

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 2, 2008

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

The Alliance City Council met in a Regular Meeting, July 2, 2008 at 5:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on June 25, 2008. 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 Kusek opened the July 2, 2008 Regular Meeting of the Alliance, Nebraska City Council at 5:00 p.m. Present were Mayor Kusek, Council Members Dickenson, and Benzel. Also present were City Manager Caskie, City Attorney Miller and City Clerk Jines.

- Mayor Kusek read the Open Meetings Act Announcement.
- Motion by Councilman Dickenson, seconded by Councilman Benzel to excuse Councilwoman Rowley and Councilman Yeager from the meeting.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The first item to come before Council was the Consent Calendar.

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

CONSENT CALENDAR - JULY 2, 2008

- 1. Approval: Minutes of the Regular Meeting, June 19, 2008.
- 2. Approval: Payroll and Employer Taxes for the period May 31, 2008 through June 13, 2008, inclusive; \$172,741.44 and \$12,386.62 respectively.
- 3. Approval: Claims against the following funds for June 16, 2008 through June 27, 2008; 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: \$805,792.92.
- 4. Approval: Fund transfer request for current and near future repairs to the Library/Learning Center Heating, Ventilation, and Air Conditioning (HVAC) system. Transfer \$9,000.00 from 01-012.80-463.100 Capital Outlay/Other Improvements to 01-012.62-439.310 NRCNTSVC Building Structure & Parkway.
- 5. Approval: The issuance of the following cemetery certificates:
 - The West One Half (W1/2) of Lot Twenty-eight (28), and the West One Half (W1/2) of Lot Twenty-nine (29), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery to Thomas W. Ziegler and Karen N. Ziegler.
 - The West One Half (W1/2) of Lot Eleven (11), Section Ten (10), Block Twenty (20), Third Addition to the Alliance Cemetery to Howard Leroy Romick and Norma Lee Romick.
 - Acceptance of a Quitclaim Deed from Dixie L. Howell, sole surviving heir of Arthur D. Sims for the North One Half of the Northeast Quarter (N1/2NE1/4) of Lot Twelve (12), Section Seven (7), Block Ten (10), First Addition to the Alliance Cemetery and reconvey same to Dixie L. Howell.
- 6. Approval: The issuance of the following contractor license:
 - Sign. Don Boeka dba Love Signs

NOTE: City Manager Caskie has reviewed these expenditures and to the best of her knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Mayor Kusek asked for an explanation of the Fund Transfer Request for current and near future repairs to the Alliance Library/Learning Center heating, ventilation, and air conditioning system. City Manager Caskie explained that additional funds were requested because of repairs that need to be made to the HVAC System, a water fountain that broke and caused a flood in the

basement, concrete work on the southeast corner of the building, and no smoking signs. Mayor Kusek asked about a charge for lake management supplies. City Manager Caskie advised Council that it is for the algae treatment. Councilman Benzel asked what is being done for mosquito control. City Manager Caskie replied that larvaecide donuts are used in standing water. She advised Council that the City does not own sprayers.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- Resolution No. 08-65 approving a Police Department policy for the use of tasers was the next item to be presented to Council.

Motion by Councilman Benzel, seconded by Councilman Dickenson to approve Resolution No. 08-65 which follows in its entirety:

RESOLUTION NO. 08-65

WHEREAS, The Alliance Police Department desires to implement a policy for the deployment of an Electronic Control Device (ECD); and

WHEREAS, The proposed policy has been prepared and reviewed by police and legal staff; and

WHEREAS, The proposed Policy provides for the establishment of a new Policy 20.2 Use of Force – Electronic Control Device; and

WHEREAS, City Council has reviewed the proposed Policy and finds it appropriate for the needs of law enforcement.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Police Department Policy as set forth herein, is hereby approved, and adopted effective July 7, 2008 as the Policy of the City of Alliance.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was Resolution No. 08-66 approving the contract with M.C. Schaff & Associates to provide professional services for the engineering and construction oversight on the Tenth Street Project.

Motion by Mayor Kusek, seconded by Councilman Dickenson to approve Resolution No. 08-66 which follows in its entirety:

RESOLUTION NO. 08-66

WHEREAS, The City has determined that 10th Street is in need of major repair; and

WHEREAS, The repair of 10th Street is eligible for State and Federal funding through the Nebraska Department of Roads Surface Transportation Program. This funding is split with 80% State and Federal funds with a 20% local match. Both construction and engineering costs are eligible costs; and

WHEREAS, The City of Alliance accepted the bid of Infinity Construction, Inc., a Nebraska Corporation, for improvements to 10th Street from Sheridan Avenue to Box Butte Avenue; and

WHEREAS, M.C. Schaff & Associates, Inc., has provided an Engineering Agreement to provide engineering services for the project including project management, advance staking, conducting the preconstruction conference, staking and inspection during the project construction, preparation of as built plans, progress computations, final computations and preparing contractor change orders; and

WHEREAS, The City of Alliance desires to retain the professional services of M.C. Schaff & Associates, Inc., to provide engineering services during the construction of the 10th Street improvement as set forth in the Engineering Agreement for Project No. STPAA-6254 (6).

WHEREAS, The City of Alliance believes it is in the best interest for the City of Alliance to enter into the contract with M.C. Schaff & Associates, Inc., for the engineering services in an amount not to exceed \$112,407.67.

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 M.C. Schaff & Associates, Inc., and the City of Alliance to provide for professional services for engineering and construction oversight for the 10th Street improvements as set forth in the Engineering Agreement in an amount not to exceed \$112,407.67.

BE IT FURTHER RESOLVED, That this Resolution is approved, contingent upon final approval by the Nebraska Department of Roads and the Federal Highway Administration Project STPAA-6254(6), State Control Number 51322.

BE IT FURTHER RESOLVED, That after all approvals from the Nebraska Department of Roads and the Federal Highway Administration have been obtained, City staff shall notify M.C.

Schaff & Associates, Inc., so that work can proceed according to the Engineering Agreement.

M.C. Schaff representative Don Dye advised Council that the Nebraska Department of Roads approved the contract with Infinity Construction and the construction will begin at Sheridan Avenue on approximately August 4, 2008.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The next item for Council's discussion was Resolution No. 08-67 authorizing the solicitation of bids for the Fourth Quarter Capital Purchases of equipment and services.

Motion by Councilman Dickenson, seconded by Councilman Benzel to approve Resolution No. 08-67 which follows in its entirety:

RESOLUTION NO. 08-67

WHEREAS, The City of Alliance annually adopts a Capital Improvements Plan to aid in budgeting and organizing purchasing; and

WHEREAS, The City staff has submitted for City Council review a proposed schedule of capital improvement purchases to be initiated, and in some cases completed, in the fourth quarter of the 2007-2008 fiscal year; and

WHEREAS, The City Manager has reviewed and approved the proposed schedule of capital purchases for the fourth quarter of the 2007-2008 fiscal year.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the schedule of capital purchases for the fourth quarter of the 2007-2008 fiscal year, totaling Five Hundred Forty Eight Thousand One Hundred and No/100ths Dollars (\$548,100.00) is hereby approved.

BE IT FURTHER RESOLVED, That City staff is authorized to proceed with the purchases noted on the schedule.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was Resolution No. 08-68. This resolution will award the Lakefield Addition Crack Repair and Seal Coat Project to Simon Contractors of Scottsbluff, NE for the mill, overlay and asphalt repair; Topkote, Inc. of Yankton, SD for the seal coating process; and M.C. Schaff and Associates of Scottsbluff, NE for engineering and inspection services. This resolution also authorizes the use of \$91,500.00 from the Street Contingency Fund for the project.

Motion by Councilman Benzel, seconded by Councilman Dickenson to approve Resolution No. 08-68 which follows in its entirety:

RESOLUTION NO. 08-68

WHEREAS, The City has determined that streets in the Lakefield Addition need to have cracks repaired and to be stone chip seal coated to protect the integrity of the street; and

WHEREAS, There is only one entity in our region that performs the type of crack repair that M.C. Schaff and Associates, the engineering firm for the City has determined is appropriate for the cracks in the streets in Lakefield Addition; and

WHEREAS, The City of Alliance desires to accept the bid of Simon Contractors, Inc., of Scottsbluff, Nebraska; and

WHEREAS, The City of Alliance has engaged in a competitive bidding procedure to obtain bids for stone chip seal coating certain streets in the Lakefield Addition; and

WHEREAS, The bid of Topkote Inc., of Yankton, South Dakota, in the amount of Thirty Six Thousand Eight Hundred Ninety-four and No/100ths Dollars, (\$36,894.93) is the lowest, responsive, and responsible bid.

WHEREAS, The City of Alliance requires engineering services to prepare the scope of the work, the specifications of the materials to be used and to inspect the services rendered; and

WHEREAS, M.C. Schaff and Associates is willing to provide the necessary services; is familiar with the work that is required to be completed to repair the streets and has a working relationship with the City of Alliance.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the City of Alliance shall enter into a contract for the street repair with Simon Contractors, Inc., of Scottsbluff, Nebraska under the quote obtained by M.C. Schaff and Associates, because M.C. Schaff and Associates, has advised that they are the only company in the region that performs the crack repair as approved by M.C. Schaff and Associates.

BE IT FURTHER RESOLVED, that the contract for stone chip seal coating the streets in the Lakefield Addition as specifically set forth in the bidding documents, is hereby awarded to Topkote

Inc., of Yankton, South Dakota in the amount of Two and 19/100 Dollars (\$2.19) per square yard for the approximate amount of Thirty Four Thousand Eight Hundred Fifty-four and 34/100ths Dollars, (\$34,854.34).

BE IT FURTHER RESOLVED, That staff is authorized to enter into a construction contract with Simon Contactors, Inc., to repair the cracks in the street said contract in the amount of \$17.50 per linear foot and in the approximate amount of Forty Three Thousand Three Hundred Twenty One and 50/100 Dollars (\$43,321.50.)

BE IT FURTHER RESOLVED, That staff is authorized to enter into an engineering contract with M.C. Schaff and Associates to prepare the scope of the work; determine the specifications of the materials to be used and to inspect the services rendered in the amount of \$0.18 per square yard for the seal coat and \$2.50 per linear foot for crack repair, said contract in the approximate amount of Eight Thousand Nine Hundred Seventy Five and 85/100ths Dollars (\$8,975.85.)

BE IT FURTHER RESOLVED, The Public Facilities Director is authorized to make field change orders not to exceed five percent (5%) of the total contract amount without further Council approval.

BE IT FURTHER RESOLVED, That a total amount of Ninety One Thousand Five Hundred and No/100ths Dollars (\$91,500.00) shall be transferred from Streets Contingency to a General Ledger account created specifically for Lakefield Addition asphalt repairs.

BE IT FURTHER RESOLVED, Staff shall contact the successful bidders so that contractual arrangements can be finalized, and work can commence according to the terms of the bid.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- Resolution No. 08-69 authorizing the request of \$14,112.00 in State Aid Funds to assist in funding the Alliance Municipal Airport Runway Rejuvenation Project was the next matter before Council.

Motion by Mayor Kusek, seconded by Councilman Benzel to approve Resolution No. 08-69 which follows in its entirety:

RESOLUTION NO. 08-69

WHEREAS, The City of Alliance, as operator of the municipal airport, needs to rejuvenate certain runways at the Alliance Municipal Airport; and

WHEREAS, The Nebraska Department of Aeronautics has a State Aid Project Application which if successful the applicant can qualify for State, and Federal funding in certain airport improvements which include the rejuvenation of the runway, including repairing cracks and joints, seal coating runways and installing new pavement markings; and

WHEREAS, The Staff is requesting Council to authorize staff to complete and submit the Nebraska Department of Aeronautics, Request for a State Aid Project Application Form for 2008/2009 Projects.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that staff is authorized and directed to complete and submit the Nebraska Department of Aeronautics, Request for a State Aid Project Application Form for 2008/2009 Projects.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The next item for Council's discussion was Resolution No. 08-70 which will allow for the continuation of a Conditional Use Permit for the retail sales of vehicles at 1319 West Kansas Street by Saul and Alicia Garza.

Motion by Councilman Dickenson, seconded by Councilman Benzel to postpone action on Resolution No. 08-70 until July 17, 2008 Council meeting.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- Resolution No. 08-71 approving Change Order No. 1 in the amount of \$8,800.00 for the Belmont Water Main Replacement was the next item to be brought before Council.

Motion by Councilman Benzel, seconded by Councilman Dickenson to approve Resolution No. 08-71 which follows in its entirety:

RESOLUTION NO. 08-71

WHEREAS, The City of Alliance operates a municipal water system for the City of Alliance;
and

WHEREAS, On the 3rd day of January, 2008 the Mayor and City Council approved Resolution 08-02 to award the contract for Water Main Replacement to Paul Reed Construction; and

WHEREAS, During the construction of this project there were change orders that were observed that need to be made including, four temporary water shut off devices, payment for damaged Curb Stops and pay to remove an existing Fire Hydrant Tee at Mississippi and Belmont Street; and

WHEREAS, The Water Superintendent has requested that he be authorized to execute change orders during construction in an amount not to exceed five percent of the original bid.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the Water Superintendent is authorized to make field change orders not to exceed five percent (5%) of the total contract amount without further Council approval.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- The next item for Council's discussion was Resolution No. 08-73 authorizing staff to research the possibility of demolishing Warehouse No. 3 and terminating the City's land lease with BNSF.

Motion by Councilman Dickenson, seconded by Councilman Benzel to approve Resolution No. 08-73 which follows in its entirety:

RESOLUTION NO. 08-73

WHEREAS, The City of Alliance entered into a Lease Agreement with the Chicago Burlington & Quincy Railroad, an Illinois corporation, in February, 1966; and

WHEREAS, The Lease has been continued and is now with Burlington Northern Santa Fe Railroad; and

WHEREAS, The City has determined that the warehouse that is built on the property of Burlington Northern Santa Fe Railroad is no longer necessary for the use of the City; and

WHEREAS, The contract provides that upon termination of the lease that the City of Alliance shall surrender the property to the railroad company and may remove from the premises all structures and property not belonging to the railroad company and restore the premises to substantially their former state and if the City does not remove the property within 30 days after

termination, the property shall become the property of the railroad company and the railroad company may tear down or remove the same and restore the premises at the expense of the Lessee without liability therefor; and

WHEREAS, The City believes it is in its best interests to terminate the Lease in accordance with the terms of the lease after removing the warehouse at it's expense, rather than having the railroad company remove the property at the City's expense; and

WHEREAS, Staff anticipates the cost of demolition will probably be paid from the electric contingency budget; and

WHEREAS, Staff desires to obtain estimates for the removal of the property and restoration of the premises as well as examine any other alternatives for the removal of the property and restoration of the premises.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the Staff shall investigate options for the removal of the personal property and restoration of the premises, including the demolition of the warehouse.

BE IT FURTHER RESOLVED, That staff shall provide Council with information on options for the removal of the personal property and the restoration of the premises for Council's consideration.

BE IT FURTHER RESOLVED, That once the personal property has been removed and the premises have been restored that Staff is authorized to give notice of termination of the Lease as provided under the terms of the Lease Agreement to the Burlington Northern Santa Fe Railroad.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- Mayor Kusek adjourned the meeting at 6:07 p.m. for a brief recess and reconvened at 7:00 p.m.
- The last item on Council's agenda was a Public Hearing on the proposed Redevelopment Plan for Lots 15, 16, 17, and 18, Block 10, Original Town to the City of Alliance. Mayor Kusek declared, "Now is the date, time, and place to conduct a Public Hearing on the proposed Redevelopment Plan for Lots 15, 16, 17, and 18, Block 10, Original Town to the City of Alliance. Mayor Kusek opened the Public Hearing at 7:01 p.m. Rick Houck, Community Development Director presented the Redevelopment Plan to Council. Rich Otto, 1203 Box Butte addressed Council representing JLC, LLC as the authorized building owner/tenant and possible lessee for

Edward Jones Investments. Mr. Otto explained that the garage will be located on the property to screen the view. Rachel Gonzalez, 735 Homestead addressed Council indicating that she believes this is a fantastic project that will bring new business to the downtown and will soften the view of the Box Butte County Courthouse as well as the northern portion of the business district. The Public Hearing was closed at 7:14 p.m.

Motion by Mayor Kusek, seconded by Councilman Dickenson to approve Resolution No. 08-74 which follows in its entirety:

RESOLUTION NO. 08-74

WHEREAS, The City Council of Alliance, Nebraska has created the City of Alliance Community Development Agency pursuant to the terms of the Nebraska Community Development Law; and

WHEREAS, The Community Development Agency has recommended to the City Council a Redevelopment Plan for approval pursuant to the Community Development Law, which provides for funding pursuant to Neb. Rev. Stat. §18-2147, entitled Redevelopment Plan for Otto Office Building located on Lots 15, 16, 17, and 18, Block 10, Original Town, Alliance, Box Butte County, Nebraska; and

WHEREAS, The City Council has found Lots 15, 16, 17, and 18, Block 10, Original Town, Alliance, Box Butte County, Nebraska to be substandard and blighted according to the terms of the Community Development Law, §18-2103(10)(11) and hereby ratifies said action taken previously; and

WHEREAS, The Planning Commission of Alliance, Nebraska has reviewed the proposed Redevelopment Plan and has found that the Redevelopment Plan is in conformity with the general plan for development of the City as a whole, and has submitted such recommendation in writing; and

WHEREAS, The City Council has held a public hearing as provided by Neb. Rev. Stat. §18-2115, and has given the notices required by said Statute concerning the Redevelopment Plan; and

WHEREAS The City Council for Alliance finds that the Redevelopment Plan is feasible and in conformity with the general plan for the development of the City as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law; and

WHEREAS, City Council finds that the redevelopment project in the plan would not be economically feasible without the use of tax increment financing; and

WHEREAS, City Council finds that the redevelopment project would not occur in the community redevelopment area without the use of tax increment financing; and

WHEREAS, The costs and benefits of the redevelopment project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, have been analyzed by the governing body and have been found to be in the long term best interest of the community impacted by the redevelopment project.

NOW, THEREFORE, BE IT RESOLVED, By the Mayor and City Council of Alliance, Nebraska, that the Redevelopment Plan Otto Office Building located on Lots 15, 16, 17, and 18, Block 10, Original Town, Alliance, Box Butte County, Nebraska pursuant to the Community Development Law for the State of Nebraska is hereby approved.

Roll call vote with the following results:

Voting Aye: Kusek, Benzel, Dickenson.

Voting Nay: None.

Motion carried.

- By consensus, the City Council meeting on July 17, 2008 will begin at 6:00 p.m.
- Mayor Kusek stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 7:18 p.m.”

Dan Kusek, Mayor

(SEAL)

Linda S. Jines, City Clerk