 25%. Further included in the agreement is the following clarification:

All amounts payable by one party to the other (to include utility billings) shall be paid as soon as reasonably possible following receipt of the applicable invoice or billing, recognizing that by law, all claims must be approved by the respective governing bodies of the parties at a regularly scheduled meeting. The billed party shall schedule payment at the next meeting that it can be scheduled as a claim, considering the date of receipt and the time required by the Clerk of the governing body for an item to be included on a meeting agenda.]

A motion was made by Councilman Benzel, seconded by Councilman Lewis to approve Resolution No. 13-09 which follows in its entirety:

RESOLUTION NO. 13-09

WHEREAS, The City of Alliance has a current Interlocal Agreement with Box Butte County for the shared use of the Regional Law Enforcement Center; and

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WHEREAS, The current agreement has not been updated for several years, and is in need of updating to outline the current practices and use of the facility, and rights and responsibilities of both Box Butte County and the City of Alliance; and

WHEREAS, The Alliance City Council and the Box Butte County Commissioners have agreed upon an updated agreement, which has been approved by the County and is ready for consideration by the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, the Interlocal Agreement with Box Butte County submitted to City Council is hereby approved, and the Mayor is authorized to execute the Agreement on behalf of the City.

Roll call vote for Resolution No. 13-09 with the following results:

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

Voting Nay: None.

Motion carried.

- Resolution No. 13-10 was the next item for Council's consideration which awards the new telephone system bid to BTS Telecom of North Platte, NE in the amount of \$34,051.00. City Manager Cox provided the following background information:

[In this year's budget, were plans to replace the hone system as city hall, library, and the utility facility. It also included linking these locations as well as the Knight Museum and police department.

Staff has completed its review of telephone system options. For consistency with an existing system, in their process, they investigated two potions with a system knows as ESI. The two vendors were Mobius of Hemingford and BTS Telecom of North Platte.

In your packet is a letter dated 1/30/13 from Brent Kusek to me wherein the outlines an item-by-item comparison of two bids. You will notice that BTS is the lower bidder in both equipment and in maintenance. Regretfully, the low bidder is not the vendor with a presence in Hemingford (and Alliance).

In addition, due to the low bid, the City would not only be able to replace the phone system in city hall (municipal building), but would also be able to link the utility facility, the library, and the police department as well as an upgrade at the museum.

Of final interest, is the fact that most items in modern phone systems are repairable/fixable through remote access.

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With all of this in mind, and completing all of these item and steps, please note that the overall project will be almost \$4,000 under budget.]

A motion was made by Councilman Yeager, seconded by Councilman Lewis to approve Resolution No. 13-10 which follows in its entirety:

RESOLUTION NO. 13-10

WHEREAS, The City of Alliance had included in our capital improvements for this fiscal year, the replacement of the phone system at three City locations; and

WHEREAS, The City of Alliance sent out two Invitations to Bid and received bids from both vendors; and

WHEREAS, Staff is recommending the bid of BTS Telecom of North Platte, NE in the amount of Thirty-four Thousand Fifty-one and no/100ths Dollars (\$34,051.00) as they were the lowest, responsive and responsible bidder; and

WHEREAS, Funds have been budgeted in the amount of \$38,000.00 in capital for the purchase of the phone system. A capital budget transfer of \$1,800.00 is necessary from the Enterprise Services Fund (55) to the General Fund (01) to complete the purchase.

WHEREAS, 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 the phone system in the amount of Thirty-four Thousand Fifty-one and no/100ths Dollars (\$34,051.00) from BTS Telecom of North Platte, Nebraska.

BE IT FURTHER RESOLVED, that the purchase will be funded as follows: \$22,001.00 from Account No. 01-41-46-59-940; \$6,698.00 from Account No. 55-51-56-59-940; \$5,352.00 from Account No. 01-71-77-59-950; and will require a capital budget transfer in the amount of \$1,800.00 from the Enterprise Services Fund (55) to the General Fund (01) to complete the purchase.

Roll call vote for Resolution No. 13-10 with the following results:

Voting Aye: Lewis, Seiler, Feldges, Yeager.

Voting Nay: Benzel.

Motion carried.

- The next agenda item was Resolution No. 13-11 authorizing the renewal of our present contract with All Seasons Landscape for the maintenance of the City's public landscaped areas in the amount of \$24,750. City Manager Cox provided the following background information:

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[Last year, the City signed a one-year contract with All-Seasons Landscape Maintenance to maintain the City's landscaping throughout the City. That one-year contract provided for a 3-year renewal option.

Shana and I are both of the strong opinion that All Seasons has done a very good job of maintaining the City's landscaping and trust that members of Council concur.

The contract amount of \$24,750 is the same as the previous year, and came in under the \$25,000 budgeted for the same.]

A motion was made by Mayor Feldges, seconded by Councilman Lewis to approve Resolution No. 13-11 which follows in its entirety:

RESOLUTION NO. 13-11

WHEREAS, Due to changes in the park division, the City of Alliance prepared a request for quotations for contracting maintenance of public landscaped areas within the parks; and

WHEREAS, The City published an invitation to bid landscaping services for an initial one year contract, March through October 2012, with the option of three annual renewals; and

WHEREAS, Staff recommended that the City approve the bid for the 2012 year at the cost of Twenty-four Thousand Seven Hundred Fifty and No/100ths Dollars (\$24,750.00) which included all of the bid except Central Park Fountain Preparation, Alliance Learning Center Preparation and Sunken Gardens Preparation; and

WHEREAS, The Mayor and City Council deemed it appropriate to hire an independent contractor to provided the labor for the clean up, planting and maintenance of the public landscaped areas within the park systems of the City of Alliance.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, that the Mayor is authorized to sign an agreement between the City of Alliance and Heather Hauptman d/b/a All Seasons Landscaping to contract the spring clean up, planting and bed sustentation for the period commencing March 1 through October 31st for the year 2013, which is the first renewal of three possible renewals.

BE IT FURTHER RESOLVED that the base contact price for the year 2013 shall be Twenty-four Thousand Seven Hundred Fifty and No/100ths Dollars (\$24,750.00).

Roll call vote for Resolution No. 13-11 with the following results:

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

Voting Nay: None.

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Motion carried.

- Resolution No. 13-12 authorizing the City of Alliance to enter into a funding Agreement with Heartland Expressway was the next item before Council. The Agreement provides that the City shall make an annual contribution to Heartland Expressway in the amount of \$3,396.40. City Manager Cox provided the following background information:

[Last week, Council approved agreements with BBDC, Chamber and Keep Alliance Beautiful. This week, we have Heartland Expressways Agreement.

This year, the City has requested service organizations sign a standardized Agreement for Contribution in return for receiving City of Alliance taxpayer funds. Both Chief Financial Officer Randy Waggener and I felt strongly that we should have this in place.

As such draft agreements were sent out to the following organizations:

- Box Butte Development Corporation (\$75,000)
- Keep Alliance Beautiful (\$24,000)
- Alliance Chamber of Commerce (\$10,000)
- Heartland Expressway (\$3,396.40)

Only one entity now remains not completed:

- Panhandle Area Development District "PADD" (6,581.30)

Unless directed otherwise, staff will not release payment to PADD without this agreement in place. As was reported last time, a representative of PADD recently contacted the City and proposed that they take their concerns around the chain-of-command. I resisted their attempt at doing so, and they did visit with me. Yet, during that recent conversation, I did persist with their representative that if PADD wishes to receive City of Alliance funding that this agreement is required, but that we'd be happy to work with them on tweaking the language to address their concerns, yet appropriately represent the terms of agreement.]

A motion was made by Councilman Seiler, seconded by Councilman Yeager to approve Resolution No. 13-12 which follows in its entirety:

RESOLUTION NO. 13-12

WHEREAS, The City of Alliance desires to enter into an Agreement for Contribution with Heartland Expressway for the promotion of economic growth of Alliance and the improvement of the quality of life for all its citizens; and

WHEREAS, Heartland Expressway has requested financial support from the City of Alliance to permit Heartland Expressway to implement its program; and

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WHEREAS, The Agreement provides that the City shall make an annual contribution to Heartland Expressway in the amount of \$3,396.40 to be paid annually; and

WHEREAS, The City of Alliance believes that participating in the funding of Heartland Expressway is in the best interest of the citizens of Alliance.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Mayor is hereby authorized to enter into the Agreement for Contribution with Heartland Expressway.

Roll call vote for Resolution No. 13-12 with the following results:

Voting Aye: Lewis, Seiler, Feldges, Yeager.

Voting Nay: Benzel.

Motion carried.

- The next item before Council was Resolution No. 13-13 acknowledging the appointment by City Manager J.D. Cox, of Simmons Olsen Law Firm, P.C. to serve the City of Alliance as legal counsel. City Manager Cox provided the following background information:

[Under current law in our form of government, the City Manager is vested with the responsibility and authority to appoint the City Attorney and the City Prosecutor.

Under 16-319 the city attorney is an appointive officer and is charged with the responsibility of providing legal advice to the council and the city officers. 19-618 provides that a council shall choose a city manager, city clerk and the civil service commission. 19-646 and Alliance Municipal Code §1-709 provides that a city manager has the power to appoint and remove all heads of departments and all subordinate officers and employees in the departments. While 19-618 sets forth the rules for appointments by the City Manager, 19-620 allows for Council the authority to prescribe, limit or change the compensation of officers or employees.

At a December 15, 2011, Council meeting of a reorganization that encompassed three different areas, a restructuring of legal services was also included. A few days prior to that Council meeting, on December 9, I sent each Governing Body member a letter outlining in advance the reorganization and provided notice of my intent to terminate the services of the previous City Attorney in search of a better, more effective arrangement for the Citizens of Alliance. I further provided notice in that letter that I had asked Simmons Olsen to provide interim legal counsel to the City.

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Typically, with the City Manager having already made the appointment, Council fulfills the latter through approving the budget. As such in our case, with the appointment already having been made by the City Manager, and the budget having already been approved, this agreement allows Council to simply acknowledge the actions of the City Manager and the budgetary actions of the City Council.

A few additional comments—

From the moment I arrived in Alliance, I understood the need we have in our community for attorneys. I heard this from Council members, from other attorneys, from business leaders, from community members. With this as background, when I began discussions with Simmons Olsen Law Firm, I requested that they open an office in Alliance. Mr. Olsen at first took the matter under advisement and then began working on opening an Alliance office. I felt that the timing of the naming of Simmons-Olsen Law Firm as our official “City Attorney” would be best following the opening of their new Alliance office.

In the end, although there is no guaranteed outcome of any hostile legal action, I feel most strongly that Simmons-Olsen will put the citizens of Alliance in the best position possible to win. I believe that the partnership that we have established with Simmons-Olsen is outstanding.]

A motion was made by Councilman Lewis, seconded by Councilman Benzel to approve Resolution No. 13-13 which follows in its entirety:

RESOLUTION NO. 13-13

WHEREAS, The City of Alliance requires legal services to ensure the business matters in representing the taxpayers of Alliance are handled responsibly and professionally; and

WHEREAS, The City Manager pursuant to Nebraska Revised Statute §19-646 and §1-206 of the Alliance Municipal Code has appointed the Simmons Olsen Law Firm, P.C., a Nebraska Professional Corporation to serve the City of Alliance as legal counsel; and

WHEREAS, A Legal Services Agreement has been prepared to acknowledge the terms and conditions of the representation; and

WHEREAS, The City Council has previously authorized budget authority for said legal services.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign a Legal Services Agreement between Simmons Olsen Law Firm, P.C., a Nebraska Professional Corporation and the City of Alliance acknowledging the appointment by the City Manager for legal services, the terms and conditions of such appointment, and the budgetary actions of the Alliance City Council.

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Roll call vote for Resolution No. 13-13 with the following results:

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

Voting Nay: None.

Motion carried.

- The next agenda item for Council's review was Resolution No. 13-14, authorizing Mayor Fred Feldges to execute the Memorandum of Understanding with the Western Intelligence and Narcotics Group and High Intensity Drug Trafficking Area Drug Task Force to aid in the fight against drug trafficking and criminal investigations surrounding narcotics and violent crime that affect Western Nebraska. City Manager Cox provided the following background information:

[WING was initiated in August, 1989 with the purpose to identify, investigate, and prepare prosecutable cases against major drug trafficking organizations and criminal investigations surrounding narcotics and violent crime that affects Western Nebraska.

Included in the Task Force are the following:

- Alliance Police Department
- Nebraska State Patrol
- Gering Police Department
- Chadron Police Department
- Sidney Police Department
- Cheyenne County Sheriff's Department
- Kimball Police Department
- Scottsbluff Police Department (HITDA Investigator)

This includes the following jurisdictions:

- Box Butte County
- Banner County
- Dawes County
- Cheyenne County
- Kimball County
- Sioux County
- Sheridan County
- Morrill County
- Garden County
- Scotts Bluff County
- Deuel County

The objectives of this WING/HIDTA are:

- Combine investigative resources
- Combines investigative manpower

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Foster cooperation and information sharing among Criminal Justice Agencies
Conduct and actively participate in cooperative efforts aimed at identifying and conducting investigations related to project operations.

Our legal team has reviewed and approved.]

A motion was made by Councilman Yeager, seconded by Councilman Lewis to approve Resolution No. 13-14 which follows in its entirety:

RESOLUTION NO. 13-14

WHEREAS, There exists a major problem in Box Butte County, Nebraska and other Panhandle counties regarding the illegal sale of controlled substances and use of controlled substances; and

WHEREAS, The illegal narcotics crimes in and of themselves are costly to taxpayers, and are also related to the rising rate of crimes in the areas of burglary, theft and felony assaults; and

WHEREAS, The best solution to this problem is to greatly increase the available manpower to fight narcotic crimes; and

WHEREAS, The main law enforcement agencies in the Nebraska Panhandle have prepared a grant proposal which would greatly increase arrest and lower other major crime index incidents by continuing and expanding the full-time eleven county intelligence network and enforcement unit known as Western Nebraska Intelligence and Narcotics Group (WING).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Mayor is authorized to sign the Memorandum of Understanding with the Western Intelligence and Narcotics Group and High Intensity Drug Trafficking Area Drug Task Force. By entering into the Memorandum of Understanding the City will continue to provide the assignment of an officer to the WING unit.

Roll call vote for Resolution No. 13-14 with the following results:

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

Voting Nay: None.

Motion carried.

- Staff requested City Council to consider making application with Nebraska Department of Economic Development Civic and Community Financing Program for a grant. City Manager Cox provided the following background information:

[BBDC Director Chelsie Herian and Tourism Director Kevin Howard approached me on Monday of this week about the City applying for grant funding as a part of the Nebraska Department of Economic Development Civic and Community

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Center Financing Program. This program was started as a part of 2011 legislation that created the fund. The grant would be a 50%-50% match with local funding up to \$250,000 for our sized city.

I did not wish to unilaterally make a decision to pass or go forward with this matter and chose to place it on the agenda. We would like to discuss the matter with Council and seek direction. If Council wishes us to further explore the option, then we would ask for a simple motion to authorize staff to move forward to submit the pre-application.

The deadline for the pre-application is February 15. If the Department of Economic Development likes our application, then we will be invited to submit a formal application that will be due by March 19.

Although there may be several possible uses for this, the main idea that stood out to us was the concept of an arena as it would touch many facets of our community, and would also serve to bring traffic and business to Alliance.

One of the areas that is awarded upon is readiness ... I would suggest that the City's vacant lot at 1st and Box Butte be used for this purpose in the application. IF we are approved for the grant, and then later, if we should happen to sell that lot, then we will address another location. We would pick up points for readiness by the City already owning the lot. Plus, the location is in the heart of our downtown and would certainly serve as a big draw.

Here are some possible uses/impacts of an arena in downtown:

Sale of Cattle	Ranching/Agriculture
BMX Racing	Adventurists
Indoor Practice Facilities	Sports
Rodeos	Ranching/Horse Enthusiasts

Design/Project Selection:

At this point, we have neither. A lot of work would need to go into this and at this point we don't have a conceptual layout. However, it is my understanding that if this fund is not use by the cities currently eligible, that the funds may be opened up to other cities such as Lincoln and Omaha.

Potential Source of Funding:

It is conceivable that the 50% match requirement could come from a special ½-cent Local Option Sales Tax, if approved by the voters. Last year, you may recall, the legislature approved (overriding the Governor's veto) LB357, which authorizes for purpose of "public infrastructure," which in the legislation is very broadly defined and specifically authorizes "convention and tourism facilities." Based upon the past three years, this ½-cent would generate at least \$500,000 in one year (more likely \$600,000). We don't have any estimates yet on the cost of an arena, but if, say an arena might be \$2 million, then the local option could be

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concluded in perhaps just three years time period (which might be appealing to the voters).

At this point, talking about a local option sales tax is very, very early. However, I didn't wish to set forth this idea without identifying a possible source of local match.

Although the deadline is quickly approaching, there is no cost to apply and if we are not funded this year, we would be able to apply again and we will hopefully gain interest from state folks.

Certainly lots of planning would need to occur before we would go to the next stage, but this could certainly be one step.]

Council discussed the pros and cons of applying for this grant at the present time. The major concern expressed was the ability to finance the project in a timely manner following an award, if granted; and the on-going maintenance expenses. Council took no action at this time.

- Staff recommended that Council establish March 25, 2013 as the date to conduct a City Council/Leadership Team Retreat. By consensus Council authorized the date of March 25, 2013 for a Retreat.
- Financial Director Randy Waggener presented to the City Council the First Quarter Financial Report, ending December 31, 2012.
- City Council's next agenda item was the Political Subdivision Tort Claim from Larry and Kathy Lybarger. The Council was requested to acknowledge receipt and take no action on the claim at this time.

A motion was made by Councilman Lewis, which was seconded by Councilman Yeager, to acknowledge the receipt of the Subdivision Political Tort Claim from Larry and Kathy Lybarger.

- Board Appointments were the next items on the Agenda.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to approve the resignation of Rich Otto from the A-2 Downtown Improvement Board.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

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A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to approve the resignation of Doug Wilson from the Alliance Planning Commission effective March 31, 2013.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to appoint Allen Pannell to serve on the Board of Adjustment for a term which will expire December 31, 2016.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Stephen Brittan to serve on the Board of Adjustment for a term which will expire December 31, 2016. Mr. Brittan will be the Planning Commission Representative on the Board of Adjustment.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Stephen Brittan to serve on the Planning Commission for a term which will expire December 31, 2015.

Roll call vote with the following results:

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

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Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Wayne Davis to serve on the Planning Commission for a term which will expire December 31, 2015.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Frank Tolstedt to serve on the Economic Development Plan Citizen Advisory Board with a term to expire December 31, 2015.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Jim Parks to serve on the Economic Development Plan Citizen Advisory Board with a term to expire December 31, 2015.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to re-appoint Charles Lierk to serve on the A-2 Downtown Improvement District Board with a term to expire October 31, 2015.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

A motion was made by Councilman Seiler, which was seconded by Councilman Yeager to appoint Deborah Feller to serve on the A-2 Downtown Improvement District Board with a term to expire October 31, 2014.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

The City of Alliance continues to have vacancies on various boards. The public was notified if anyone is interested in serving on these Boards or would like further information, they may contact the City Clerk's Office.

- The final items on Council's Agenda were closed sessions to discuss a possible purchase of land for economic development purposes and also to discuss potential litigation.

Councilman Lewis moved pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943, that the Alliance City Council hold a closed session for the purpose of discussing a possible land purchase for economic development purposes and also to discuss potential litigation. The motion also included a request for the City Attorney, City Manager, City Clerk, Finance Director and Planner to remain for the closed session which was seconded by Councilman Seiler.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

Mayor Feldges stated "the motion having passed by an affirmative vote of the members of the City Council, the Council shall hold a closed session for the purpose of, and only for the purpose of discussing a possible purchase of land for economic development purposes and also to discuss potential litigation."

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The closed session to discuss the purchase of land for economic development began at 9:55 p.m. with the following individuals participating: City Manager Cox, City Attorney Olsen, City Planner Johnson, Finance Director Waggener and City Clerk Jines. The closed session concluded at 10:43 p.m.

The closed session to discuss potential litigation began at 10:44 p.m. with the following individuals participating: City Manager Cox, City Attorney Olsen, City Planner Johnson, Finance Director Waggener and City Clerk Jines. The closed session concluded at 10:55 p.m.

- Mayor Feldges stated, “There being no further business to come before the Alliance City Council, the meeting is adjourned at 10:55 p.m.”

(SEAL)

Fred Feldges, Mayor

Linda S. Jines, City Clerk