

January 6, 2015

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, JANUARY 6, 2015

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

The Alliance City Council met in a Regular Meeting, January 6, 2015 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 December 29, 2014. 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 Yeager opened the January 6, 2015 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Yeager, Council Members Feldges, Jones, Seiler, and Korber-Gonzalez. Also present were City Manager Cox, City Attorney Olsen and City Clerk Jines.

- Mayor Yeager read the Open Meetings Act Announcement.
- Council’s first item of business was proclaiming January 2015 as National Mentoring Month with the following proclamation:

PROCLAMATION

Whereas, The citizens of Alliance recognize that our success depends on helping every child succeed in school and reach their full potential in life, and realize that young people need a solid foundation of support that will help them become well-educated, confident, and productive citizens; and

Whereas, Mentoring is a proven, effective strategy that helps children and young adults by matching them with a caring, responsible adult who can provide guidance and direction, and build their confidence; and

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Whereas, Mentors build character, encourage success, boost confidence, lift expectation, and inspire young people to do their best, serving as friends, role models, teachers, and sources of stability and support during a critical time in a child's life; and

Whereas, Research shows that mentoring has beneficial and long-term effects on youth by increasing their academic engagement and decreasing the likelihood of substance abuse and other risky behaviors; and

Whereas, Mentoring strengthens our City's economies and social well-being by helping young people fulfill their potential while helping maintain healthy families and promoting more vibrant communities; and

Whereas, Every day residents of Alliance are making a profound difference in the lives of our young people by serving as mentors, supported by many private and public sector organizations that offer mentoring opportunities for youth; and

Whereas, Hundreds of Alliance's children are in need of a caring adult mentor in their lives, and closing the mentoring gap will take more investment, partnerships, and volunteers ready to make a difference in a child's life; and

Whereas, National Mentoring Month is an opportunity to raise public awareness of the importance of mentoring, recognize the dedicated individuals who serve mentors, and encourage more citizens to help build a brighter future for Alliance's youth through mentoring;

Now, Therefore, I, Ralph Yeager, Mayor of Alliance proclaim January 2015 as National Mentoring Month, and call upon the people of the Alliance to recognize the importance of mentoring, to look for opportunities to serve as mentors in their communities, and to observe this month with appropriate activities and programs.

Karen Todd, representing the Mentoring Program, was in attendance to accept the Proclamation.

- The Consent Calendar was the next item to be addressed by Council. Councilman Feldges made a motion, which was seconded by Councilman Jones to approve the Consent Calendar as follows:

CONSENT CALENDAR – JANUARY 6, 2015

1. Approval: Minutes of the Regular Meeting, December 16, 2014.
2. Approval: Payroll and Employer Taxes for the December 6, 2014 through December 19, 2014 inclusive: \$171,192.75 and \$12,126.08 respectively.
3. Approval: Claims against all funds of the City of Alliance for the period December 18, 2014 through December 31, 2014 in the amount of \$1,045,507.42.
4. Approval: The following contractor licenses:

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Tree Surgeon

Bob Malone dba Pests Go, LLC
 Howard E. Jensen dba J & C Lawn Service
 Glenn Patrone dba Patrone Landscaping & Tree Care
 Heather Hauptman dba All Seasons Landscaping

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.

Councilman Seiler stated there was an error in the December 16, 2014 minutes as he voted for Councilman Earl Jones for Vice Mayor, not himself and Mayor Ralph Yeager voted for Councilman Wally Seiler for Vice Mayor. He requested the minutes be corrected.

Roll call vote on the Consent Calendar with the December 16, 2014 minutes correction was as follows:

Voting Aye: Feldges, Seiler, Korber-Gonzalez, Jones, Yeager.

Voting Nay: None.

Motion carried.

- City Manager Cox gave his City Manager's Report which follows in outline form.
 1. Library leak discovered this week
 - Slow leak; caused by "glacier" on the roof
 - Freeze, thaw, freeze cycle that is causing a blockage of the normal drainage system
 - Was a previous problem – six buckets in ceiling that had filled up
 - Good news: no longer leaking; now is dry; know where problem is, and where the leak is
 - Looking for potential solutions
 2. 8" water main break – 2nd and Missouri; outage from 8 a.m. until approximately 1 p.m.; due to weather and ground shifting
 3. Audit completed today – preliminary looks to be a very positive report
 4. Planned work has begun on the Broadwater Substation; have switched load to accommodate; makes a larger portion of our system more vulnerable to an outage than normal if there is a fault; otherwise no other noticeable difference
 5. Cattle Capital Rodeo replacing roping chute at Rodeo Grounds – bigger, better, less maintenance
 6. Notified last week by NDEQ our Waste Reduction and Recycling Grant (\$61,140) was being closed out, marked "complete," and a check for \$50,089 being processed. A total 425.2 tons of scrap tires were collected.
 7. Schedule a Council Retreat – before LNM Conference

Upcoming Council:

- 1/20: Airport Water Study (with clarified scope)
- 1/20: Liquor License Application for Shopko

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Councilwoman Korber-Gonzalez noted that the dates listed in the Consent Calendar regarding payroll costs and claims were incorrect. The year needs to be 2014 rather than 2015.

- The next agenda item was the presentation from the Nebraska Department of Economic Development.

Dacia Kruse, Interim Director of the Nebraska Department of Economic Development was in attendance to announce the City's Recertification as a Certified Community on behalf of the Nebraska Diplomats. Ms. Kruse completed both the City of Alliance and Box Butte Development Corporation for their successful efforts in promoting Alliance to businesses and industries.

- Council next conducted a public hearing and reviewed Resolution No. 15-01 which will approve the Conditional Use Permit Application of Viaero Wireless to construct a monopole antenna on property owned by Charles and Fay Weston and Rodney Weston. Council was provided with the following information:

[The City of Alliance is in receipt of an application for a Conditional Use Permit from Rick Bailey on behalf of Viaero Wireless. The Conditional Use Permit application is to allow the construction of a 60' tall antenna on Lot 9, Block 2, Hammond Addition to the City of Alliance. This lot is situated south of 14th Street and west of Hammond Lane.

The lot is zoned M-2 Heavy Industrial and is currently used for storage of material and equipment from the now idled Weston Mobile Mix Company. Communication towers and antennas are not Permitted Uses in M-2 Zoning Districts but are allowed with the approval of a Conditional Use Permit by the Alliance City Council. The property is bordered to the north by M-2 (Heavy Industrial) Zoning, to the west by A (Agriculture), to the south by R-R (Rural Residential), and to the east by C-3 (Highway Commercial). The south 30' of the east property line is bordered by R-3 (Multi-family Residential) Zoning.

The lot to the north was the site of Weston Mobile Mix's concrete batch plant. The plant has been idled and partially dismantled since its purchase by Croell Redi-Mix. To the west of the lot is BNSF right-of-way and beyond that is dryland farming. The lot to the south is also dryland farming. The lot to the east is used for equipment storage for the Weston Mobile Mix property. The lot beyond that is multi-family housing. Staff believes that the land use would not be any more intense than the land uses allowed in M-2 (Heavy Industrial) Zoning.

The materials required by Sections 109-21 through 109-32 of the Alliance Municipal Code were present in the application from Viaero Wireless. The tower meets the property line setback provisions but does not meet the tower separation requirement from the KCOW radio antenna. The City of Alliance Municipal

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Code requires a separation distance of 1500' between self-supporting lattice and guyed towers to aid in eliminating electromagnetic interference between towers. Viaero Wireless is asking the City Council to waive the tower separation requirement as part of the Conditional Use Permit. The proposed tower is approximately 485' from the KCOW AM 1400 radio antenna. Viaero has provided documentation detailing why co-location on KCOW's antenna is not desirable by either party. An AM radio tower basically functions as the broadcasting antenna. In order for Viaero to do any work on their equipment on KCOW's tower, they would have to shut them down. Provided in the documentation provided by Viaero Wireless is written testimony that their proposed tower would not interfere with KCOW's broadcast operations.

The proposed tower is not in the current Approach Zone for Runway 12/30 of the Alliance Municipal Airport. Once the City expands the approach zone as required by State Statute, it will be approximately 220.276' below the approach zone for Runway 12/30, which is within the allowable limits. The City mailed Notification Petitions to the owners within a 300' radius of the property. As of December 10th the City had received four of the seven petitions back. Three of the petitions were in favor of the Conditional Use Permit and the fourth was disinterested. One of the petitions returned was from Eagle Communications, the owner of KCOW Radio. They stated they were in favor of the CUP should Viaero demonstrate the tower will not interfere with their radio operations.

The City of Alliance Planning Commission met December 9, 2014 and found the material as presented was satisfactory and that Viaero Wireless had shown the tower will not interfere with KCOW's broadcast. The Commission voted to recommend to the Alliance City Council waiver of the tower separation setbacks and approval of a Conditional Use Permit for Viaero Wireless allowing the construction of a 60' antenna on Lot 9, Block 2, Hammond Addition to the City of Alliance.]

Mayor Yeager 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 Conditional Use Permit Application of Viaero Wireless to construct a monopole antenna on property owned by Charles and Fay Weston and Rodney Weston and opened the public hearing at 7:18 p.m.

Rick Bailey, of Fort Morgan, CO and representing the Weston's and Viaero spoke in favor of the Conditional Use Permit for a "self supporting tower". Mr. Bailey stated the tower will allow for improved service for their customers within that area as the demand of use of data has increased with the use of smart phones. Councilman Korber-Gonzalez asked for assurance from Mr. Bailey that Viaero has done due diligence in ensuring the electro magnetic field created as a result of this new tower is under FCC guidelines. Mr. Bailey stated they had an engineering firm review the issue between their tower and the tower used by KCOW Radio which states there should be no problems. However, if problems should arise they will be addressed at Viaero's expense. Councilman Feldges inquired about future growth. Mr. Bailey responded there are no

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additional towers being contemplated at this time, but their goal is to be close to users requiring data.

Hearing no further testimony, the Public Hearing closed at 7:37 p.m.

A motion was made by Councilman Feldges, seconded by Councilman Jones to approve Resolution No. 15-01.

A motion was made by Councilman Feldges to accept a letter dated September 10, 2014 from Thomas W. Burnett of Viaero Wireless which accepts sole financial responsibility for any remediation as result of impacting the radiation pattern of KCOW within two years of completion of the tower into the public record. The motion was seconded by Councilman Jones.

Roll call to accept the letter into the record:

Voting Aye: Jones, Korber-Gonzalez, Yeager, Seiler, Feldges.

Voting Nay: None.

Motion carried.

RESOLUTION NO. 15-01

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

WHEREAS, Charles and Fay Weston and Rodney Weston on behalf of Viaero Wireless have requested a Conditional Use Permit for property located at Lot 9, Block 2, Hammond Addition, Alliance, Box Butte County, Nebraska; to allow the construction of monopole antenna; and

WHEREAS, The Community Development office has examined the request and finds that the request for a monopole antenna in a M-2 – Heavy Industrial District is appropriate for the granting of a conditional use; and

WHEREAS, The Community Development Director has recommended the granting of the Conditional Use Permit; and

WHEREAS, On the 9th day of December, 2014 the Planning Commission for the City of Alliance held a public hearing on behalf of the Conditional Use Permit of the Weston's for Viaero Wireless; and

WHEREAS, The Planning Commission voted to approve the Conditional Use Permit with the waiving of the setback requirements from the other communication antennas as the

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towers will not interfere with each other; and forward the Weston's request for the Conditional Use Permit to the City Council for their review and consideration.

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

NOW, THEREFORE, BE IT RESOLVED that the Conditional Use Permit of on behalf of Charles and Fay Weston and Rodney Weston for Viaero Wireless to allow for the construction of a monopole antenna at Lot 9, Block 2, Hammond Addition, Alliance, Box Butte County, Nebraska, with the waiving of the setback requirements from the other communication antennas as the towers will not interfere with each other; is hereby authorized and approved.

BE IT FURTHER RESOLVED, that the Conditional Use Permit shall be presumed inactive if the conditional use is not commenced within twelve months of January 6, 2016.

Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Korber-Gonzalez, Jones, Yeager.

Voting Nay: None.

Motion carried.

- Resolution No. 15-02 approving the Change Order No. 1 to the 105 Big Horn Avenue Building Demolition Contract with K.L. Wood and Company, LLC as well as the authorization to use up to \$40,000 of Council Contingency Funds for the project, was the next item for discussion. Council was provided with the following information.

[The City of Alliance awarded K.L. Wood & Co., LLC two demolition projects at the April 1, 2014 Council meeting. The first project was 123 Box Butte Avenue (the former Toad's Building) which was completed and billed to the landowner prior to the end of last fiscal year. The second project is at 105 Big Horn Avenue which is the former Parks Department Building.

K.L. Wood & Co. has demolished the former Parks building and while clearing the debris and starting the removal of the foundation came across a previously unknown cavern/space approximately 106' long, 12' wide and 10' deep. Fire Chief Troy Shoemaker was notified in early December and a site visit was conducted by Chief Shoemaker along with KL Wood representative Lyle Wood during which photographs were taken. Following the on-site visit, a meeting was held on December 4th with City Staff and K.L. Wood & Co. representatives to recap the project to-date and discuss the options available to complete the demolition.

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At the time of the project approval, landfill charges were predicted to be in an amount similar to the cost of the demolition itself. Actual costs of the 105 Big Horn project prior to discovery of the cavern are \$46,259.30 (paid from prior fiscal year) to K.L. Wood & Co. for demolition and landfill billings of \$49,142.29 (paid from the current year fiscal year budget of \$50,000).

K.L. Wood & Co. has prepared a change order to complete the project with two options for Council to consider. Option 1 is complete removal of the entire cavern for a cost of \$19,300. Option 2 is to remove the ceiling and walls down to 5' or 6' below grade with a cost savings of \$3,250 for a change order of \$16,050. Kenny Wood has estimated an additional 330 tons of debris for the landfill at an estimated cost of just over \$17,000.

Staff's recommendation is for Council to approve Option 1 in the amount of \$19,300 as this approach is more in keeping with the initial intent of the demolition specifications and the City's normal operating standard of total removal of the foundation. Additional landfill fees would be incurred by the City to complete the project. Budget authority for the demolition costs would be required from Council Contingency (01-10-10-47-791) with a transfer of up to \$40,000 included in the resolution.

As of this date, Council has not authorized the use of any Contingency Funds which total \$161,000. Within the \$161,000, \$36,000 was earmarked for a police cruiser replacement, should it become necessary, and \$25,000 for the development of an Emergency Operations Center, leaving \$100,000 for discretionary needs.]

A motion was made by Councilman Feldges, seconded by Councilman Seiler to approve Resolution No. 15-02, which follows in its entirety:

RESOLUTION NO. 15-02

WHEREAS, The City of Alliance awarded a Contract to K.L. Wood & Company, LLC for the demolition of a declared nuisance property located at 105 Big Horn Avenue; and

WHEREAS, K. L. Wood & Company, LLC was the lowest, responsive and responsible bidder in the amount of \$46,259.30; and

WHEREAS, Landfill fees for the demolition of the building were intentionally not included in the Invitation to Bid and are paid directly to the Refuse Disposal Fund by the City; and

WHEREAS, In the process of clearing the debris and starting the removal of the foundation on this property an existing cavern/space approximately 106' long, 12' wide and 10' deep was discovered; and

WHEREAS, The additional cost to correctly complete the removal of the foundation by K.L. Wood & Company, LLC will be \$19,300; and

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WHEREAS, Landfill expenses are anticipated to be in the \$20,000 range; and

WHEREAS, Funding for these additional expenses are being requested from the City Council Contingency Fund.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that Change Order No. 1 to the K.L. Wood & Company, LLC Contract in the amount of \$19,300 for the proper removal of the foundation at 105 Big Horn Avenue be approved.

BE IT FURTHER RESOLVED that the use of City Council's Contingency Funds (01-10-10-47-791) for Change Order No. 1 to the K.L. Wood & Company, LLC in the amount of \$19,300 be approved and the actual landfill expenses associated with the removal of the existing cavern/space approximately 106' long, 12' wide and 10' deep at the 105 Big Horn Avenue property is hereby authorized in an amount not to exceed \$40,000.

BE IT FURTHER RESOLVED that the actual landfill expenses associated with the demolition will be recorded and reported back to Council.

PASSED AND APPROVED this 6th day of January, 2015.

Councilman Feldges questioned why the additional removal costs would be the responsibility of the City and not the contractor. Fire Chief Shoemaker stated at the time the Bid Specifications were issued, he was not aware that drawings existing for this building. The Bids were issued for three buildings, with the highest priority being placed on a building not owned by the City, and if additional funds were available we sought quotes on the removal of two City owned facilities. Chief Shoemaker personally took each interested contractor to all sites for a visual inspection. It was later determined that drawings were available for the City owned facility and the contractors were made aware they were available for inspection. City Attorney Olsen suggested he be allowed to review the Bid Specifications prior to Council taking action on this matter.

Councilwoman Korber-Gonzalez made a motion to table the resolution until a future meeting so legal counsel can review the Bid Specification documents to determine responsibility for the additional expenses involved in removing the foundation.

Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Korber-Gonzalez, Yeager.

Voting Nay: Jones.

Motion carried.

- The next agenda item were board appointments and announcements.

A motion was made by Councilman Jones, seconded by Councilman Feldges to re-appoint Carol Bauer to the Golf Course Advisory Board with a term to expire December 31, 2017.

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Roll call vote with the following results:

Voting Aye: Feldges, Jones, Yeager, Seiler, Korber-Gonzalez.

Voting Nay: None.

Motion carried.

A motion was made by Councilman Jones, seconded by Councilman Feldges to re-appoint Marcia Buck to the Planning Commission with a term expiring December 31, 2017.

Roll call vote with the following results:

Voting Aye: Feldges, Jones, Yeager, Seiler, Korber-Gonzalez.

Voting Nay: None.

Motion carried.

A motion was made by Councilman Jones, seconded by Councilman Feldges to re-appoint Thomas Lucas as the Religious Representative on the Police Advisory Board with a term to expire December 31, 2017.

Roll call vote with the following results:

Voting Aye: Feldges, Jones, Yeager, Seiler, Korber-Gonzalez.

Voting Nay: None.

Motion carried.

Councilman Korber-Gonzalez requested that applicants provide more detail within their applications for Council's consideration.

Councilman Jones announced that the City of Alliance has the following current openings: two vacancies on the A-1 Downtown Improvement Board, one vacancy on the A-2 Downtown Improvement Committee, one vacancy on the Golf Course Advisory Board, two vacancies on the Planning Commission and a Hispanic Representative on the Police Advisory Board. There are also two youth ex-officio positions on the Library 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.

- The final item before Council was the performance evaluation of City Manager Cox.

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Mayor Yeager 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 the job performance evaluation of City Manager Cox; and that the Council finds the closed session is necessary to prevent needless injury to the reputation of City Manager Cox, and he has not requested a public hearing. The motion was seconded by Councilman Seiler.

Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Yeager, Jones, Korber-Gonzalez.

Voting Nay: None.

Motion carried.

Mayor Yeager announced with five votes in favor, the Council pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943, that the Alliance City Council will hold a closed session for the purpose of the job performance evaluation of City Manager Cox; and that the Council finds the closed session is necessary to prevent needless injury to the reputation of City Manager Cox, and he has not requested a public hearing. Mr. Cox was asked to remain for the closed session.

Following a brief five minute recess Council and City Manager Cox entered into closed session at 8:15 p.m. The session concluded at 10:16 p.m.

A motion was made by Councilman Seiler to approve a 2% wage increase and a \$1,500.00 bonus to J.D. Cox based on a positive performance evaluation. The motion was seconded by Councilman Feldges.

Roll call vote with the following results:

Voting Aye: Feldges, Seiler, Jones.

Voting Nay: Yeager, Korber-Gonzalez.

Motion carried.

- Mayor Yeager stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 10:18 p.m."

(SEAL)



Ralph Yeager, Mayor



Linda S. Jines, City Clerk

