

July 16, 2019

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, JULY 16, 2019

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

The Alliance City Council met in a Regular Meeting, July 16, 2019, at 7:00 p.m. in the Board of Education Meeting Room, 1604 Sweetwater Avenue, Alliance, Nebraska. A notice of meeting was published in the Alliance Times Herald on July 10, 2019. 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 Dafney opened the July 16, 2019 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Dafney, Council Members Mischnick, Jones, Reynolds and Bentley. Also present were City Manager Sprock, Finance Director Waggener, City Attorney Hoelsing and City Clerk Jines.

- Mayor Dafney read the Open Meetings Act Announcement.
- The Consent Calendar was the first matter before Council. A motion was made by Councilman Bentley, seconded by Councilman Mischnick to approve the Consent Calendar as follows:

CONSENT CALENDAR – JULY 16, 2019

1. Approval: Minutes of the Regular Meeting, July 2, 2019.
2. Approval: Payroll Costs for the period June 15 – 28, 2019: \$354,048.19.
3. Approval: Claims against the following funds for the period of June 26 through July 10, 2019: 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; \$366,007.69.

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4. Approval: Update to the Alliance Volunteer Fire Department by adding Bailey Gorsuch, and removing Thomas Barrios and Zachary Magnuson.
5. Acknowledgement: Receipt of the Official Advance Notice of Termination of the Electrical Resources Pooling Agreement from NMPP Energy.
6. For Your Information: Charter Communications is making the following channel lineup change:

Channel	Change	Channel Number	Effective
EVINE Rebrand to Shop HQ	EVINE will change its name from EVINE to Shop HQ, which was its previous name	139, 776	8/21/19
UNIVISION DEPORTES Rebrands to TUDN	Latino Vw, Dig Tier 1, SPP Tier 1, SPP Latino View, SBPP Variety Tier, Spectrum Fiber Connect Plus Sports, Spectrum Fiber Connect Plus Latino, Spectrum SBB Sports, Spectrum SBB Latino, Spectrum SpecU Sports, Spectrum SpecU Latino (SD & HD)	246, 878	Immediately
Telemundo	Telemundo Launches (NBCU): All systems in the top 50 Hispanic DMAs currently carrying Telemundo on SPP Latino View are contractually required to add it on SPP Select	265	7/31/19

NOTE: City Manager Sprock 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.

Any item listed on the Consent Calendar may, by the request of any single Council Member, be considered as a separate item in the Regular Agenda.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

- Council next conducted a Public Hearing on the Berean Second Addition Final Plat. Due to a legal description error it was being reconsidered and Council was asked to waive the three reading requirement of the ordinance in order to complete the correction process. The following information was provided for Council:

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[This is an amended plat of the previously approved Berean Second Addition to the City of Alliance. The original plat had a descriptive error in the legal description and it must be fixed for the plat to be filed at the Box Butte County Courthouse. The layout of the lot, alley and streets did not change.

The Final Plat dedicated a 2.52 acre tract of land, a 130 foot extension of Colorado Avenue and a 130 foot extension of the west half of Emerson Avenue. The property on the plat is located south of West 20th Street and west of Emerson Avenue.

The land is currently zoned R-1a, Single Family Residential. It is bordered to the north, east and south by R-1a and to the west by Agriculture. The zoning is correct for the proposed use and is not required to change.]

Mayor Dafney 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 reconsideration of the Berean Second Addition Final Plat” and opened the Public Hearing at 7:03 p.m.

No testimony was offered, the Public Hearing closed at 7:04 p.m.

A motion was made by Mayor Dafney, seconded by Councilman Reynolds to approve the first reading of Ordinance No. 2891. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2891

AN ORDINANCE APPROVING THE FINAL PLAT OF BEREAN SECOND ADDITION TO THE CITY OF ALLIANCE, BOX BUTTE COUNTY, NEBRASKA LOCATED IN THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6TH P.M.

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 Final Plat of Berean Second Addition to the City of Alliance, Box Butte County, Nebraska located in the Northeast Quarter of Section 26, Township 25 North, Range 48 West of the 6th P.M. to the City of Alliance, Nebraska from the Alliance Berean Church.

SECTION 2. The Planning Commission held a public hearing March 26, 2019, and has recommended the approval of the Final Plat of Berean Second Addition to the City of Alliance, Box Butte County, Nebraska located in the Northeast Quarter of Section 26, Township 25 North, Range 48 West of the 6th P.M.

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SECTION 3. The Final Plat of Berean Second Addition to the City of Alliance, Box Butte County, Nebraska located in the Northeast Quarter of Section 26, Township 25 North, Range 48 West of the 6th P.M is 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 4. 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 Jones, seconded by Councilman Reynolds, to suspend the statutory rule requiring three separate readings of Ordinance No. 2891.

Roll call vote to suspend three readings of the ordinance with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2891 on final reading with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

Mayor Dafney stated the passage and adoption of Ordinance No. 2891 having been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.

- The next matter for Council was Resolution No. 19-62 which authorizes the Municipality Financial Agreement with the Nebraska Department of Transportation for improvements to a portion of State Highway N-2 within the Corporate Limits. The following information was provided for Council:

[The Nebraska Department of Transportation has submitted to the City a Municipality Financial Agreement for the improvements to a portion of State Highway N-2. The project includes the resurfacing of 3rd Street starting at Cody Avenue and proceeding east to the overpass (approximately between Pine and Elkhorn Avenues if extended). The project does not include the brick paved areas between Cheyenne Avenue and a half block east of Box Butte Avenue. The NDOT has agreed to repair the underpass portion of 3rd Street as part of this project/contract. Participation by the City of Alliance is required for the portion

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of the improvement based on the Four Lane Option. The City Council was provided two options for this project, a three lane and a four lane. At the July 17, 2018 meeting, Council selected the Four Lane Option which has an estimated cost of the City's responsibility of the project at \$1,276,653.71.]

A motion was made by Councilman Jones, seconded by Councilman Mischnick to approve Resolution No. 19-62 which follows in its entirety:

RESOLUTION NO. 19-62

BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the City shall enter into a Municipality Financial Agreement with the Nebraska Department of Transportation for State Project No. NH-2-1(123), Control No. 51399 Cody Avenue East Alliance for the purpose of highway improvements on Highway No. 2 within the corporate limits of the City of Alliance.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed to execute said agreement on behalf of the City of Alliance and the City Clerk is authorized to attest said execution.

BE IT FURTHER RESOLVED this resolution will be marked Exhibit "C" and a copy attached to each Original Agreement.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

- Resolution No. 19-63 which will authorize Bytes Computer and Network Solutions, Inc. of Scottsbluff, NE to purchase and install equipment for our network system was the next item on the agenda for Council. The following information was provided for Council:

[The ongoing budgeted maintenance of the City's network system includes replacement of two network host servers (approaching seven years old) and ten storage units within the current fiscal year. Bytes Computer and Network Solutions, Inc. of Scottsbluff, NE submitted a bid for hardware in the amount of \$19,714.74 which is under the bid price submitted by CDW-G based on the SourceWell pricing (formerly NJPA).

Project labor for the replacement of the new servers and installation of the ten additional storage drives along with the migration of software is quoted by Bytes at \$17,900.00 under their existing management contract. This will include the upgrade of firmware and software for VRTX; final migration of VMware to VRTX;

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upgrading of VMWare Cluster and ISView to current versions as well as the decommissioning and clean-up of retired hardware.

The total for the project of \$37,614.74 is under the budgeted amount of \$39,000.00 which is included in the Computer System GL account #51-17-17-59-942.]

A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve Resolution No. 19-63 which follows in its entirety:

RESOLUTION NO. 19-63

WHEREAS, The City of Alliance has budgeted for ongoing maintenance of the City's network system, and

WHEREAS, The City of Alliance will be replacing two network host servers and ten storage units; and

WHEREAS, The City received a quote from Bytes Computer and Network Solutions, Inc. of Scottsbluff, NE in the amount of \$19,714.74 for the required hardware, which is below the government contract price; and

WHEREAS, Bytes Computer and Network Solutions, Inc. has quoted a price of \$17,900 for the replacement of the servers, installation of the additional storage drives, migration of software and various upgrades; and

WHEREAS, The City Council believes it is in the best interest of the citizens of Alliance to move forward with this project totaling \$37,614.74, of which adequate budgeted funds are available within Computer System GL Account 51-17-17-59-942.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, to approve the purchase and installation of two network host servers, ten storage units and the associated upgrades from Bytes Computer and Network Solutions, Inc. of Scottsbluff, NE in the amount of \$37,614.74.

BE IT FURTHER RESOLVED, The City Manager and his staff are authorized to complete the purchase of the above-referenced equipment as provided.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

- Council next considered Resolution No. 19-64 which will award the Property & Casualty insurance bid to Gregory's Insurance, Inc. Council was provided the following information:

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[The City of Alliance has contracted with Gregory's Insurance, Inc. since 2011 to provide property and casualty insurance coverage with Traveler's Insurance for the primary insurance package and with Phoenix Aviation through Old Republic Insurance Company for the airport general liability policy. Last year Gregory's Insurance bid our package through the five companies that provide Public Sector business in Nebraska, with Traveler's being the successful bidder reflecting an 18% decrease in our premiums.

Our broker Gregory's Insurance and staff are again pleased to recommend that the City remain with our current carrier, Traveler's Insurance. The premium quote for the fiscal year beginning August 1, 2019 reflects an 8% increase at \$590,458. Our current year premium is \$542,147.

The three areas reflecting the majority of the increase are (1) property, (2) auto and (3) workers compensation. Our property premium increase is partly a result of our major claims regarding the Airport warehouses, one of which was destroyed by wind and the second by fire. Workers Compensation is based on actual payroll and includes the increased payroll. Our Workers Compensation Experience Modification Factor raised slightly from our all-time low to .91 for the upcoming year. Even though it raised slightly, we believe this low rating is partly a result of our renewed training efforts to promote safety. The auto premium increase reflects additions to our fleet and a national trend adjustment.

The City was offered an optional quote for our property coverage which could save \$10,119 in premium but would increase our deductible for wind/hail damage from \$25,000 to \$50,000 per claim. Staff is recommending this option be declined.

Staff appreciates the individualized supplemental services the City receives from both Gregory's Insurance and Traveler's. We are very pleased with the handling, resources provided and outcomes of several difficult and high dollar claims we have had to deal with over the last couple of years.]

A motion was made by Councilman Reynolds, seconded by Councilman Bentley to approve Resolution No. 19-64 which follows in its entirety:

RESOLUTION NO. 19-64

WHEREAS, The City of Alliance recognizes the importance of purchasing insurance to protect against significant loss which affect the budget and would impact the operation of the City of Alliance; and

WHEREAS, The City desires to provide the best protection at the lowest cost to give the taxpayers the most insurance for their taxpayer dollar; and

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WHEREAS, The City of Alliance entered into a contract with Gregory's Insurance, Inc. to provide Property and Casualty insurance coverages with Traveler's Insurance as the package provider and Phoenix Aviation, who provides the Airport General Liability policy; and

WHEREAS, The City's coverages and premiums have been reviewed by our broker Gregory's Insurance, Inc. and they have made a recommendation for the renewal of policies to be effective August 1, 2019 with Traveler's Insurance.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council of the City of Alliance that the Mayor is authorized to sign a contract for insurance with Gregory's Insurance, Inc. in the amount of Five Hundred Ninety Thousand Four Hundred Fifty-eight dollars and no/100ths (\$590,458.00).

Jon Daniels, representing Gregory's Insurance, Inc. was in attendance to answer any questions of Council. Mr. Daniels thanked the Council for their trust and business.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

- The next item for Council was Resolution No. 19-65 which authorizes an amendment to our Landis+Gyr Technology, Inc. contract for the purchase and support for our automatic metering system for the Electric Department. The following information was provided for Council:

[In May of 2018, the City entered into several agreements with Landis + Gyr for the purchase of meters, related software, and training on the electrical meter upgrade project currently in process for the City. The separate agreements were as follows:

1. Master Purchase, License, and Services Agreement (the "Master Agreement").
2. Software as a Service Agreement (the "SaaS" Agreement").
3. Software Support and Maintenance Agreement (the "Support Agreement")

The May 2018 agreements were a result of several months of negotiations between the parties and their counsel regarding specifics and language of the agreements. The Master Agreement was negotiated first, and the final draft of that Master Agreement was completed in February of 2018. The Master Agreement included an Exhibit A, part of which stated as follows:

"23. Landis + Gyr's pricing does include a 5.5% Nebraska sales tax; where there are additional local taxes applicable, these fees will be added to our invoices."

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In essence, Landis + Gyr agreed that their pricing built-in and included the 5.5% Nebraska state sales tax, and the City did not need to pay the 5.5% state sales tax as a separate line item on any invoices. This was in accordance with Landis + Gyr's bid, which of course took sales tax into account when pricing the bid for the City.

Following the final draft of the Master Agreement, the parties' counsel turned to the SaaS Agreement and began negotiations and review. During negotiation of the SaaS Agreement, it came to the attention of Landis + Gyr that sales tax (both state 5.5% tax and local 1.5% tax) for all services under the SaaS Agreement needed to be included separately under the SaaS Agreement and paid by the City as an additional line-item for the SaaS Agreement services. In essence, the City was obligated to pay sales tax on the SaaS Agreement, and Landis + Gyr added a provision to that effect. The City had no issue with this approach, as the SaaS Agreement services were represented in this manner to the City during Landis + Gyr's bid. Thus, the City accepted this provision to the SaaS Agreement in late April of 2018.

The City therefore accepted the changes to the SaaS Agreement and requested final copies of the Master Agreement, SaaS Agreement, and Service Agreement for signature and approval. When final copies of the agreements were provided, however, Landis + Gyr unilaterally removed the above-referenced language in the Master Agreement Exhibit A, stating that the language was removed "to be consistent with the SaaS Exhibit as agreed upon." That change, though, unartfully edited the Master Agreement Exhibit A by charging the City with all state 5.5% sales tax. The intent of Landis + Gyr was merely to modify the Master Agreement Exhibit A to address state sales tax on the SaaS Agreement.

In February of 2019, following the first few deliveries of meters and during installation, it came to the Electric Department's attention that paid invoices were higher than the contracted amounts. Upon review, it was determined that the City had been invoiced for and paid the 5.5% state sales tax on deliveries under the Master Agreement, in the amount of \$35,264.08, contrary to the final negotiated draft of the Master Agreement and the awarded bid.

City counsel therefore contacted Landis + Gyr to explain the issue and request that the last-minute change to the Master Agreement Exhibit A be corrected and the City credited with the \$35,264.08 that was excessively paid.

Landis + Gyr reviewed the issue and after several discussions agreed with the City to amend the agreements and credit the City for the \$35,264.08 that was excessively paid. To do so, Landis + Gyr suggested modifications to the unit prices as follows in order to compensate for the 5.5% sales tax difference:

Original Contract Price:

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Item	Quantity	Unit Price	Extended Price
Electric Meters with Communication Modules			
Gridstream RF FOCUS AXe-SD (Form 2S) 100% Deployment	5,295	\$162.47	\$860,278.65
Gridstream RF FOCUS AXe (Forms 1S/2SE/3S/4S)	50	\$140.85	\$7,042.50
Gridstream RF FOCUS AX Polyphase (Forms 8S/9S, 16S, 36S, 45S)	614	\$207.31	\$127,288.34
Network Equipment			
RF C6000 Series Collector with Cellular Modem	3	\$6,500.00	\$19,500.00
RF C6000 Series Collector Mounting Kit, Street Light Arm with 18-Foot Cable	3	\$980.00	\$2,940.00
RF Router and Kit with 20-Foot Cable	6	\$1,790.00	\$10,740.00
RF Tools			
Tech Studio Software License (per user)	3	\$1,100.00	\$3,300.00
Tech Studio Annual Maintenance (per License)	Please reference the Software Support and Maintenance Agreement		
Field Tool Kit	1	\$1,600.00	\$1,600.00
Services and Training			
Level 3 Preferred Project Delivery Services	1 Lot	\$65,263.00	\$65,263.00
Bond			
Performance Bond	1 Lot	\$11,500.00	\$11,500.00
Total			\$1,109,452.49

Amended Contract Price

Item	Quantity	Unit Price	Extended Price
Electric Meters with Communication Modules			
Gridstream RF FOCUS AXe-SD (Form 2S) 100% Deployment	5,295	\$154.00	\$815,430.00
Gridstream RF FOCUS AXe (Forms 1S/2SE/3S/4S)	50	\$133.50	\$6,675.00
Gridstream RF FOCUS AX Polyphase (Forms 8S/9S, 16S, 36S, 45S)	614	\$196.00	\$120,344.00

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Network Equipment			
RF C6000 Series Collector with Cellular Modem	2	\$6,500.00	\$13,000.00
RF C6000 Series Collector Mounting Kit, Street Light Arm with 18-Foot Cable	2	\$980.00	\$1,960.00
RF Router and Kit with 20-Foot Cable	18	\$1,790.00	\$32,220.00
RF Tools			
Tech Studio Software License (per user)	3	\$1,100.00	\$3,300.00
Tech Studio Annual Maintenance (per License)	Please reference the Software Support and Maintenance Agreement		
Field Tool Kit	1	\$1,600.00	\$1,600.00
Services and Training			
Level 3 Preferred Project Delivery Services	1 Lot	\$65,263.00	\$65,263.00
Bond			
Performance Bond	1 Lot	\$11,500.00	\$11,500.00
Total			\$1,071,292.00

The per unit prices are generally reduced 5.5% with the amended listings. The City believes this approach was requested by Landis + Gyr (rather than simply changing the approach to the state sales tax) in order for its A/R processing system to be consistent in the application of sales tax. Since the monetary difference is the same for the City, the approach was acceptable to the City.

Thus, you will find for City Council approval a "First Amendment to the Master Agreement" that corrects the pricing difference presented by the 5.5% state tax issue. The Table of Paragraph 1 and Paragraph 3 of that First Amendment to the Master Agreement are important, as they correct the pricing difference and provide the City a credit of \$35,264.08.

The City has received a modified invoice for a previous (but unpaid without penalty) invoice provided, and agrees with the changes made to that invoice. The City likewise has received an invoice with credit for the last deliveries made, and agrees that the proper credit was provided to the City on that invoice. Thus, staff recommends the approval of the First Amendment to the Master Agreement, which will allow the project to come within the contracted and awarded price and will avoid any need for an increase in contract price or a change order. Separate claim approvals will be requested from City Council for those updated, outstanding invoices as well.]

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A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve Resolution No. 19-65 which follows in its entirety:

RESOLUTION NO. 19-65

WHEREAS, The City of Alliance Electric Department is desiring to improve and advance our metering system by upgrading to an advanced metering infrastructure (AMI) metering system; and

WHEREAS, City Council awarded the purchase contract to Landis+Gyr Technology, Inc., the low quote; and

WHEREAS, A mistake was made in the Master Agreement with Landis+Gyr Technology, Inc. regarding a pre-negotiated item within the pricing structure; and

WHEREAS, The First Amendment to the Master Agreement corrects this error which is to the benefit of the City of Alliance.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the First Amendment to the Master Agreement with Landis+Gyr Technology, Inc. for the purchase of an advanced metering infrastructure (AMI) metering system for the Electric Department is hereby approved.

BE IT FURTHER RESOLVED that the Mayor be and hereby is authorized to execute the First Amendment to the Master Agreement and any related documents.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Reynolds, Bentley.

Voting Nay: None.

Motion carried.

- Board announcements were the final item on the agenda for Council.

Currently there remains two vacancies on the Board of Adjustment, three vacancies on the Economic Development Plan Citizen Advisory Board, one youth representative on the Library Board, one vacancy on the Museum Board and two vacancies on the Park and Tree Board and the alternate position on the Planning Commission. 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.

- Prior to adjourning the meeting Council requested the following items be researched and if warranted brought back before Council:

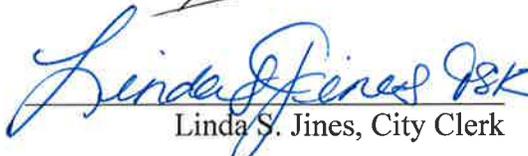
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1. Survey of other communities regarding fireworks sales and discharge dates and time restrictions.
2. The placement of waste receptacles on the west end of Laing Lake.
3. Installation of flashing stop signs at the intersection of 25th Street and Emerson Avenue.

There being no further business before Council, Mayor Dafney adjourned the meeting at 7:15 p.m.

(SEAL)


Mike Dafney, Mayor


Linda S. Jines, City Clerk

Complete minutes of the Alliance City Council may be viewed by the public during regular work hours at the City Clerk's Office, 324 Laramie Avenue, Alliance, Nebraska.

