

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, JULY 19, 2007

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

The Alliance City Council met in a Regular Meeting, July 19, 2007 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 July 12, 2007. 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 19, 2007 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Kusek, Council Members Dickenson, Benzel, Rowley, and Yeager. Also present were City Manager Caskie, Interim City Attorney Miller and City Clerk Jines.

- 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 19, 2007

1. Approval: Minutes of the Regular Meeting, July 5, 2007.
2. Approval: Payroll and Employer Taxes for the period June 16, 2007 through June 29, 2007, inclusive; \$153,198.41 and \$10,921.19 respectively.
3. Approval: Claims against the following funds for July 2, 2007 through July 16, 2007; 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:

\$721,708.43.

4. Approval: The issuance of the following Cemetery Certificates:

The East One-Half (E1/2) of Lot Twenty-seven (27), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery to James G. Wegner and Joanne K. Wegner.

The East One Half (E1/2) of Lot Twenty-eight (28), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery to James F. Hansen and Sharon R. Hansen.

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.

Councilman Dickenson questioned a charge for air conditioning unit repair at the Alliance Learning Center. City Manager Caskie explained that both units are malfunctioning and several components will need to be replaced. He also inquired about a charge for a three door cooler for the museum. City Manager Caskie explained that it was a restaurant closure purchase that was approximately half the price of a new cooler. The cooler will be installed in the kitchen of the new museum. Mayor Kusek questioned charges for Harley Davidson repair. Chief John Kiss advised Council that a 10,000 mile check up was conducted and tires replaced on the police motorcycles. Councilwoman Rowley asked about the charge for the Laing Lake water supply. Mayor Kusek explained that it is cheaper for the City to purchase non-potable water which is pumped from the privately owned windmill next to the lake than to purchase City water to supply Laing Lake.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item for Council's discussion was a presentation by Darryl W. Dockins relating to a complaint on the condition of the property located at 519 Yellowstone Avenue.

Mr. Darryl W. Dockins, 501 Yellowstone Avenue addressed Council expressing his dismay at the slow deterioration of his and many other neighborhoods in the City. He voiced concern over the lack of Code Enforcement. He advised Council that a cursory cleanup of the property located at 519 Yellowstone was conducted this spring by cutting a pathway from the house to the alley. He indicated that the area is full of bedsprings, railroad ties, tires, stumps, fencing and three junk cars as well as decaying animal carcasses. He fears for the safety of the neighborhood children. He feels

that the City needs to identify, warn and enforce offenders of the Municipal Code. Mr. Dockins indicated that in light of the inaction taken by the City to respond to property complaints, that he will make it a personal crusade to (1) create awareness lack of the City's lack of ability to enforce it's own ordinances by issuing a website entitled, www.shameonalliance.com complete with pictures, (2) skip local government by miring the entire City Administration in a swamp of EPA, state and federal alligators, (3) issue a class action suit against the City, (4) involve local, state, regional and national news media coverage. He volunteered to assist the City with an action process.

Mayor Kusek advised Mr. Dockins that Code Enforcement has always been a pet peeve and he agreed that in several instances the City has not done a good job of enforcing the Municipal Code. He stated that one of the top priorities of Council this year was to implement full code enforcement. He added that it is difficult in the State of Nebraska because the property owner has more rights than the neighbor and the community. He illustrated several instances of other cities trying to clean up property and the amount of time and money that is involved. Mayor Kusek agreed that the City does need to do a better job of Code Enforcement and that the citizens need to cooperate more by complying with the rules. He suggested that a sample ordinance be obtained from the City of Chadron where the Council has been working to raise the fine for non-compliance to \$1000 per day. The City of Alliance currently fines \$100 per day if it goes to court. The owner of the property at 519 Yellowstone has been issued a citation for weeds and will be issued another citation for the junk cars on July 25, 2007.

Earl Tucker, 523 Yellowstone addressed Council indicating that the neighboring property owners have been told that the Municipal Code is inadequate. He asked that a law be implemented so that violators receive one notice and if a second notice is required there will be a \$1000 fine on a continuous basis. Mayor Kusek advised that City government must abide by the rules of the Nebraska Legislature.

- A progress report presented by John Olafson, Executive Director of Box Butte Development Corporation was the next item on Council's agenda.

John Olafson, Executive Director of Box Butte Development Corporation, 5881 Gage Road addressed Council thanking them for their support. He provided Council members a Strategic Plan Matrix outlining priorities, performance measures, and financial and community resources needed and briefly explained the document.

Denise Barker, Director Historic Main Street Alliance Program, 319 E. 5th addressed Council indicating that she has applied on behalf of the City of Alliance to be accepted in the Nebraska Lied Main Street Program. She advised Council that the Housing Study will be done next year.

- The next agenda item was a presentation by Marina Girard relating to future improvements to Sweetwater Avenue.

Marina Girard, 1814 Sweetwater Avenue advised Council that she is very frustrated with the

Sweetwater situation. She has been talking with both City and County officials since April 2004 about improving Sweetwater Avenue. She presented Council with a memo written by former City Manager Wally Baird dated April 29, 2005 providing a short term remedy to the street condition while deciding on an option for a long term remedy. The residents of Sweetwater Avenue were under the impression that something would be done following the issuance of the memo, but it did not. Mayor Kusek advised Mrs. Girard that Mr. Baird gave her a rough estimate of work that could be done, but that nothing had been formally priced. Sweetwater Avenue is not a dedicated street nor is it a dedicated county road. The street does not measure the same, and if the street is to be chip sealed twenty feet wide a determination must be made as to where it gets measured from. He also advised her that the drainage issue must be addressed through the legal system prior to chip sealing and not all of the area residents are in favor of the project. City Manager Caskie advised Council that staff will pursue the legal matters. Mayor Kusek committed to installing a 30 foot wide chip seal on Sweetwater Avenue once the legal issues have been resolved.

An Issue Paper was submitted to Council by City Manager Caskie which follows in its entirety:

Sweetwater Issue Paper

Issue: Sweetwater Avenue from 18th to 25th Street is currently an unpaved street. The road, half owned by the County and half by the City is abutted to the east by an agricultural property and to the west by eight residential properties and the Box Butte General Hospital. A single property owner desperately wants the road paved, other residents would like to have the road paved, including the Hospital and one property owner is against such an improvement. The question is where is the priority and what is the best type of surface treatment for the road.

History:

1993: Project was placed on the City of Alliance One/Six Year Street Improvement Plan to acquire Right of Way between 18th and 25th Streets. Preliminary efforts were made acquire the property and the project was considered for development.

2004: Residents of Sweetwater Avenue met with members of the City Council and City staff to request that consideration be given to resolving their problem with the gravel surfaced street. Options discussed ranged from a chip-sealed surface to establishing an improvement district to include paving, utility upgrades, curb, gutter, and sidewalk.

2005: Just prior to Mr. Baird's departure, he committed to and the Council followed through on, budgeting the \$15,000 to provide a chip seal. The County also agreed to support the project with equal payments on the Chip seal road. The money was placed in 2006 budget.

2006: A cost estimate and project proposal and bids were received for \$30,000. Pam Caskie, the new City Manager, being new to the project questioned why the City was proposing to use a chip seal, and how the road was expected to be drained under the current right of way configuration.

Lack of ability to solve the drainage issue caused the City to let the bids lapse. In the fall, Pam Caskie had a conversation with a property owner and told her that she would try to get sign offs on right-of-way needed to get the drainage issue resolved. That did not happen. Money was encumbered into the new budget from the previous year to hold over options.

Description of the problem:

FACTS:

- Sweetwater is located in both the City and the County as the section line establishing the City of Alliance limits runs down the center of the traveled way.
- There is a maintenance agreement between the City and the County where the County maintains CR 58 within the Alliance corporate limits south of NE 2 and the City maintains Sweetwater Avenue between 18th and 25th Streets.
- The right-of-way for Sweetwater Avenue has not been established. A prescriptive easement can be established for the traveled way based on historical use of the property as a road.
- There is a ditch along the east side of the road. There is a ditch along the northern portion of the west side as well as limited curb, gutter, and storm drainage along the southern portion.
- These properties are some of the last properties in the City that do not have city sewer and water. This lack of full city services complicates our ability to institute a Street Improvement District.

Treatment Choices:

Chip Seal and nothing else

COSTS: \$45,000 initially

Pros

inexpensive
dust control

Cons

very short life
difficult to maintain
Increased expectation of current and future residents about the type of road surface
periodic re-applications of chip seal

Chip Seal with drainage

COSTS: \$100,000 initially

Pros

longer life than without drainage
dust control

Cons

short life
difficult to maintain

Increased expectation of current and future residents about the type of road surface
periodic re-applications of chip seal

Asphalt road with drainage swells

COSTS: \$375,000

Pros

longer life than chip seal
better driveability than chip seal

Cons

required periodic maintenance/seals
current oil prices

Concrete road with curb, gutter, storm drains, and sidewalks (City Side Only)

COSTS: \$675,000

Pros

longest life option
added property value
reduce City maintenance costs

Cons

most expensive option
possible speed issues
possible property owner cost share

Financing Options

City/County funding: Under the current arrangement, the City and the County are responsible for half of the road each. The road currently needs graded periodically and does, as does all dirt roads, require some type of dust control. Under the interlocal agreement of 2004, the City pays for that. The agreement specifically excludes capital improvements but the County has agreed to fund half of the chip seal proposal, which does not deal with drainage. The County does have their money available and there is concern if we wait too long, that funding will be lost.

Property owner contribution: Many of the property owners have agreed to contribute to the road improvement, including the hospital. There has never been an agreement on what that contribution should look like.

Street Improvement District: This is the preferred option by staff in that it treats the property owners on this road the same as the owners on most other roads previously in a similar situation. The difference here is the public use need as generated by the location of the hospital, the relatively few number of property owners and the complication caused by the agricultural property on the east side of the street which would allow deferment of his repayments until the use becomes something other than agricultural.

CONCLUSION:

A chip seal with drainage is our best solution for the near term, probably lasting a reasonably long period of time. In order for that to happen we must obtain a formal right of way and have the drainage engineered.

- The third reading of Ordinance No. 2571 declaring the possession or presence of firearms

or dangerous weapons on various properties owned by the City of Alliance unlawful was the next item for Council's consideration.

Motion by Councilman Benzel, seconded by Councilwoman Rowley to approve Ordinance No. 2571 on final reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2571

AN ORDINANCE DECLARING THE POSSESSION OR PRESENCE OF FIREARMS OR DANGEROUS WEAPONS ON CERTAIN CITY OF ALLIANCE PROPERTY TO BE UNLAWFUL, AND REPEALING EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HEREWITH.

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

SECTION 1. Cities of the First Class are permitted by law to regulate the possession of weapons for the protection of their citizens.

SECTION 2. The Alliance Municipal Code currently regulates the use of certain weapons within the City of Alliance.

SECTION 3. Chapter 6, Article 4 of the Alliance Municipal Code is hereby amended, by the addition of the sections following:

6-401.01 POSSESSION OF FIREARMS AND DANGEROUS WEAPONS IN CITY FACILITIES OR ON CITY REAL ESTATE, PROHIBITED.

- A. It shall be unlawful for any person to knowingly possess or cause to be present a firearm or other dangerous weapon on City real estate or any improvements thereon at the following locations:
 - Municipal Building Complex located at 320 Laramie, Alliance, Nebraska;
 - Fire Station located at 315 Cheyenne, Alliance, Nebraska;
 - Alliance Learning Center located at 1750 Sweetwater, Alliance, Nebraska;
 - Utility Facility located at 1313 West First Street, Alliance, Nebraska.

- B. This section shall not apply to possession of a firearm or other dangerous weapon by:
 - 1. An officer, agent, or employee of a state or a political subdivision thereof who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, while in the lawful performance of official duties.

2. An instructor or registered student when in connection with an educational or training program.
3. City authorized shows, performances and/or exhibitions displaying or using guns and/or knives.

6-401.02 DEFINITIONS.

For the purposes of Section 6-401.01 the following words shall have the following meanings:

- a) Dangerous weapon shall mean any firearm, stun gun, knife, switchblade knife, any gun which releases any propelled object by spring mechanism, compressed air or compressed gas, or any other instrument the use of which is intended or likely to cause death or bodily injury.
- b) Knife shall mean any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds, other than knives used for culinary purposes.
- c) Stun gun shall mean any handheld electronic device that is powered by an internal power source such as batteries, and that is capable of introducing an electrical current into the body of a person which when introduced to the body shall be capable of disrupting a person's central nervous system and rendering the person temporarily incapable of normal functioning, for any period of time whatsoever. The electrical current may be introduced into the human body by means of direct pressure to the body from fixed electrodes on the electronic device and/or by one or more electrodes attached to a length of wire or other connection and which upon being fired from a firearm or any other mechanical device, strikes the human body and produces the reaction described herein.

SECTION 4. That current applicable City Codes of the City of Alliance, Nebraska, and all other ordinances or parts of ordinances, resolutions, policies, and procedures of the City of Alliance which are not consistent with the terms hereof, are hereby repealed.

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

Roll call vote on final reading of Ordinance No. 2571 with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Mayor Kusek stated, “the passage and adoption of Ordinance No. 2571 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- Resolution No. 07-86 authorizing a one year Contract Extension with the Nebraska Game and Parks Commission in cooperation with Pheasants Forever, Inc. and the Nebraska Environmental Trust was the next item on Council’s agenda. The contract allows for walk-in hunting on certain properties in the vicinity of the Alliance Municipal Airport.

Motion by Councilman Dickenson, seconded by Councilman Benzel to approve Resolution No. 07-86 which follows in its entirety:

RESOLUTION NO. 07-86

WHEREAS, The City of Alliance owns property within the vicinity of the Alliance Municipal Airport; and

WHEREAS, The Nebraska Game and Parks Commission has offered renewal of the CRP-MAP program which requires undisturbed vegetation and walk-in hunting access, and other contract conditions; and

WHEREAS, City staff has reviewed the proposed contract and recommends its renewal for a one year period at a rate of \$1.00 per acre.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that CRP-MAP contract number 1037, regarding parts of:

The South Half (S1/2) of Section 8, Township 24, Range 47

is hereby approved, and the Mayor is authorized to execute the contract on behalf of the City of Alliance.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item for Council’s review was Resolution No. 07-87 authorizing the submittal

of a grant application for the Tourism Advantage Matching Grant Program with the Nebraska Travel and Tourism Division of the Nebraska Department of Economic Development to promote the current branding project.

Motion by Councilman Rowley, seconded by Councilman Dickenson to approve Resolution No. 07-87 which follows in its entirety:

RESOLUTION NO. 07 -87

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

WHEREAS, The Nebraska Legislature has appropriated Five Hundred Thousand dollars in General Fund State Aid for dollar-for-dollar matching grants in fiscal year 2007-2008 to area regional tourism promotional groups for advertising, marketing and promotional efforts; and,

WHEREAS, the City of Alliance, Nebraska, proposes to apply for assistance from the Tourism Advantage Matching Grant Program Nebraska Travel and Tourism Division of the Nebraska Department of Economic Development for the purpose of production and placement of advertising, marketing and promotional efforts for tourism for the City of Alliance, Nebraska; and,

WHEREAS, there is an application process to request consideration for the dollar-for-dollar matching grant for the Tourism Advantage Matching Grant Program; and,

WHEREAS, the City of Alliance, Nebraska, has available Fifty Thousand Dollars in the purposed budget for 2007-2008 fiscal year and has the financial capability to match said grant.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and the City Council of Alliance, Nebraska, that the Mayor is authorized and directed to proceed with completion and submission of the application for the Tourism Advantage Matching Grant Program Nebraska Travel and Tourism Division of the Nebraska Department of Economic Development for Fifty Thousand Dollars (\$50,000.00) of grant funds which will be matched by the City, one dollar for each dollar of the grant approved.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The last item on Council’s agenda was a board resignation.

Motion by Mayor Kusek, seconded by Councilman Dickenson to regretfully accept the resignation of Sherri Fry from the Alliance Museum Board.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Mayor Kusek has directed staff to assist the Museum Board in writing by-laws.

- Mayor Kusek stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:20 p.m.”

Dan Kusek, Mayor

(SEAL)

Linda S. Jines, City Clerk