

November 7, 2013

**ALLIANCE CITY COUNCIL**

REGULAR MEETING, THURSDAY, NOVEMBER 7, 2013

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

The Alliance City Council met in a Regular Meeting, November 7, 2013 at 7:00 p.m. at Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on October 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 November 7, 2013 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Benzel, Lewis, Seiler and Yeager. Also present were City Manager Cox, City Attorney Olsen, and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- The first agenda item was the introduction of new City of Alliance Police Safety Dispatcher Angela Flesner. Council also recognized promoted employees: Randy Waggener, Mike Hulquist, Annora Bentley, Karna Hansen, Wayne Bailey and Mark Rising.
- The next agenda item was the Consent Calendar. Councilman Benzel made a motion, which was seconded by Councilman Lewis to approve the Consent Calendar as follows:

CONSENT CALENDAR – NOVEMBER 7, 2013

1. Approval: Minutes of the Regular Meeting, October 17, 2013.
2. Approval: Payroll and Employer Taxes for the period September 28, 2013 through October 11, 2013 inclusive: \$167,061.53 and \$11,814.19 respectively; and for the period October 12, 2013 through October 25, 2013 inclusive: \$170,795.24 and \$12,105.64.
3. Approval: Claims against the following funds for the period October 11, 2013 through October 31, 2013: General, General Debt Service, Trust and Agency, Street, Electric,

November 7, 2013

Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$1,147,334.94.

4. Approval: Submittal of Unclaimed Property to the Nebraska State Treasurer's office in the amount of \$69.43.
5. Approval: Resolution No. 13-106 which revises the Single Engine Air Tanker (SEAT) Base Lease Agreement. The proposed revision allows for an increase in the lease area of 48 sq. ft. for the placement of a 6' x 8' storage container on site. Council previous approved the original lease with the passage of Resolution No. 13-81 on August 21, 2013.
6. Item Was Removed
7. Approval: Resolution No. 13-108 which re-states our Agreement with the City of Scottsbluff for "Responsible Charge" services for the Box Butte Avenue Historic Lighting Project (State's portion through the grant). At our last meeting we approved the Agreement naming Mark Bohl as the Responsible Charge and the City of Scottsbluff has since requested that be changed to Perry Mader, their Director of Parks and Recreation.
8. Approval: To secure the services of H.K. Scholz to fix the relay and PLC (Programmable Logic Controller) problems which have been encountered at Cody Substation. The quote for the repair is \$21,950.00. Staff is proposing the services of H.K. Scholz as it is the lowest cost option to the City of Alliance.
9. Approval: The issuance of the following Contractor licenses:
 

Limited & Specialty:	Rick Kucera dba Kucera Painting, Inc.
Groundwork/Excavation:	Mark Chrisman dba Mark Chrisman Trucking, 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:

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

Voting Nay: None.

Motion carried.

- A presentation of Keep Alliance Beautiful was the next agenda item. A check was presented to the 125<sup>th</sup> Anniversary Committee as a result of Keep Alliance Beautiful's participation in the Nebraska State Fly-in.
- City Manager J.D. Cox gave his City Manager's Report which is shown in outline form:

November 7, 2013

1. Streetscape Phase 1 Update – Remains on schedule
  - A. East Side-
    - Southern portion– tear out & concrete pouring
    - Middle portion – commence next week
  - B. West Side-
    - Street Lighting is now on ... runs on astronomical time
    - 1000-Watt Light no longer used (will pull at convenience)
    - Pavers complete
    - Trees & Mulching are complete
    - Lights for Trees
2. Streetscape Phase 2 Update – Schedule is still in works
  - A. 60% Plans are submitted
  - B. Waiting on Environmental final approval – NDOR in final review
  - C. Question re: Awnings – City adopted 2009 Building Code (right of way)
    - NDOR enforce City right of ways as if were NDOR right of way
  - D. Potential Time Frame:
    - November: Receive NDOR Environmental approval & comments
    - December: Submit final 100% plans
    - March: Let Bids thru NDOR
    - April: Bid Openings
    - May: City Approve/Accept Bids
    - June: Construction
  - E. Side Streets – Put into a separate “Phase 3”
3. Senior Center Board
4. County Joint Meeting:
  - A. LEC/Combined Dispatch
  - B. Airport Road Work
  - C. County Community Garden
  - D. Clean up times – Taking rural trash (around Alliance) to Landfill
  - E. Sidewalk – Old program no longer available; new program \$1000 limit
  - F. Snow removal sharing –
    - City: County Courthouse
    - County: Airport Road
5. Library
  - A. Phone calls
  - B. Spreadsheet
6. Airport –
  - A. Airport Road – Project with County:
    - 0.2 mile: City
    - mile: County
    - Eligible for 50%-50% “Scenic Recreational” with Game & Parks
  - B. FAA Runway Rehab Project
    - Remains on schedule – Bid opening in February
7. Passenger Shelter – Postpone until next year’s streetscape
8. Cable System Agreement Upgrade Request Update

November 7, 2013

9. PD Dept –

- A. Stop Sign: 12<sup>th</sup> & Big Horn
- B. I could not be more pleased! Doing great job! SEC, Activity Committee,

10. Purple Wave - \$14,035.00

11. West Side Entryway Landscaping has completed

12. Upcoming Meetings:

- A. November 21:
  - Height of Nuisance Grass & Weeds
  - Senior Center Agreement ( requested by Councilmember Lewis) Renewal
  - Cell Tower Ordinance
  - Demolitions (did receive bids/awaiting asbestos results)
  - NIFA Grant Application for Housing Study

- The next matter before was the third reading of Ordinance No. 2741 which will approve the rezoning request of Scott Bolinger to rezone Lot 28, County Addition to the City of Alliance from R-1 (Single Family Residential) to R-3 (Multi-Family Residential). Council was provided with the following background information:

[The City of Alliance is in receipt of a request from Scott Bolinger to rezone Lot 28, County Addition to the City of Alliance from R-1 – Single Family Residential to R-3 – Multi-Family Residential. This property is the location of the former Central School Building.

Mr. Bolinger made this request in 2012 and was heard by the Alliance Planning Commission at their July 10, 2012 meeting. At that time, the Planning Commission denied recommendation to the City Council due to the lack of a solid plan.

The Alliance City Council in turn, considered the matter at their August 2, 2012 meeting and concurred with the Planning Commission that a more detailed business plan is required before moving forward. Following the meeting a letter was mailed to Mr. Bolinger informing him that in order to move forward with his request he would be required to present a detailed Business Plan to the Planning Commission.

Mr. Bolinger e-mailed me on August 13, 2013 requesting to be placed on a Planning Commission agenda to consider his rezoning request; however he wanted to change the zoning to C-1 – Neighborhood Commercial District. I informed him the new zoning designation request would require a new application. He then informed me he wanted to move forward with the original application and provided an updated Business Plan.

The following items have been included in your packet for your review:

November 7, 2013

1. Recently submitted Revised Central Estates Business Plan;
2. Chain of e-mail exchanges regarding the request to be on the agenda;
3. Original Application for Rezoning;
4. Map identifying the property;
5. Excerpt of the Alliance Planning Commission Minutes of July 10, 2012;
6. Original Business Plan Submittal, which includes Short Form;
7. Excerpt of City Council Minutes of August 2, 2012;
8. Letter to Mr. Bolinger following August 2, 2012 City Council Meeting;
9. Sample Forms & Checklists which have been prepared to assist the public with the building permit process;
10. Draft minutes of the September 10, 2013 Alliance Planning Commission.

Staff has reviewed Mr. Bolinger's Business Plan. Should the City Council move forward with the rezoning approval; prior to Mr. Bolinger proceeding with the proposed remodel, he will be required to obtain a building permit. The building permit application will require the submittal of plans that are designed and stamped by a Nebraska Engineer or Architect in accordance with state law. This requirement has not been included within the revised Business Plan, and probably should be.

During the last week, staff has been made aware of potential zoning restrictions which may be in violation on the property. Community Development Administrator Kusek has sent Mr. Bolinger a letter regarding the issues and the City has not received a response as of this writing. Since the activities in question are a violation with the current zoning designation and the proposed new zoning designation, staff would like to see this matter resolved prior to final passage of the ordinance.]

Scott Bolinger, 715 Box Butte Avenue, property owner, was present to speak on behalf of the rezone.

Mr. Bolinger was questioned regarding a potential zoning violation by allowing the commercial use of the building for air soft gun events. Mr. Bolinger confirmed the violation. In addition, Council addressed the need to maintain the property so it is no longer in violation of the City's nuisance ordinances.

A motion was made by Councilman Yeager, seconded by Councilman Seiler to approve the third reading of Ordinance No. 2741. City Clerk Jines read the Ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2741

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING, AMENDING THE DISTRICT ZONING MAP TO SHOW THAT LOT 28, COUNTY ADDITION TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA,

November 7, 2013

IS NOW INCLUDED AS A R-3 MULTI-FAMILY RESIDENTIAL DISTRICT FROM A R-1 SINGLE FAMILY RESIDENTIAL DISTRICT, AND REPEALING PRIOR SECTIONS.

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

SECTION 1. Section 115-76 of the Alliance Municipal Code is amended to provide as follows:

115-76. DISTRICT MAP ADOPTED

(a) Boundaries of the districts, as enumerated in section 115-75 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.

(b) 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 7<sup>th</sup> day of November, 2013, is now the official Zoning District Map.

SECTION 2. Previously existing Section 115-76, and all ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with the revisions set forth herein are hereby repealed.

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

Roll call vote on the final reading of Ordinance No. 2741 with the following results:

Voting Aye: Benzel, Lewis, Yeager, Feldges.

Voting Nay: Seiler.

Motion carried.

Mayor Feldges stated the passage and adoption of the ordinance was concurred by a majority of all members elected to Council, he declared it passed, adopted and ordered it published.

November 7, 2013

- The next agenda item was Ordinance No. 2743 which will amend the Alliance Municipal Code with regard to fireworks. Council was provided with the following background information:

[The Council discussed the current fireworks code on February 6, 2012 and again September 19, 2013. Issues over the past two years have prompted City Staff to request consideration of the modification of the fireworks code.

The Fire Chief provided the following statistics relating to firework-related calls:

2011 - 9 fires resulting in \$5,000 in property damage including City restrooms and dumpsters

2012 - 11 fires resulting in \$500 in property damage to trees in the City park and 1 citation for discharge after July 4

2013 - 5 fires resulting in \$1,000 in property damage including City dumpsters. An August 17 discharge of a Chinese lantern resulted in a tree fire on private property

Following are points that were considered at the September 19<sup>th</sup> Council meeting along with the suggested modifications to the Code:

Discharge Safety – There presently are no guidelines in City Code prohibiting unsafe discharge of fireworks and other explosives. Suggested the additions to code as presently stipulated as unlawful acts in State Statute.

City Property – The City has experienced consistent property damage each firework “season”. There are no limitations regarding discharge of fireworks on City property including City recreational facilities or parks or public streets, highways and sidewalks. Special allowance in Code and/or permits is recommended for approved public fireworks displays. It is recommended that fireworks by the general public be prohibited on City property to lessen property damage.

Restricted Types of Fireworks – Code presently forbids the sale or discharge of a lengthy list of fireworks; however, the Chinese sky lantern, which is not included on the list, has recently gained popularity and has created fire and safety issues for the City. For this reason it is suggested that the sky lanterns and similar fireworks be added as an additional prohibited firework.

Discharge Dates – Discharge of fireworks is allowed in the State of Nebraska Statutes from June 24<sup>th</sup> through July 5<sup>th</sup>, unless otherwise modified by resolution of the Mayor or City Council. The City of Alliance is presently more restrictive allowing discharge of fireworks from June 25<sup>th</sup> through July 5<sup>th</sup>. (Note however, times are not specified in the current code for discharge on July 5<sup>th</sup>.) There is no

November 7, 2013

provision for discharge of fireworks on New Years Eve, which is allowed by State Statute. The Code as presented in the modified form allows discharge from June 25<sup>th</sup> through July 4<sup>th</sup> with provision for the City Manager to authorize discharge on July 5<sup>th</sup> in certain instances.]

A motion was made by Councilman Seiler, seconded by Councilman Benzel to approve the first reading of Ordinance No. 2743. City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2743

AN ORDINANCE OF THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA, AMENDING SECTION 22-175 OF CHAPTER 22, ARTICLE VII; PROHIBITED; NONAPPLICABILITY; AMENDING SECTION 22-177; LEGAL DATES, TIMES, AND AGE RESTRICTIONS FOR DISCHARGING FIREWORKS; PERMIT REQUIRED; AND ADOPTING SECTION 22-178; DISCHARGE OR RELEASE OF SKY LANTERN OR FIRE BALLOON; AND TO REPEAL ANY OTHER CONFLICTING SECTIONS AND ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE AND TO PROVIDE FOR PUBLICATION OR POSTING AS REQUIRED BY LAW.

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

SECTION 1: Section 22-175 shall state:

(a) It shall be unlawful for any person to manufacture, display, sell, offer for sale, give away, use, start, discharge or explode, or cause to be manufactured, displayed, sold, offered for sale, given away, used, started, discharged, or exploded, any Firework.

(b) The provisions of the immediately preceding subsection shall not apply to:

- (1) Non-wire Sparklers, toy pistols or toy pistol caps;
- (2) The possession of pyrotechnics which are in transportation to points outside the city;
- (3) The possession or transportation of such pyrotechnics held by wholesale dealers for sale and shipment in unbroken packages to points or places outside the city;
- (4) The sale, storage, or use of railroad track torpedoes or other signaling devices used by railroads;
- (5) The sale, storage or use of flashlight compositions by photographers or dealers in photographic supplies;
- (6) Pyrotechnic displays on the occasion of public celebrations or festivals, if the person conducting such pyrotechnic display shall first have applied for and have been granted by resolution of the mayor and city council permission to conduct such display;

November 7, 2013

- (7) The sale and use of Fireworks between June 24 and July 4 each year, during time periods authorized by state statute as modified by resolution of the mayor and city council, or by another section of this Article;
- (8) The use of blank cartridge pistols at sporting events by authorized persons; or
- (9) The use of blank cartridge pistols or other pyrotechnics by a person designated by the city manager or designee to implement the waterfowl management policy.

(c) The terms Firework or Fireworks in this Article shall refer to “Consumer Fireworks” as they are defined and amended by Chapter 28, Article 12 of the state statutes.

SECTION 2: Section 22-177 shall state:

(a) It shall be unlawful to discharge any Firework as defined and permitted by state statute, prior to June 25, and after July 4 and at any time other than the dates and times specifically authorized by state statute and as modified by resolution of the mayor and city council.

(b) Fireworks may be legally discharged between the hours of 9:00 a.m. and 10:00 p.m. on June 25 to July 2; and between the hours of 9:00 a.m. and 12:00 midnight on July 3 and July 4. The City Manager or his or designee may authorize in writing the discharge of Fireworks between 9:00 a.m. and 12:00 midnight on July 5 if, in the discretion of the City Manager or his or her designee, sufficient circumstances warrant an extension of the holiday celebration, provided that no Firework may be discharged on July 5 without the written authorization of the City Manager or his or her designee.

(c) The use or possession of Fireworks by any person under 12 years of age is prohibited unless direct supervision is provided by a person 18 years of age or older.

(d) The city manager or designee shall issue a permit allowing the sale of Fireworks during permitted periods for that calendar year under the following standards:

- (1) Proof of Fireworks license from the state fire marshal under state administrative code title 157, chapters 2 and 4, permissible Fireworks list and licensing requirements, as per the current International Fire Code, Fireworks as adopted by the City;
- (2) Sale and retail display with storage in type 5 magazine 3301.1.3, 3301.2.3, 3302 and 3308.11.

(e) At no time shall it be lawful to discharge a Firework in any manner that is unsafe or dangerous to persons or property, including but not limited to the discharge of a Firework from or into a moving vehicle or other mechanism of transportation, at or near a person or group of persons, into or upon any residence, premises, building, or construction, or in any other manner prohibited by Nebraska Revised Statute § 28-1242 as now constructed or hereafter amended.

November 7, 2013

(f) At no time shall it be lawful to discharge a Firework into or upon any City property unless the City has granted a special permit for such discharge.

SECTION 3: Section 22-178 shall state:

(a) Nothing in this Article shall allow the discharge or release, at any time, of a sky lantern, fire balloon, or other device constructed of collapsible paper and designed to rise slowly into the sky by the use of a slow-burning interior flame, similar to the design of a hot-air balloon.

(b) Sky lantern or fire balloon shall also refer to any device with a flame that continuously burns for over one minute and is designed to reach an elevation of at least 50 feet from the ground.

SECTION 4: Any ordinance or any part thereof in conflict with this ordinance is hereby repealed to the extent of such conflict.

SECTION 5: This ordinance shall be in full force and effect after its passage, approval, and publication according to law.

SECTION 6: If any portion or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such portion or provision shall not affect any of the remaining provisions of this ordinance, the intention being that the same be severable.

A motion was made by Councilman Benzel, seconded by Councilman Lewis to table the first reading of Ordinance No. 2743.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- A Public Hearing and the first reading of Ordinance No. 2744 was the next agenda item. Ordinance No. 2744 will approve the rezoning request of Sturdevant's Auto to rezone property described as Lots 5-9, Block 15, Original Town to the City of Alliance. Council was provided with the following background information:

[The applicant desires to build a new retail structure on the recently cleared lot. The desired site layout is not permitted by the current zoning of C-2. Properties immediately on all sides of Sturdevant's lots are zoned C-2; however, some properties located further east are zoned C-3.

November 7, 2013

If the property remains zoned as C-2, the proposed project does not meet the zoning requirements as C-2 zoning requires the front of the building to have a zero (0) feet setback, meaning that it would not allow for off-street parking stalls in front of the building. In other words, the building front façade would be required to be adjacent to the sidewalk similar to the placement of the former building on the site prior to September, 2013. With re-zoning to C-3, this building would be required to have a 15-foot setback on the front of the lot which would allow for off-street parking on the south (street) side where it is proposed for the new building design.

Findings of Fact as compiled by City Staff could include:

- Approval of re-zoning would then create “spot” zoning for that property. The property to the east of Sturdevant’s would benefit from being re-zoned as well to eliminate the creation of spot zoning within the City blocks and create more leniency in respect to future improvements to said property.
- There would be no negative implications to re-zoning both properties on the Southwest side of Block 15.
- The Sturdevant’s property is adjacent to the alley that runs north & south one-way. Across from the alley is the “mini-park” located at the corner of 3<sup>rd</sup> Street & Box Butte Avenue. This provides a visual and distinct landmark separation from other buildings classified with the C-2 zoning (Central Business District).

Fire Chief Troy Shoemaker clarified that parking on the south side of the building would be allowed by the Nebraska Department of Roads as the parking would be off-street, on-property, with access by a driveway off Third Street and exit through the alley drive.

Notification petitions were sent to property owners within a 300’ radius of the subject property. Thirty five letters were sent with the City receiving twelve back. Eleven were in favor of the rezone and one was disinterested.

The Planning Commission unanimously approved the rezoning request at their October 8, 2013 meeting.]

Mayor Feldges stated “now is the date, time, and place to conduct a Public Hearing to hear support, oppositions, criticism, suggestions, or observations of the taxpayers relating to the approval of the rezoning application of Sturdevant’s Auto to rezone Lots 5-9, Original Town to the City of Alliance, Box Butte County from C-2 (Central Business District) to C-3 (Highway Commercial). The Public Hearing opened at 8:10 p.m.

Darrel Smith, 617 Conestoga Avenue, was present to speak in favor of the rezoning. Mr. Smith stated the rezoning would allow parking in front of the building.

November 7, 2013

Council asked if the window sizes could be increased and the possibility of bricking the front of the building.

No further testimony was offered and the Public Hearing closed at 8:20 p.m.

A motion was made by Councilman Benzel, seconded by Councilman Seiler to approve the first reading of Ordinance No. 2744. City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2744

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, DEALING WITH ZONING, AMENDING THE DISTRICT ZONING MAP TO SHOW THAT LOTS 5-9, ORIGINAL TOWN TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA, IS NOW INCLUDED AS A C-3 (HIGHWAY COMMERCIAL DISTRICT) FROM A C-2 (CENTRAL BUSINESS DISTRICT), AND REPEALING PRIOR SECTIONS.

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

SECTION 1. Section 115-76 of the Alliance Municipal Code is amended to provide as follows:

115-76. DISTRICT MAP ADOPTED

Boundaries of the districts, as enumerated in section 115-75 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 \_\_\_\_\_, 2013, is now the official Zoning District Map.

SECTION 2. Previously existing Section 115-76, 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.

November 7, 2013

A motion was made by Councilman Lewis to waive the statutory requirement of reading the ordinance on three different dates. Motion died due to lack of a second.

Roll call vote on the first reading of Ordinance No. 2744 with the following results:

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

Voting Nay: None.

Motion carried.

- A Public Hearing and the first reading of Ordinance No. 2745 was the next item for Council's review. Ordinance No. 2745 will approve the Preliminary Plat and Final Plat requests of Dan Dickinson to subdivide property identified as the Southwest Quarter of Section 35, Township 25 North, Range 48, West of the 6<sup>th</sup> P.M., Box Butte County, encompassing 5.68 acres more or less. Council was provided with the following background information:

[Mr. Dan Dickinson of Syndicate Block Company is requesting approval of a Preliminary Plat and a Final Plat to subdivide property. The property to be platted is located north of Holsten Drive, east of Highway 385, south of a gas station/convenience store at 1639 West Third Street otherwise known as Terry's, and west of a vacant field which are unplatted lands of Syndicate Block Company. The legal description of the property is known as part of the Southwest Quarter of Section 35, Township 25 North, Range 48, West of the Sixth Principal Meridian, Box Butte County, encompassing 5.68 acres more or less.

The land is currently zoned C-3 (Highway Commercial.) The land is bordered to the north, east and south by C-3 zoning. The current zoning is not being asked to change. There currently are no structures existing on the property.

The Preliminary Plat was reviewed by City Staff, as required by Section 113-68 of the Municipal Code, as well as the Fire Chief and Police Chief. The Preliminary Plat meets the requirements and guidelines in the Municipal Code Section 113.70. City Staff did not deem it necessary to request any additional information than was already provided on the Preliminary or Final Plats. Public works elements are detailed in the attached documents.

Notice petitions were sent out to property owners within a 300' radius of the subject property. Four petitions were mailed out and one was returned, which was in favor of the plat.

Mike Hulquist of the Alliance Municipal Water/Sewer Department commented that there is water main on the west and south sides of the proposed platted property that will require an assessment fee of \$14.44 per front linear footage plus the tap fee based upon service size. There is also sanitary sewer access at the southeast end of the property.

November 7, 2013

The Final Plat was reviewed as required by Section 113-104 of the Municipal Code by City Staff. This was done using the criteria listed in Section 113-114 of the Municipal Code. City Staff did not find it necessary to ask for more information. All information was present on the Final Plat with the exception of the zoning designation.

The Planning Commission unanimously approved the Staff recommendation at its October 8 meeting for the approval of the Final Plat of Block 10, Syndicate Addition to the City of Alliance with the provision that the waiving of the requirement of zoning information being present on the Final Plat and waiving of the requirement for storm sewer infrastructure until the property is developed.]

Mayor Feldges stated “now is the date, time, and place to conduct a Public Hearing to hear support, oppositions, criticism, suggestions, or observations of the taxpayers relating to the approval of the Preliminary Plat and Final Plat of Dan Dickinson to subdivide property Identified as the Southwest Quarter of Section 35, Township 25 North, Range 48, West of the 6<sup>th</sup> P.M., Box Butte County, encompassing 5.68 acres, more or less. The Public Hearing opened at 8:25 p.m.

Dan Dickinson, General Manager of Syndicate Block Company, 2585 Country Club Road, Gering, NE, was in attendance to speak in favor of the approval of the Preliminary Plat and Final Plat.

No further testimony was offered and the Public Hearing closed at 8:30 p.m.

A motion was made by Councilman Benzel, seconded by Councilman Lewis to approve the first reading of Ordinance No. 2745. City Clerk Jines read the Ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2745

AN ORDINANCE APPROVING THE PRELIMINARY AND FINAL PLATS OF SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 25 NORTH, RANGE 48, WEST OF THE SIXTH PRINCIPAL MERIDIAN, BOX BUTTE COUNTY, ENCOMPASSING 5.68 ACRES MORE OR LESS.

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

SECTION 1. The City of Alliance has received the application for approval of the Preliminary Plat and Final Plat of Southwest Quarter of Section 35, Township 25 North, Range 48, West of the Sixth Principal Meridian, Box Butte County, Nebraska from Dan Dickinson of Syndicate Block Company.

SECTION 2. The Planning Commission held a public hearing October 8, 2013, and has recommended the approval of the Preliminary Plat.

November 7, 2013

SECTION 3. The Planning Commission met on October 8, 2013 and conducted a Public Hearing on the Final Plat of Southwest Quarter of Section 35, Township 25 North, Range 48, West of the Sixth Principal Meridian, Box Butte County, Nebraska

SECTION 4. The Preliminary Plat and the Final Plat of Southwest Quarter of Section 35, Township 25 North, Range 48, West of the Sixth Principal Meridian, Box Butte County, Nebraska are hereby approved by the City of Alliance and shall be filed with the County Clerk as provided by City Code and State law within 30 days of this approval. The plat map which has been prepared is a part of these proceedings and is attached hereto and is incorporated herein and made a part hereof by reference.

SECTION 5. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

A motion was made by Councilman Lewis to waive the statutory requirement of reading the ordinance on three different dates. Motion was seconded by Councilman Benzel.

Roll call vote to waive the statutory rule requiring Ordinance No. 2745 be read on three separate dates.

Voting Aye: Benzel, Lewis.

Voting Nay: Seiler, Yeager, Feldges.

Motion failed.

Roll call vote on the first reading of Ordinance No. 2745 with the following results:

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

Voting Nay: None.

Motion carried.

- Ordinance No. 2746 adopting the proposed City Council 2014 Meeting Schedule was the next agenda item. Council was provided with the following background information:

[Council has previously established its meeting calendar as 7:00 p.m. at the Board of Education Office on the first and third Thursdays of each month. In reviewing the 2014 calendar, two adjustments are being recommended for consideration. It is recommended that the months of January and July be changed to the 2<sup>nd</sup> and 4<sup>th</sup> Thursday, due to the New Year's Holiday and Independence Day. Since both of these months have five Thursdays it will not require the Council to have back to back meetings.

November 7, 2013

Council may wish to consider an additional change to the calendar for Maundy Thursday which is April 17<sup>th</sup>. Previous years there has been discussion regarding a time change for this specific meeting.

Staff would also like Council to consider establishing a Special Meeting for the end of our fiscal year for final bill approval and would recommend either Monday, September 29<sup>th</sup> or Tuesday, September 30<sup>th</sup>. This has usually been a very short meeting, which has been held during business hours to allow for the Finance Department to complete payments.

This past year, there was some discussion regarding changing the times of the meetings for the coming year. Although set forth by ordinance, Council may alter the established time and date that is to its members' convenience. Should Council wish to make a change, amendments may be made to the ordinance.]

Council discussed the possibility of changing Council meeting days to the first and third Tuesday of every month in oppose to the first and third Thursday in which they currently meet. Mayor Fred Feldges was recently appointed to the Board of Directors of the Nebraska League of Municipalities, and the change of the meeting days would allow Mayor Feldges to attend League meetings which are normally held on Fridays in Lincoln, NE.

A motion was made by Councilman Lewis, seconded by Councilman Seiler to approve the first reading of Ordinance No. 2746. City Clerk Jines read the Ordinance by title which follows in its entirety:

#### ORDINANCE NO. 2746

AN ORDINANCE ESTABLISHING THE TIME AND PLACE OF REGULAR COUNCIL MEETINGS FOR THE CALENDAR YEAR 2014.

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

SECTION 1. Nebraska Statutes at Section 19-615 provide that ". . . the Council shall meet at such time and place as it may prescribe by ordinance, but not less frequently than twice each month in cities of the first class."

SECTION 2. The City Code provides at Section 2-25, that "The City Council shall hold its regular meeting on the first and third Thursday of each month. The Council may, by adoption of a calendar each year, establish regular meeting dates other than the first and third Thursday of each month."

SECTION 3. Attached hereto is a "proposed 2014 calendar," which is incorporated herein by reference as if fully set forth.

November 7, 2013

SECTION 4. The City Council of Alliance, Nebraska shall conduct regular meetings during calendar year 2014 on the dates that are indicated on the attached proposed 2014 calendar at the hour of 7:00 o'clock P.M. at the Board of Education Room, 1604 Sweetwater Avenue, Alliance, Nebraska. The time and place of these meetings may be changed from time to time as provided by law.

SECTION 5. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

Council discussed the possibility of changing Council meeting days to Tuesday instead of Thursday. Mayor Feldges was recently appointed to the Board of Directors for the Nebraska League of Municipalities, which is an honor for Alliance. The proposed change would allow Mayor Feldges to attend League meetings which are usually held on Fridays in Lincoln.

A motion was made by Councilman Lewis, seconded by Councilman Benzel to table the first reading of Ordinance No. 2746, so staff can prepare the Calendar to reflect the first and third Tuesday of each month.

Roll call vote on the first reading of Ordinance No. 2746 with the following results:

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

Voting Nay: None.

Motion carried.

- A Public Hearing to consider the approval of the Class C Liquor License Application of The Steakhouse located at 1015 E. 3<sup>rd</sup> Street was the next discussion item. Resolution No. 13-109 will approve the Application and make the recommendation of approval to the Nebraska Liquor Control Commission. Council was provided with the following background information:

[Mr. Lynn Douglas “Doug” Anderson has purchased the property at 1015 East Third Street in Alliance with the intent of opening a restaurant under the name of “The Steakhouse”. The City is now in receipt of a Class C liquor license application from the owner to serve beer, wine and mixed drinks. The license would be in the name of Anderson Transport, Inc. dba The Steakhouse. Mr. Anderson has owned and operated several restaurants (with liquor licenses) in the past. The full license application is included in the packet. No disqualifiers came from a background check conducted by the Alliance Police Department.

#### HEARING PROCESS -

1. Mayor or council member announces agenda item.
2. Mayor opens public hearing and asks clerk what exhibits she has.
3. Clerk identifies application, checklist for 53-132, Chief's report, Community Development report, and other documents she may have received.

November 7, 2013

4. Mayor asks for a motion that the exhibits be received into the record, second and vote.
5. Mayor asks for those who are going to give testimony to stand and be sworn.
6. Mayor says "do you swear or affirm to tell the truth so help you God".
7. Individuals respond.
8. Those individuals should include the applicant who must prove to the council's satisfaction the elements on the top part of the checklist. They will also include individuals who may speak either in favor or against the application and police chief who will hit the high points of his report.
9. Mayor calls on applicant to make a presentation.
10. While applicant is still at the podium, the Mayor will call on the City Attorney for any questions and to council and himself for questions.
11. Mayor asks for others who wish to speak in favor of the application and follows the same process for questions.
12. Mayor the calls upon those who wish to speak against and follows the same process for questions.
13. Mayor then calls on the police chief for his comments.
14. Mayor asks if there is any other testimony.
15. Mayor closes the public hearing and asks for comment from the City Attorney.
16. Mayor asks for comment from council and himself.
17. Mayor asks for a motion.
18. The motion is either to make a positive or negative recommendation on the application to the Liquor Control and to reference the elements on the top of the checklist and ask staff to prepare Resolution for the Mayor's signature. (done after the fact so as not to affect council neutrality).
19. After a second, Mayor calls for a vote.]

Mayor Feldges stated "now is the date, time, and place to conduct a Public Hearing to hear support, opposition, criticism, suggestions, or observations of the taxpayers relating to the approval of the Class C Liquor License of Andersen Transport Inc., dba The Steakhouse. The Public Hearing opened at 8:45 p.m.

City Clerk Jines entered in the following exhibits for consideration during the public hearing:

- Exhibit 1 - Application of Andersen Transport Inc. dba The Steakhouse, 1015 E. 3<sup>rd</sup> Street
- Exhibit 2 - City Council checklist for Section 53-132 R.R.S. (1984).
- Exhibit 3 - Written statement of Police Chief dated October 28, 2013.

Motion by Councilman Lewis to accept the exhibits into the record. The motion was seconded by Councilman Benzel.

Roll call with the following results:

November 7, 2013

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

Voting Nay: None.

Motion carried.

Mayor Feldges swore in L. Doug Anderson, the applicant and Police Chief E. John Kiss to provide testimony as part of the public hearing.

L. Doug Andersen, owner of The Steakhouse, 122 CR 70 Hemingford, NE was in attendance to give Council an overview of his new restaurant "The Steakhouse" and to answer any questions Council or the public may have. Mr. Anderson informed the Council that he would be operating a complete menu restaurant which will house a small bar area. The restaurant will be open seven days a week with the hours being 11:00 a.m. to 9:00 p.m. Monday through Friday; and 11:00 a.m. to 10:00 p.m. Saturday and Sunday. He stated he has previous experience operating a restaurant in Alliance with the former Porterhouse Restaurant. Mr. Anderson informed Council that he will be responsible for the ordering of liquor. All liquor will be stored in a locked are. He and his staff will all renew their alcohol training which is provided by the State Patrol. Patrons will be carded to prevent serving to minors. Mr. Anderson stated he will be on site the majority of the time, and he will have two co-managers assisting in the oversight.

Police Chief Kiss informed Council that Mr. Anderson does not have any previous liquor license violations. He also conducted a records check which indicated no previous calls.

No further testimony was offered and the Public Hearing closed at 8:55 p.m.

A motion was made by Councilman Benzel, seconded by Councilman Seiler to approve Resolution No. 13-109, which follows in its entirety:

#### RESOLUTION NO. 13-109

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

On November 7, 2013, the matter of the Class C Liquor License application of Andersen Transport, Inc. dba The Steakhouse located at 1015 E. 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 Andersen Transport Inc. dba The Steakhouse, 1015 E. 3<sup>rd</sup> Street
- Exhibit 2 - City Council checklist for Section 53-132 R.R.S. (1984).
- Exhibit 3 - Written statement of Police Chief dated October 28, 2013.

November 7, 2013

Witnesses were sworn and testimony was received in support of the Class C Liquor License at the public hearing on this date from L. Doug Andersen. Police Chief Kiss 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 Andersen Transport, Inc. dba The Steakhouse 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 Class C Liquor License Application of Andersen Transport, Inc. dba The Steakhouse at the premise described in the application be approved.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Resolution No. 13-110 awarding the upgrade to our Water Smart Grid Data Acquisition & Control System to Hydro Optimization and Automation Solutions, Inc. of Lincoln, Nebraska in the amount of \$90,000.00 was the next item for review. Council was provided with the following background information:

[The majority of the present water SCADA (supervisory control and data acquisition) hardware was installed in 1986 with the current computer installation in 2007. It has become a major challenge for the Water Department to obtain parts and service for the current system as the original vendor (Amwest Control) operates out of Denver and no longer has a presence in this geographic area resulting in high maintenance costs.

The professional services contractor providing pricing for a replacement SCADA system is Hydro Optimization and Automation Solutions, Inc. (HOA Solutions) of Lincoln, Nebraska. HOA Solutions is the only SCADA vendor in this area with repair service provided by a technician stationed in Scottsbluff. HOA Solutions has a number of systems installed in the North Platte Valley and recently installed a system in Ogallala.

November 7, 2013

The proposed equipment list includes a new Dell computer and SCADA software; two PLC (programmable logic controller) upgrades at the Master Control Panel and the Pivot Site; RTUs (remote terminal units) at the remaining remote sites; and the additional of surge protectors at all sites. The bid also includes shipping and sales tax; installation, programming and start-up; travel; training and performance bond. Certain portions of the system will continue to be utilized including the alarm dialer which will serve as a backup to the software dialer.

The original cost estimate exceeded the capital budget for the project; however, Public Works Director Mike Hulquist has negotiated with HOA Solutions to modify the system components and pricing. The final firm installed price will be \$90,000 which is budgeted in GL account #08-52-52-55-950.]

A motion was made by Councilman Yeager, seconded by Councilman Seiler to approve Resolution No. 13-110, which follows in its entirety:

#### RESOLUTION NO. 13-110

*WHEREAS*, The City of Alliance Water Department had on their capital improvements for the current fiscal year the Smart Grid Data Acquisition and Control System (SCADA) Upgrade; and

*WHEREAS*, The professional services contractor providing pricing for a replacement SCADA system was Hydro Optimization and Automation Solutions, Inc. (HOA Solutions) of Lincoln, Nebraska in the amount of \$90,000.00; and

*WHEREAS*, HOA Solutions is the only SCADA vendor in this area with repair service provided by a technician stationed in Scottsbluff, Nebraska; and

*WHEREAS*, The Alliance Water Department has budgeted \$90,000.00 for this project 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 Smart Grid Data Acquisition and Control System (SCADA) Upgrade with Hydro Optimization and Automation Solutions, Inc. (HOA Solutions) in the amount of \$90,000.00.

*BE IT FURTHER RESOLVED*, that the purchase will be funded from Water Account No. 08-52-52-55-950.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

November 7, 2013

- Finance Director Randy Waggener was in attendance and presented Council with the City's Fourth Quarter Financial Report.

A motion was made by Councilman Seiler, seconded by Council Lewis to accept the Fourth Quarter Financial Report as presented.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

- Board Vacancies was the next agenda item.

A motion was made by Councilman Seiler, seconded by Councilman Benzel to appoint Greg Carter to serve on the Police Advisory Board as the Business Representative, with a term expiring December 31, 2015.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

Councilman Seiler announced that the City of Alliance continues to have vacancies on the Community Garden Advisory Board and Economic Development Plan Citizens Advisory Board. Anyone interested in serving on these Boards should contact the City Clerk's Office. Information on all of the City Boards is also available on our web site, [www.cityofalliance.net](http://www.cityofalliance.net).

- The final item before Council, was the request for Council to set Wednesday, November 20, 2013 at 7:00 a.m., as the date and time to conduct a Joint Meeting with the Box Butte County Commission.

Roll call vote with the following results:

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

Voting Nay: None.

Motion carried.

November 7, 2013

- Mayor Feldges stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 9:52 p.m.”

(SEAL)

---

Fred Feldges, Mayor

---

Linda Jines, City Clerk