

# ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, DECEMBER 15, 2005

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

The Alliance City Council met in a Regular Meeting, December 15, 2005 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 8, 2005. 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 December 15, 2005 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Dafney, Council Members Dickenson, Kusek, Dahlstedt, and Goodell. Also present were City Manager Caskie, City Attorney Dobrovolny and City Clerk Jines.

- Mayor Dafney announced that Item C was removed from the agenda prior to the meeting, and recommended that the presentation by RDG Architects be moved to the end of the agenda.

Motion by Mayor Dafney, seconded by Councilman Dahlstedt to amend the agenda by moving the presentation by RDG Architects to the end of the agenda.

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

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

Motion by Councilman Dickenson, seconded by Councilman Kusek to approve the Consent Calendar as follows:

**CONSENT CALENDAR - DECEMBER 15, 2005**

1. Approval: Minutes of the Regular Meeting, December 1, 2005.
2. Approval: Payroll and Employer Taxes for the period November 19, 2005 through December 2, 2005, inclusive: \$137,343.64 and \$16,863.86 respectively.
3. Approval: Claims against the following funds for November 28, 2005 through December 12, 2005; 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: \$224,224.92

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.

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was an NCIP Award Presentation.

David McCarty, Board Member for Keep Alliance Beautiful and Gordon and RosaLee Hoff representatives of the Alliance Committee of the Nebraska Community Improvement Program, presented the Class V 2<sup>nd</sup> Place Community Development Award for overall excellence in community and economic development as well as the Environmental Projects and Awareness Award to the Alliance City Council.

- The next item on the agenda was a board resignation.

Motion by Councilman Dickenson, seconded by Councilman Goodell to accept the resignation of Bill Reiling from the Alliance Housing Authority.

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

- Mayor Dafney indicated that Jeff Cannon of RDG Architects was delayed in his arrival and asked that the agenda be restored to its original format.
- A presentation relating to the proposed Museum expansion was the next matter before Council.

Mr. Kevin Tedore of RDG Architects presented Council with an overview of the proposed expansion. He indicated that the expansion and renovation will be a very modern museum interpretive approach and will tell the story of life in the Sandhills through the years. Councilman Kusek asked if the current displays will be included. Mr. Robert Knight representing the Eldred Foundation advised Council that nothing will be lost from the current museum and that the displays will rotate regularly. City Manager Caskie indicated that items that are directly related to the history of the development of the region will be in a static display with the other items displayed on a rotating basis. Mr. Knight explained that accreditation of the museum is a pre-requisite to acquire major traveling displays. Construction will begin Spring of 2006 with an opening date anticipated in early 2007. City Manager Caskie advised Council that the existing museum will be vacated by July 7, 2006 to allow for the construction of a new roof. The current shelving and display units will be transferred to the Sallows Military Museum if not incorporated into the new facility.

- Resolution No. 05-127 approving an Agreement between the Museum Foundation and the City of Alliance for the expansion of the present Museum was the next item for Council's consideration.

Motion by Councilman Dahlstedt, seconded by Councilman Dickenson to approve Resolution No. 05-127 which follows in its entirety:

**RESOLUTION NO. 05-127**

*WHEREAS*, The Eldred Foundation has entered into discussions with the City of Alliance regarding renovation and expansion of the Knight Museum of High Plains Heritage; and

*WHEREAS*, City staff and the Eldred Foundation have negotiated a Memorandum of Understanding to define the relationship of the parties during the design and construction phases of the project; and

*WHEREAS*, City Council has examined the proposed agreement, finds it appropriate, and wholeheartedly supports the project for museum renovation and expansion; and

*WHEREAS*, The City Council, on behalf of all citizens of Alliance, extends its sincere gratitude to the Eldred Foundation for its commitment to the renovation and expansion of the Knight Museum of High Plains Heritage.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that the Memorandum of Understanding between the City of Alliance and the Eldred Foundation concerning renovation and expansion of the Knight Museum of High Plains Heritage is hereby approved by the City Council, and the Mayor and City staff are authorized to execute the Memorandum of Understanding on behalf of the City of Alliance.

### MEMORANDUM OF UNDERSTANDING

Whereas, the City of Alliance owns and operates the Knight Museum of High Plains Heritage; and

1. General: Whereas, the Eldred Foundation wishes to provide funding and construction of an addition to that museum and renovation of the existing museum, to be located on property owned by the City of Alliance, namely Lots 1, 2, and 3, Block J, Nebraska Addition to the City of Alliance, Nebraska, which shall hereinafter be referred to as the "Project".

Now, therefore, the parties, City of Alliance, hereinafter "City" and Eldred Foundation, hereinafter, "Foundation", hereby agree as follows:

2. Project Funding: Foundation shall cause to be designed and constructed, at Foundation's sole expense (except as may be otherwise set forth herein), an addition to and renovation of the existing Knight Museum of High Plains Heritage building located on Lots 1, 2, and 3, Block J, Nebraska Addition in Alliance, Nebraska. Included as a part of the project, will be installation of utilities and appropriate changes as needed, relocation and removal of buildings and structures, appropriate drainage, landscaping, grading, interior display cases, exhibit interpretive materials, furniture, and introductory video. Interior furnishings may be funded but not directly purchased by Foundation. Final decision on project go-ahead will lie exclusively with the Foundation. Projected construction and furnishings costs are currently between three and four million dollars.
3. Project Design and Construction: Foundation shall have full and exclusive responsibility for design, construction, and maintenance of the Project, except as set forth herein, during the period of construction, until such time as the addition is accepted by and transferred to the City.
4. Representatives: Foundation, and its designated representative, Bob Knight, shall work in close conjunction with the City and its designated representative, Pamela Caskie, during all stages of evaluation, design and construction of the Project.

The Foundation's representative and the City's representative shall meet regularly during the evaluation, design, and construction of the addition. Such meetings may take place in person, by telephone, or by electronic means. In any event, such meetings, or exchanges of information shall take place no less often than once every week.

5. City Approvals Required: The City Council of Alliance, Nebraska, shall approve of the preliminary and final designs and plans for the Project prior to letting of any construction contracts. To assist in this process the schematic design documents, design development documents, and construction documents, will be provided to the designated representative for the City as these documents become available to the Foundation.
6. Access: The City will provide access to Lots 1, 2, and 3, Block J, Nebraska Addition to the City of Alliance, to the Foundation, its agents, contractors, architects, and others, for purposes of evaluation, design and construction of Project.
7. Codes: Foundation shall require its architects and contractors to abide by all applicable zoning, building, fire, and other regulations in effect within the City of Alliance governing the design and construction of the Project.
8. Risk of Loss: Foundation shall insure the ongoing project for all risks during all phases of design and construction. The City shall be named an additional insured. When the construction is completed and the facility is turned over to the City, risk of loss for the building and liability shall shift to the City for acts and occurrences which occur after dedication of the facility to, and acceptance by, the City. Foundation will make all reasonable efforts to settle any unresolved issues regarding the building design and construction prior to turning over of the completed addition to the City of Alliance. Certificates of insurance as applicable will be supplied to City.
9. Utilities Relocations: The City of Alliance will extend its utilities to the entrance points of such utilities to the addition, or new services to the existing building, in the same manner as for typical new construction.

The required relocation of existing City of Alliance utilities which do not serve the addition or the existing museum, will be done in conjunction with this project, at the expense of City, provided such work can be done with City staff and equipment, otherwise it will be a project cost. Utilities which are not owned by the City shall be supplied to their entrance to the building at the sole cost of Foundation. Non-City utilities installation or relocation will be coordinated with the particular utility and be a Foundation expense.

The installation of all utilities shown on the final development plan documents shall be inspected by the building and zoning department of the City and shall be subject to such department's approval. Foundation agrees to correct any deficiencies in such installations in order to meet the requirements of the plans and/or specifications applicable to such

installation. In case of conflict, the final developmental plan document shall supersede the standard specifications.

Removal or relocation of existing trees or structures shall be the cost of City, including the covered picnic shelter. The playground equipment is not projected as needing relocation.

10. Off-Street Parking: Off-street parking will be provided as required by the City. The parties shall agree on cost allocation of off-street parking as the final plans are developed.
11. Notice for Closure: If construction plans call for temporary closure of all or a part of the existing museum facility, the estimated time of needed closure will be communicated to the City by the contractor or architect a minimum of 30 days before the closure would be necessary, with specific areas noted if a partial closure is needed.
12. Construction Contract: The construction contract will be awarded by the Foundation, and the parties to the construction contract shall be the contractor and the Foundation. The City shall approve the contract prior to award. The City shall be delivered a copy of the construction contract, and shall have notice of and be required to approve change orders to the contract before the change orders will be valid. Change orders shall be considered and approved by the City in a timely manner so as not to unduly delay construction, by special meeting if needed. The contract award shall follow a process of competitive bidding to be conducted by the Foundation's architectural firm. Except as otherwise herein specifically agreed, the developer agrees to install and pay for all water, sanitary sewer, and storm drainage facilities and appurtenances, and all gutters, sidewalks, bikeways and other public improvements required by this project as shown in the final plans and other approved documents pertaining to the addition.
13. Bonding: Foundation shall require as part of its contract for construction, performance bonds to ensure that construction is completed according to the plans and specifications. Foundation shall also require as a condition in its construction contracts that payment bonds consistent with the provisions of Section 52-118 R.R.S. 2004 as amended, be provided by the contractor. In lieu of such performance and payment bonds, the Foundation may require other forms of performance and payment guarantees, however forms other than surety bonds consistent with applicable statutory requirements must first be approved by the City in writing.

If any shutdown of the Project occurs due to failure of the foundation's contractors to diligently work at and complete the Project, the City of Alliance shall have the ability to access the performance bond or guarantee in order to see that performance is completed.

14. Operating Expenses: The addition and renovation will be designed and constructed in such a manner to provide for opportunities for income and fundraising for the museum.

The Foundation's architect shall provide projected operating expenses for the addition and renovated building to the City of Alliance at the earliest opportunity to do so.

15. Assignment: Foundation shall assign to City, upon transfer of the Project to the City, all legal rights of the Foundation in regard to the design and construction of the Project, including but not limited to the Foundation's relationship with architect and contractors
16. Stabilization: The construction site will be stabilized at all times, with appropriate screening, seeding, or other means to stabilize dirt or other materials from blowing or washing off the site. Appropriate protection of excavations shall be provided as well as other needed securing of the site for public protection and protection of the site from entry and vandalism. All applicable environmental laws and regulations, local, state, and Federal, must be complied with.
17. Walk Thru: At such time as the Foundation indicates to the City that the addition is complete and ready to be transferred to the City, notice shall be given in writing to the City's designated representative. Upon receipt of this notice the City's designated representative and the Foundation representative shall meet and review the addition's state of completion. If the parties are in agreement that the facility is complete and ready for transfer, the issue shall be placed before the City Council for formal approval and acceptance. Foundation shall remain fully responsible for the addition until formal acceptance by the City. The City will, upon acceptance of the project, succeed to the rights of Foundation to enforce any obligations of the architects, construction contractor, suppliers, or others.
18. Transfer of Ownership; Assignment of Interest: Upon acceptance of the addition by the City, the City shall become solely responsible for the operation and maintenance of the addition and shall bear costs associated with the operation and maintenance. Foundation shall assign or transfer to the City all warranties for work and materials which have been provided in construction of the addition, and all other interests as well. Any plans, blueprints, construction drawings, schematics, operational manuals, instructions, and other information of any nature whatsoever, regarding the construction of the facility and its operation, shall be turned over to the City prior to or at the time of acceptance by the City of the addition. Prior to final acceptance, City staff shall meet with contractors and suppliers as needed to familiarize City staff with the operation and maintenance of the systems of the addition and with the existing museum which will have been renovated.

This agreement shall run with the property and shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, heirs, successors, grantees and assigns. It is agreed that all improvements required pursuant to this agreement touch and concern the property regardless of whether such improvements are located on the property. Assignment of interest within the meaning of this paragraph shall specifically include but not be limited to a conveyance or assignment of any portion

of the Foundation's legal or equitable interest in the property, as well as any assignment of Foundation's rights to develop the property under the terms and conditions of this agreement.

19. Terms, Material, Default: Each and every term of this agreement shall be deemed to be a material element hereof. In the event that either party shall fail to perform according to terms of this agreement, such party may be declared in default. In the event that a party has been declared in default hereof, such defaulting party shall be given written notice specifying such default and shall be allowed a period of ten days within which to cure such default. In the event the default remains uncorrected, the party declaring default may elect to a) terminate the agreement and seek damages; or b) treat the agreement as continuing and require specific performance or avail itself of any other remedy at law or equity. Damages as between the City and Foundation shall be limited to the amount of the final budget of the Project.
20. Non-Waiver: In the event either party waives any breach of this agreement, no such waiver shall be held or construed to be a waiver of any subsequent breach hereof.
21. Applicable Law: It is expressly understood and agreed by and between the parties hereto that this agreement shall be governed by and its terms construed under the laws of the State of Nebraska, and the City of Alliance, Nebraska.
22. Notice: Any notice or other communication given by any party hereto to any other party relating to this agreement shall be hand delivered or sent by certified mail return receipt requested addressed to such other party at their respective addresses as set forth below. Though not considered official legal notice, telephone, fax, and e-mail shall be utilized where possible to avoid delay in communications.

City of Alliance  
 PO Box D  
 Alliance, NE 69301  
 Phone: 308-762-5400  
 Fax: 308-762-7848  
[E-mail:pcaskie@cityofalliance.net](mailto:pcaskie@cityofalliance.net)

Eldred Foundation  
 % Bob Knight, Chairman  
 10412 West Tropicana Circle  
 Sun City, AZ 85351  
 Phone: 623-876-9488  
 E-mail: [bobecon@aol.com](mailto:bobecon@aol.com)

Darrell Andersen  
 1415 Colorado Avenue  
 Alliance, NE 69301  
 Phone: 308-762-8076

City of Alliance, Nebraska

Eldred Foundation

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

- The last item before Council was an executive session to discuss personnel issues and contract negotiations.

Mayor Dafney motioned pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943 that the Alliance City Council hold a closed session to discuss personnel issues and contract negotiations. The motion was seconded by Councilman Dickenson.

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

The closed session began at 7:54 p.m. and ended at 8:40 p.m.

Motion by Councilman Dickenson, seconded by Councilman Kusek for the payment of one additional month of COBRA health insurance coverage for Pam Caskie.

Roll call vote with the following results:

Voting Aye: Dafney, Kusek, Dickenson, Dahlstedt, Goodell.

Voting Nay: None.

Motion carried.

- Mayor Dafney stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:42 p.m.”

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Mike Dafney, Mayor

(SEAL)

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Linda S. Jines, City Clerk