

November 15, 2022

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, November 15, 2022

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

The Alliance City Council met in a Regular Meeting, November 15, 2022, at 7:00 p.m. in the Alliance Learning Center Community Meeting Room, 1750 Sweetwater Avenue, Alliance, Nebraska. A notice of meeting was published in the Alliance Times Herald on November 9, 2022. 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 November 15, 2022 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Dafney and Council members Mischnick, Bentley, Jones and McGhehey. Also present were City Attorney Hoelsing, City Manager Sorensen, Finance Director Waggener, City Treasurer Baker, and City Clerk Johnson.

- Mayor Dafney read the Open Meetings Act Announcement.
- The Consent Calendar was the first item on the agenda. A motion was made by Councilman Bentley and seconded by Councilman McGhehey to approve the Consent Calendar as follows:

CONSENT CALENDAR – November 15, 2022

1. Approval: Minutes of the Regular Meeting, November 1, 2022.
2. Approval: Payroll for November 4, 2022 in the amount of \$341,535.68.
3. Approval: Claims against the following funds: 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; \$1,289,964.78.
4. Approval: Resolution No. 22-89 renews the agreement with SCS Engineers to provide environmental and solid waste support services to ensure compliance at the Alliance Landfill.

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5. Approval: Resolution No. 22-90 approves the Lease Agreement with Terry Mahaffey and Kathleen Mahaffey for Building No. 3209 at the Alliance Municipal Airport.
6. Approval: Resolution No. 22-91 approves the Lease Agreement with Gary Tiensvold for Building No. 304 at the Alliance Municipal Airport.
7. Approval: Resolution No. 22-92 will certify the 2022 City Street Superintendent to the Nebraska Department of Transportation to qualify for the annual incentive payment.
8. Approval: Resolution No. 22-93 authorizes the City Manager to submit a grant application to the U.S. Environmental Protection Agency.

NOTE: Manager Sorensen and Finance Director Waggener have reviewed these expenditures and to the best of their 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, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- The next action for Council was to proclaim November 26, 2022 Small Business Saturday. Councilman Jones read the following proclamation:

Proclamation

WHEREAS, The City of Alliance, Nebraska celebrates our local small businesses and the contributions they make to our local economy and community; and

WHEREAS, according to the United States Small Business Administration, there are 32.5 million small businesses in the United States, small businesses represent 99.7% of firms with paid employees, small businesses are responsible for 62% of net new jobs created since 1995, and small businesses employ 46.8% of the employees in the private sector in the United States, and

WHEREAS, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday®, 70% report the day makes them want to encourage others to Shop Small®, independently-owned retailers, and 66% report that the day makes them want to Shop Small all year long; and

WHEREAS, 58% of shoppers reported they shopped online with a small business and

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54% reported they dined or ordered takeout from a small restaurant, bar, or café on Small Business Saturday in 2021; and

WHEREAS, The City of Alliance, NE supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

NOW, THEREFORE, I, Mike Dafney, Mayor of City of Alliance, NE do hereby proclaim, November 26, 2022, as

SMALL BUSINESS SATURDAY

and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

- Council next conducted a Public Hearing on a Rezone Application of Jirdon Agrichemicals Inc. to rezone an 11.11 Acre Tract of Land situated in The Southwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th Principal Meridian, Box Butte County, Nebraska, addressed 1630 West 10th Street. Following the Public Hearing Ordinance No. 2949 which introduced on first reading which will approve the rezone. The following information was provided:

[Jirdon Agrichemical Inc. submitted an application to rezone an 11.11 Acre Tract of Land Located in the Southwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th Principal Meridian, Box Butte County, Nebraska, otherwise known as 1630 West 10th Street, from Ag, Agriculture to C-3, Heavy Commercial.

The parcel of land is located at the northeast corner of the intersection of Nebraska Highway 2 and West 10th Street. The parcel is currently zoned Ag, Agriculture. It is bordered to the north by M-2, Heavy Industrial zoning, to the west and south by C-3 Heavy Commercial, and to the east by C-3 Heavy Commercial and Ag, Agriculture zoning. The lot is currently used for dryland farming. The parcel is bordered by farming to the west and east, ag commodity processing and storage to the north, implement sales and service to the south east, an office building to the south west, and a vacant lot to the south.

The proposed rezone will change the front setbacks from 50' to 15', the rear setback from 25' to 15', the side setback from 10' to 7' where it is adjacent to Ag zoning and 0' where it is adjacent to C-3 or M-2 zoning, and the side street setback from 50' to 15'. The lot is currently undeveloped. There aren't minimum lot sizes or dimensions required for C-3 zoning. The property is adjacent to Nebraska Highway 2 along the west property line. Highway 2 is considered an urban principal arterial road which is the most traffic intense classification in the

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Comp Plan. West 10th Street is located to the south and is identified as an Urban Minor Arterial, or the second most traffic intense classification in the Plan.

The parcel is located outside of City limits but is bordered by City limits to the south, east, and west. The bordering neighborhood is identified as the “West Gateway Neighborhood” by the Comprehensive Plan. It has large gaps in its development which is filled by Ag lands. This is obvious and evident by viewing the area from aerial photography. As its name implies, this is the western gateway to the community and its lack of consistent development and modern development detracts from the overall appearance of this area and does not welcome visitors to Alliance. It is also identified as an objective in the Plan that the City should promote redevelopment in the Western Gateway that enhances the community’s image. A rezone to C-3 would be consistent with the image of the West Gateway as a commercial corridor.

The City of Alliance Planning Commission met at their regular meeting on November 8, 2022 and voted to recommend the City Council approve the rezone of A Tract of Land Located in the Southwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th Principal Meridian, Box Butte County, Nebraska, otherwise known as 1630 West 10th Street, from Ag, Agriculture to C-3, Heavy Commercial, after making the following findings of fact:

1. The rezone would not create any nonconforming lot sizes.
2. The rezone would not create any nonconforming building setbacks.
3. There is ample access to the rezone parcel.
4. A rezone to C-3 would be consistent with the image of the West Gateway as a commercial corridor as identified in the Comp Plan.
5. The proposed rezone is adjacent to existing C-3 zoning.
6. City utilities are already available in this location.

It was noted that the tract was not yet in City limits but could be annexed upon development.]

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 proposed rezoning of land by Jirdon Agrichemical Inc.” and opened the public hearing at 7:07 p.m.

Terry Curtiss, 416 Niobrara Avenue, Attorney for Jirdon Agrichemical Inc. dba WESTCO spoke on behalf of the rezone and discussed the project in detail. Mr. Curtiss also stated the waiving of three readings of the ordinance is be requested due to construction schedules.

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Hearing no further testimony, the Public Hearing closed at 7:12p.m.

A motion was made by Councilman Mischnick, seconded by Jones to approve the first reading of Ordinance No. 2949. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2949

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, AMENDING THE DISTRICT ZONING MAP TO SHOW THAT AN 11.11 ACRE TRACT OF LAND SITUATED IN THE SW ¼ OF SECTION 26, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6TH P.M., BOX BUTTE COUNTY, NEBRASKA IS NOW INCLUDED AS A C-3 – COMMERCIAL DISTRICT FROM AN AG – AGRICULTURAL DISTRICT, REPEALING PRIOR SECTIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. The Zoning District Map, as set forth and adopted pursuant to section 109-22 of the Alliance Municipal Code is amended to show the following described tract of land included as a C-3 – Commercial District from an Ag. – Agricultural district:

A TRACT OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6TH PRINCIPAL MERIDIAN, BOX BUTTE COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID SECTION 26; THENCE, ALONG THE WEST LINE OF SAID SECTION, N00°06'41"E TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF 10TH STREET EXTENDED WESTERLY, BEING A DISTANCE OF 33.00 FEET; THENCE, ALONG SAID EXTENDED NORTHERLY RIGHT-OF-WAY, N89°56'51"E TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF NEBRASKA HIGHWAY #2, BEING A DISTANCE OF 60.00 FEET, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE, CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, N89°56'51"E TO THE SOUTHWEST CORNER OF A TRACT OF LAND AS DESCRIBED IN DEED BOOK 95, PAGE 467 OF THE BOX BUTTE COUNTY, NEBRASKA DEED RECORDS, BEING A DISTANCE OF 400.00 FEET; THENCE, ON THE WEST LINE OF SAID TRACT AND TRUE NORTHERLY EXTENSION, N00°06'41"E TO A POINT OF INTERSECTION WITH THE SOUTHERLY BOUNDARY OF A TRACT OF LAND AS DESCRIBED IN DEED BOOK 74, PAGE 85 OF THE

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BOX BUTTE COUNTY, NEBRASKA DEED RECORDS, BEING A DISTANCE OF 1211.04 FEET; THENCE, ALONG SAID SOUTHERLY BOUNDARY, S89°39'11"W TO A POINT OF INTERSECTION WITH THE SAID EASTERLY HIGHWAY RIGHT-OF-WAY, BEING A DISTANCE OF 400.01 FEET; THENCE, ALONG SAID RIGHT-OF-WAY, S00°06'41"W FOR A DISTANCE OF 1208.98 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING AN AREA OF 11.11 ACRES, MORE OR LESS

Section 2. This certifies that the Zoning District Map, as set forth and adopted pursuant to section 109-22 of the Alliance Municipal Code, is now the official Zoning District Map dates as of the ____ day of _____, 2022.

Section 3. Any previously existing Zoning District Map, ordinances, resolutions, policies, or parts thereof, in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be in full force and effect following its approval, passage, and publication as provided by law.

A motion was made by Councilman Jones, seconded by Councilman Mischnick to suspend the statutory rule requiring three separate readings of Ordinance No. 2949.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2949 on final reading with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

Mayor Dafney stated, "the passage and adoption of Ordinance No. 2949 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published."

● The first reading of Ordinance No. 2950 which will adopt the enhanced employment area and the additional 2% occupation tax for the Alliance Heartland Flats Mall and Apartments Project under the Nebraska community development laws was next on the agenda for Council. The following information was provided:

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[As discussed when the Redevelopment Plan was presented to Council for the Alliance Heartland Flats Mall and Apartments Project, 385 Apartments, LLC desires additional economic development revenue from an “enhanced employment area” under the Nebraska community development laws. The enhanced employment area will be limited to the new apartment and retail development for the Project, and to the current Holiday Inn Express and Runza locations. The enhanced employment area will impose an additional 2% sales tax on all taxable sales in that area, the revenue from which will be provided to the City by each business and then distributed to 385 Apartments, LLC (or other bond holder) under an enhanced employment area bond, similar to tax increment financing revenue and bonds.

Before Council is the ordinance to adopt and approve the enhanced employment area and the additional 2% occupation tax. The ordinance provides for the purpose of the tax, the taxable area and businesses, and the implementation, collection, and distribution of the tax. Both the Holiday Inn Express and Runza have expressly consented to the imposition of the 2% sales tax.]

A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve the first reading of Ordinance No. 2950. City Clerk Johnson read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2950

AN ORDINANCE PROVIDING FOR AGREEMENT TO THE LEVY OF A RETAIL BUSINESS OCCUPATION TAX; THE LEVY OF A RETAIL BUSINESS OCCUPATION TAX; ESTABLISHING DEFINITIONS; PROVIDING FOR THE ADMINISTRATION, COLLECTIONS, RETURNS, DELINQUENCIES AND RECOVERY OF UNPAID AMOUNTS RELATED TO SUCH OCCUPATION TAX; SPECIFYING HOW SUCH TAX REVENUE WILL BE USED; PROVIDING A SUNSET PROVISION FOR THE TAX; AND PROVIDING FOR AN EFFECTIVE DATE

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

Section 1. Findings and Determinations. The Mayor and Council of the City of Alliance, Nebraska (the “City”) hereby find and determine as follows:

(a) Pursuant to Section 18-2142.02, Reissue Revised Statutes of Nebraska, and the Community Development Law, as amended (the “Act”), the City of Alliance intends to enter into a Redevelopment Contract (the “**Redevelopment Contract**”) with 385 Apartments, LLC, a Nebraska limited liability company and the Community Redevelopment Authority of the City of Alliance, Nebraska (the “**Authority**”) which, in part, (1) provides for the improvement of a commercial shopping center (the “**Redevelopment Project**”) in the Enhanced Employment Area as shown on **Exhibit “A”** (attached hereto and incorporated herein by reference) and (2) designates

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such area as an “enhanced employment area” as defined in Section 18-2103(11) of the Act (the “**Enhanced Employment Area**”).

(b) Pursuant to Section 18-2142.02 of the Act, the City is authorized to levy and collect a general business occupation tax upon the businesses and users of space within the Enhanced Employment Area for the purpose of paying all or any part of the qualified and approved costs and expenses of the Redevelopment Project within the Enhanced Employment Area.

(c) It is necessary, desirable, advisable and in the best interests of the City that a general business occupation tax be imposed within the Enhanced Employment Area as provided by the Act for the purpose set forth in Section 1(b).

Section 2. Definitions. As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them in this Section 2, except where the context clearly indicates or requires a different meaning:

(a) “**Person**” means any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in the business of operating a General Retail Business.

(b) “**General Retail Business**” means any activity engaged in by any Person or caused to be engaged in by such Person in which products or services are sold, leased or rented for any purpose other than for resale, sublease or sub rent, except that “General Retail Business” shall not mean any transaction which is subject to tax under Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 of the Nebraska Revised Statutes or which is exempt from tax under Section 77-2704.24 of the Nebraska Revised Statutes.

(c) “**Taxpayer**” shall mean any Person engaged in the business of operating a General Retail Business as herein defined who is required to pay the tax herein imposed.

Section 3. Agreement to Impose Tax. The City hereby agrees to impose an occupation tax upon every Person operating a General Retail Business within the Enhanced Employment Area, and the Mayor and City Clerk are hereby authorized and directed to execute such documents and take such actions on behalf of the City as are necessary to carry out this Ordinance, including, but not limited to, entering into a Redevelopment Contract with 385 Apartments, LLC, a Nebraska limited liability company and the Authority which shall be produced to final form for approval and execution by the City and the Authority.

Section 4. Tax Imposed; Collection of Tax.

(a) On or after February 1, 2023, and in each calendar month thereafter there is hereby imposed a retail business occupation tax upon each and every Person operating a General Retail Business within the Enhanced Employment Area for any period of time during a calendar month. The amount of such tax shall be two percent (2.00%) of all General Retail Business transactions which the State of Nebraska is authorized to impose a tax as allowed by the Nebraska Local Option Revenue Act for each calendar month derived from the General Retail Business subject to this tax. Such tax shall be imposed on transactions which the State of Nebraska is authorized to impose a

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tax as allowed by the Nebraska Local Option Revenue Act resulting from the sales of products or services within the limits of the Enhanced Employment Area which are subject to the sales and use tax imposed by the State of Nebraska, except that no occupation tax shall be imposed on any transaction which is subject to tax under Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 of the Nebraska Revised Statutes or which is exempt from tax under Section 77-2704.24 of the Nebraska Revised Statutes.

(b) The Person engaged in operating a General Retail Business may itemize the tax levied on a bill, receipt, or other invoice to the purchaser, but each Person engaged in such business shall remain liable for the tax imposed by this Ordinance.

Section 5. Business Classifications. Pursuant to Section 18-2142.04 of the Act, the City hereby makes the following classifications of businesses, users of space, or kinds of transactions for purposes of imposing the occupation tax:

(a) **General Retail Business:** means any activity engaged in by any Person or caused to be engaged in by such Person in which products or services are sold, leased or rented for any purpose other than for resale, sublease or sub rent, except that "General Retail Business" shall not mean any transaction which is subject to tax under Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602 or 77-4008 of the Nebraska Revised Statutes, as amended, or which is exempt from tax under Section 77-2704.24 of the Nebraska Revised Statutes, as amended.

(b) **Non-Occupation Tax Retail:** means users of space, or kinds of transactions where an occupation tax cannot be imposed pursuant to Section 18-2142.02 of the Act, which includes, but is not limited to 1) manufacturers or wholesalers of alcoholic liquor; 2) producers, suppliers, distributors, wholesalers, or importers of motor fuel and/or gasoline; 3) stamping agents engaged in distributing or selling cigarettes at wholesale; 4) the first owner of tobacco products in the State of Nebraska; and 5) the gross receipts from the sale, lease, or rental of and the storage use, or other consumption of food or food ingredients except for prepared food and food sold through vending machines.

c) **Other:** businesses that are not either General Retail or Non-Occupation Tax Retail.

Section 6. Return. Each and every Person engaged in the operation of a General Retail Business within the Enhanced Employment Area for the calendar month beginning February 1, 2023, and for each and every month thereafter, shall prepare and file, on or before the 25th day of the following month on a form prescribed and furnished by the City Manager, a return for such month, and at the same time pay to the City the tax herein imposed. The return shall be verified and sworn to by the officer in charge of the business. The return shall be considered filed on time if mailed in an envelope properly addressed to the City Manager, postage prepaid and postmarked before midnight of the 25th day of the appropriate month.

Section 7. Tax Cumulative.

(a) The levy of the tax under this Ordinance is in addition to all other fees, taxes, excises and licenses levied and imposed under any contract or any other ordinances of the City, in addition to any fee, tax, excise or license imposed by the State of Nebraska.

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(b) Payment of the tax imposed by this Ordinance shall not relieve the Person paying the same from payment of any other tax now or hereafter imposed by contract or ordinance or by this Ordinance, including those imposed for any business or occupation he or she may carry on, unless so provided therein. The occupation tax imposed by this Ordinance shall be cumulative except where otherwise specifically provided.

Section 8. Use of Revenue. The two percent (2.00%) occupation tax imposed by this Ordinance, less any administrative expenses, shall be transferred to the Authority for payment of principal and interest on any Enhanced Employment Area Occupation Tax Revenue Bond for the Enhanced Employment Area and to fund any expenditures that the City is lawfully authorized to make in connection with the Redevelopment Project as permitted by the Act.

Section 9. Failure to File Return; Delinquency; Assessment by the City Manager

(a) If any Person neglects or refuses to file a return or make payment of the taxes as required by this Ordinance, the City Manager shall, if a return has not be filed, make an estimate, based upon such information as may be reasonably available, of the amount of taxes due for the period or periods for which the Taxpayer is delinquent, and upon the basis of such estimated amount or the actual amount if the return is filed but unpaid, compute and assess in addition thereto a penalty equal to one percent (1.00%) of the amount of taxes determined due, together with interest on such delinquent taxes at the rate of ten percent (10.00%) per annum until paid

(b) The City Manager shall give the delinquent Taxpayer written notice of such estimated taxes, penalty, and interest, which notice may be served personally, by certified mail, or by regular U.S. mail to the last-provided address of the Taxpayer (the date of service for which shall be three (3) business days after the date posted for mailing).

(c) Such amounts owed, with penalty and interest, shall thereupon become an assessment and such assessment shall be final, due, and payable from the Taxpayer to the City ten (10) days from the date of service of the notice; however, within ten (10) days of providing a notice of such assessment, the Taxpayer may petition the City Manager for a revision or modification of such assessment and shall, within such ten-day period, furnish the City Manager the facts and correct figures showing the correct amounts of such taxes.

(d) Such petition shall be in writing, and the facts and figures submitted shall be submitted in writing and shall be given under oath of the Taxpayer.

(e) The City Manager may then modify such assessment in accordance with the facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice thereof shall be mailed to the Taxpayer within ten (10) days; and all such decisions shall become final upon the expiration of thirty (30) days from the date of service, unless proceedings are commenced within that time for appeal in the District Court.

(f) Nothing herein, including any bond executed pursuant this Ordinance, shall obligate the City or Authority to exercise any remedy available to it for collection of any delinquent taxes or assessment owed under this Ordinance.

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Section 10. Administration; Miscellaneous Provision.

(a) The administration of the provisions of this Ordinance are hereby vested in the City Manager, or his or her designee, who shall prescribe forms in conformity with this Ordinance for the making of returns, for the ascertainment, assessment and collection of the tax imposed hereunder, and for the proper administration and enforcement hereof.

(b) All notices required to be given to the Taxpayer under the provisions of this Ordinance shall be in writing. Notices shall be mailed by U.S. regular or certified mail, postage prepaid, return receipt requested, to the Taxpayer at his or her last known address, or may be served personally.

(c) It shall be the duty of every Taxpayer to keep and preserve suitable records and other books or accounts as may be necessary to determine the amount of tax for which he/she is liable hereunder.

(1) Records of the transactions which the State of Nebraska is authorized to impose a tax allowed by the Nebraska Local Option Revenue Act by which this tax is measured shall be kept separate and apart from the records of other sales or receipts in order to facilitate the examination of books and records as necessary for the collection of this tax.

(2) It shall be the duty of every Taxpayer to keep and preserve for a period of four (4) years all such books, invoices and other records, which shall be open for examination at any time by the City Manager or his or her duly designated persons. If such Person keeps or maintains his books, invoices, accounts or other records, or any thereof, outside of the state, upon demand of the City Manager he/she shall make the same available at a suitable place within the City, to be designated by the City Manager, for examination, inspection and audit by the City Manager or his or her duly authorized persons. The Taxpayer shall reimburse the City for the reasonable costs of examination, inspection and audit if the City Manager determines that the Taxpayer paid ninety percent or less of the tax owing for the period of the examination.

(3) The City Manager, in his or her discretion, may make, permit or cause to be made the examination, inspection or audit of books, invoices, accounts or other records so kept or maintained by such Person outside of the state at the place where same are kept or maintained or at any place outside the state where the same may be made available, provided such Person shall have entered into a binding agreement with the City to reimburse it for all costs and expenses incurred by it in order to have such examination, inspection or audit made in such place.

(d) For the purpose of ascertaining the correctness of a return, or for the purpose of determining the amount of tax due from any Person, the City Manager or his or her duly authorized persons, may conduct investigations concerning any matters covered by this Ordinance; and may examine any relevant books, papers, records or memoranda of any such Person.

(e) The City shall retain monthly 1.0%, of the gross amount received from the occupation tax imposed hereby, or a monthly minimum of \$25.00 per General Retail Occupation Tax return required to be made pursuant to this ordinance, whichever is higher, as an administrative fee. The City may retain this amount before distribution of other tax receipts to the Authority.

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Section 11. Recover of Unpaid Tax by Action at Law

(a) The City Manager may, but is not obligated to, also treat any such taxes, penalties or interest due and unpaid as a debt due the City.

(b) In case of failure to pay the taxes, or any portion thereof, or any penalty or interest thereon when due, the City may, but is not obligated to, recover at law the amount of such taxes, penalties and interest in any court of Box Butte County, Nebraska or of the county wherein the Taxpayer resides or has its principal place of business having jurisdiction of the amounts sought to be collected.

(c) The return of the Taxpayer or the assessment made by the City Manager, as herein provided, shall be prima facie proof of the amount due.

(d) The City Attorney may, but is not obligated to, commence an action for the recovery of taxes due under this Ordinance and this remedy shall be in addition to all other existing remedies, or remedies provided in this Ordinance.

Section 12. Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing.

If the City Manager or the City Manager's designee, determines that any Person has failed to pay any tax imposed by this Ordinance, such official may, but is not obligated to, suspend or revoke any City license, permit or other approval held by such Person. Such Person shall have an opportunity to a hearing with the City Manager before the suspension or revocation, which may not be held less than seven (7) days after notice is given of the time and place of such hearing, addressed to the last known place of business of such Person. Pending the notice, hearing and final determination, any licensee, permit or other approval issued by the City to the Person may be temporarily suspended. No suspension or revocation hereunder shall release or discharge the Person from civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense.

Section 13. Sunset Provision. The occupation tax imposed by this Ordinance shall terminate and collection of the tax shall cease upon the earlier of 1) payment in full of all indebtedness issued by the Authority pursuant to the provisions of the Act, for which such occupation tax receipts have been pledged being either the Enhanced Employment Area Occupation Tax Revenue Bond (Heartland Flats Mall and Apartments Project) as described in the Redevelopment Contract; or, 2) twenty (20) years after the issuance of said Bond, as provided in the Redevelopment Contract.

Section 14. Conflicts. All ordinances, resolutions, or orders, or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 15. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, the validity of the remainder hereof shall not be affected thereby.

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Section 16. Headings of Section Not Controlling. The headings of sections of this Ordinance are set forth herein for convenience of reference only and shall not affect the construction or interpretation of this Ordinance or any section hereof.

Section 17. Effective Date. This Ordinance shall take effect upon its passage and publication as provided by law.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Bentley and McGhehey.

Voting Nay: Jones.

Motion carried.

- Next item on the agenda for Council was Resolution No. 22-94 which authorizes an amendment to the FY 2022-23 Classification Plan. The following information was provided:

[Upon approval, the attached resolution will modify the current Classification Plan.

The following changes allow the City Manager flexibility in filling positions with the City of Alliance. The Department will use one current vacancy and reallocated to the administrative position.

The Classification Plan has the following changes from the most recent version approved by Council:

Administrative Secretary – Police Paygrade: 214]

A motion was made by Councilman Bentley, seconded by Councilman McGhehey to approve Resolution No. 22-94 which follows in its entirety:

RESOLUTION NO. 22-94

WHEREAS, the City Council of the City of Alliance passed and approved Ordinance No. 2943 effective June 7, 2022, providing for the future adoption and amendment to the classification plan and pay schedule by resolution of the City Council.

WHEREAS, the City Manager has proposed a classification plan and compensation amendment for Fiscal Year 2022-2023, which is attached to this Resolution;

WHEREAS, the City Council agrees with the proposals of the City Manager.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Alliance that the Amended Classification Plan attached hereto is hereby adopted for Fiscal Year 2022-2023, effective November 15, 2022.

Roll call vote with the following results:

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Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Resolution No. 22-95 which authorizes the purchase of 800 MHZ flash code for fire radio enhancement was next before Council. The following information was provided:

[The Alliance Fire Department, in the Emergency Management 2022-2023 capital budget, had requested \$135,300 for fire radio enhancement, specifically for the 800 MHZ flash code under GL 01-37-35-59-950, Capital Outlay-Machine and Equipment. This purchase will allow the fire department's Motorola APX radios to capture more of the radio's capabilities, enhancing day-to-day operations and mutual aid responses.

Fire Chief Shoemaker has worked with Motorola Solutions on the flash code quote, utilizing State of Nebraska Contract# 14534, with a quote of \$88,730. Chief Shoemaker also secured a programming quote from Action Communications out of Scottsbluff, NE in the amount of \$16,731. The total project cost is \$105,461, with Alliance Rural Fire District reimbursing the City 50 percent (\$52,730.50) of the project cost.]

A motion was made by Councilman Jones, seconded by Councilman McGhehey to approve Resolution No. 22-95 which follows in its entirety:

RESOLUTION NO. 22-95

WHEREAS, As part of the 2022-23 Capital Improvement Plan, the Alliance Fire Department requested funding for 800MHZ flash code and programming to allow for enhanced radio capabilities; and

WHEREAS, The City received a quote from Motorola Solutions utilizing the State of Nebraska contract in the amount of Eighty-eight Thousand Seven Hundred Thirty Dollars and No/100ths (\$88,730) for the requested equipment; and

WHEREAS, The City received a quote from Action Communications of Scottsbluff, NE for programming in the amount of Sixteen Thousand Seven Hundred Thirty-one Dollars and No/100ths (\$16,731); and

WHEREAS, Adequate budgeted funds are available within Account No. 01-37-35-59-950, Capital Outlay-Machine and Equipment.

WHEREAS, The Alliance Rural Fire District has agreed to provide fifty percent funding towards the purchase, in a total contribution amount of Fifty-two Thousand Seven Hundred Thirty Dollars and 50/100ths (\$52,730.50); and

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WHEREAS, The City Council believes it is in the best interest of the citizens of Alliance to move forward with this purchase.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Alliance, Nebraska, the purchase of 800MHZ Flash Code from Motorola Solutions in the amount of Eighty-eight Thousand Seven Hundred Thirty Dollars and No/100ths (\$88,730) and programming from Action Communications of Scottsbluff, NE in the amount of Sixteen Thousand Seven Hundred Thirty-one Dollars and No/100ths (\$16,731), in a total project amount of One Hundred Five Thousand Four Hundred Sixty-one Dollars and No/100ths (\$105,461), is hereby approved.

BE IT FURTHER RESOLVED, The City of Alliance will be reimbursed Fifty-two Thousand Seven Hundred Thirty Dollars and 50/100ths (\$52,730.50) by Alliance Rural Fire District for this purchase.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Council next considered Resolution No. 22-96 which authorizes payment to the airport fund for land comprising of pasture land and the SkyView Golf Course due to its inclusion in the Airport Layout Plan to have this property released from its obligation for purely airport purposes. The following information was provided:

[Even though the City of Alliance is the owner of record of land north of the airport road, comprising pasture land and the golf course, due to its inclusion in the Airport Layout Plan, it is necessary to pay the airport fair market value to have this property released from its obligation for purely airport purposes (see Page 22-11 of 5190.6B).

Appraisals have been completed on these two properties with a combined valuation of \$1,018,000. Releasing this land will open up possibilities for future development, however this development is still subject to compatible uses at the airport. Based on current annual grazing leases, the fair market value of this property far outweighs decades-worth of grazing fees.

Payment to the Airport Fund is one part of requesting that the Federal Aviation Administration release these properties from the airport's authority.]

A motion was made by Councilman McGhehey, seconded by Councilman Bentley to approve Resolution No. 22-96 which follows in its entirety:

RESOLUTION NO. 22-96

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WHEREAS, The City of Alliance desires to release the properties identified as areas 2 and 6A on the City of Alliance Airport Layout Plan (Revision 4, dated 1/08) (the “Properties”) from any and all federal obligations and land use requirements related to the Federal Aviation Administration; and

WHEREAS, The “Properties” are hereby further described as being:

And all land lying north and east of the airport access road and located within the North Half (N½) of Section Seven (7), Township Twenty-four (24) North, Range Forty-seven (47) West of the 6th P.M., Box Butte County, Nebraska;

And all land lying north and east of the airport access road and located within the South Half (S½) of Section Seven (7), Township Twenty-four (24) North, Range Forty-seven (47) West of the 6th P.M. Box Butte County, Nebraska;

WHEREAS, The City of Alliance recognizes that it may need to provide to its airport account, for future aeronautical uses of the airport, the fair market value for the Properties to obtain this release of federal obligations and land use requirements from the Federal Aviation Administration.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Alliance, Nebraska, to authorize payment in the amount of \$1,018,000 to the Airport Fund for the purpose of obtaining said release, conditional upon Federal Aviation Administration consent to release or acknowledgement of any previous consent.

BE IT FURTHER RESOLVED, The Mayor or City Manager, as appropriate, are hereby authorized to execute all documents associated with this requested release or previous release from the Federal Aviation Administration, and to arrange payment to the Airport Fund.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Bentley and McGhehey.

Voting Nay: Jones.

Motion carried.

● Next on the agenda for Council was Resolution No. 22-97 which authorizes the City to contribute towards the purchase of a mounted lighted fixture for the City Fountain. The following information was provided:

[The Alliance Park Foundation has been working with holiday light companies to purchase a lighted “fountain” fixture to place on the pedestal of the iconic city fountain during the winter months. The fountain lighting fixture will be built to fit our fountain and appear very similar to the photo seen at the right. The Foundation is planning to purchase this fixture after the holiday season as fixtures are expected to be on sale at that time.

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The Alliance Park Foundation members think that this lighting fixture will be a spectacular winter addition to the heart of our parks area and is especially appropriate because our historic fountain is an iconic fixture of our community. In addition, this new feature would draw people to the fountain during the time of year when it is normally dormant.

The Park Foundation is asking if the Alliance City Council would be willing to allocate half of the funds necessary to purchase this fixture, with the City contribution not to exceed \$7,000. Based on estimates provided, this total cost will be around \$13,000 with shipping to Alliance.]

A motion was made by Councilman Mischnick, seconded by Councilman Bentley to approve Resolution No. 22-97 which follows in its entirety:

RESOLUTION NO. 22-97

WHEREAS, The City of Alliance owns and operates the Alliance City Park Fountain; and

WHEREAS, The Alliance Park Foundation has requested to donate a lighted fountain fixture to place on the pedestal of the iconic city fountain for display during the winter months; and

WHEREAS, the total project cost is approximately Thirteen Thousand Dollars and No/100th (\$13,000); and

WHEREAS, The Alliance Parks Foundation is requesting the City of Alliance contribute up to Seven Thousand Dollars and No/100th (\$7,000) towards the project; and

WHEREAS, The City Council believes it is in the best interest of the City of Alliance to accept the donation from the Alliance Park Association and participate with the project expense in an amount not to exceed Seven Thousand Dollars and No/100th (\$7,000).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the donation of a lighted fountain fixture to be placed on the pedestal of the Alliance City Park fountain is hereby accepted by the City of Alliance.

BE IT FURTHER RESOLVED that the City of Alliance will contribute up to Seven Thousand Dollars and No/100th (\$7,000) towards the project.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

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- Resolution No. 22-98 approving the renewal contracts and rates for the City's 2023 Health Insurance Plan was next on the agenda for Council. The following information was provided:

[Brown and Brown Companies (formerly Hays), the City's health benefits broker, has conducted the City's insurance renewal and shopped the market for competitive rates for benefits the City offers its employees. The City looks to continue to provide the same level of coverage without reducing or eliminating benefits as the national cost of health coverage continues to rise.

Administration - Administration for the health insurance program will continue through Regional Care Inc. (RCI). Symetra remains our reinsurance (stop-loss) coverage provider. Fixed costs increased 19.1% while claims liability is projected to decrease 15.5%. As a reminder, the City plans to meet fixed-cost expenditures; however, claims liability will depend on usage. To date, medical claims this year total approximately \$448,455 with five individuals accounting for 69% of expenditures. Projections provided by Brown and Brown anticipate an overall increase of 15.6% when budgeting at *expected* claims liability for 2023.

Employee Premiums and Coverage - Employee premiums for medical, dental, and vision will remain unchanged. Employee **dental** insurance dollars remain at \$2,000 and include orthodontia. **Vision** coverage retail allowance for contact lenses and frames remains at \$200. The **in lieu** of benefit (waive medical coverage) remains at \$350 per month (\$4,000).

Deductibles - IRS 2023 guidelines for plans with embedded deductibles require the minimum individual deductible to increase to \$3,000 (current \$2,800).

This allows a single family member access to medical benefits sooner and saves families money in the event that one family member

incurs a large number of medical expenses. The City has reduced the maximum out-of-pocket amount per calendar year for both single and family plan participants. This change reduces maximum claims liability on single (27 plan participants) by \$1,400 and \$2,800 for those enrolled in family (38) coverage. (See the Plan Amendment for additional details).

	Current	2023
	Maximum Out-of-Pocket (OOP)	Maximum Out-of-Pocket (OOP)
Single	\$5,400	\$4,000
Family	\$10,800	\$8,000

Additional Benefits - The City continues to provide a **Teledoc** option for plan participants allowing employees access to a doctor for non-emergency issues 24/7 via phone, web or mobile app at an employee cost of \$45 and paid outside of the deductible. The City will also continue an **Airlink** Census Plan in 2023 that will

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include all eligible medical plan participants supplemental air ambulance service coverage that ensures no out-of-pocket costs when flown by a provider. The expected cost is \$65 per year per employee costing approximately \$6,500 per year. Employees continue to have optional enrollment in **Colonial Life** for supplemental benefits as well as flexible spending accounts (**FSA**) for dependent care. Lastly, the City continues to provide employee life and accidental death through **UNUM** with the opportunity for employees to purchase additional voluntary coverage.

The hourly value of medical, dental and vision coverage is \$4.85 for single and \$11.23 for family.]

A motion was made by Councilman Bentley, seconded by Councilman Mischnick to approve Resolution No. 22-98 which follows in its entirety:

RESOLUTION NO. 22-98

WHEREAS, The City of Alliance has engaged in a process with Brown and Brown Corporation (formerly Hays), our benefit broker, evaluating its current healthcare benefit plans offered to employees; and

WHEREAS, Various options and proposals have been considered by staff and Brown and Brown Corp., and staff has recommended the options contained herein; and

WHEREAS, The City of Alliance has received a proposal to renew its contract with the Third-Party Administrator, Regional Care Incorporated; and

WHEREAS, The City of Alliance recommends a proposal to renew our contract for reinsurance carrier with Symetra as set forth herein; and

WHEREAS, The City of Alliance has received a proposal to renew its contract with Unum to provide term-life employee coverage and voluntary coverage options for employees; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the contract proposal with Regional Care Incorporated for Third-Party Administrator is hereby approved.

BE IT FURTHER RESOLVED, Monthly premium payments per employee to Symetra as the reinsurance carrier effective January 1, 2023, shall be as follows:

Specific Single Premium	\$ 231.04
Specific Family Premium	\$ 653.66
Aggregate Premium	\$ 17.41
Transplant Coverage	
Single	\$ 10.02

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Family	\$ 24.88
Vision Coverage	
Single	\$ 10.24
Family	\$ 21.64
Life Insurance	
Single	\$ 7.70
Family	\$ 8.70

BE IT FURTHER RESOLVED, administrative service fees to Regional Care, Incorporated, shall be \$34.55 monthly per covered employee, effective January 1, 2023.

BE IT FURTHER RESOLVED, the City of Alliance shall make monthly payments into its Health Support Fund, effective January 1, 2023 for a dental program up to the following amount:

Per Employee	\$ 92.37
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BE IT FURTHER RESOLVED, the City of Alliance shall make monthly contributions to our Health Support Fund, effective January 1, 2023 for the payment of medical, dental and vision claims up to the following amounts:

Per Single Employee	\$ 921.41
Per Family Employee	\$2,176.13

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Council next considered Resolution No. 22-99 which authorizes Amendments No. 4 through 6 to the City's Health Insurance Plan. The following information was provided:

[Brown and Brown Companies (formerly Hays), the City's health benefits broker, along with Regional Care, Inc. (RCI) provided the following amendments to our plan.

No Surprise Act (NSA) – Amendment #4

Amends plan language to incorporate federal laws that protect plan participants from unexpected medical bills and bans certain practices like surprise bills for emergency services, even if the services were out-of-network and without prior authorization.

Deductible Changes – Amendment #5

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Deductible (per calendar year) - Amends plan language to reflect an increase in the Per Plan Participant deductible from \$2,800 to \$3,000 (in order to retain embedded deductible). Out-of-Network deductibles reflect a 20% differential, as required by the preferred provider network (Midland's Choice).

The amendment reduces the Maximum Out-Of-Pocket (OOP) Deductible for in-network providers from \$5,400 to \$4,000 Per Plan Participant and \$10,800 to \$8,000 Per Family Unit. It also reduces the Maximum Out-of-Pocket (OOP) Deductible for out-of-network providers from \$9,750 to \$8,000 Per Plan Participant and \$17,850 to \$16,000 Per Family Unit.

	MIDLANDS CHOICE PROVIDERS	NON-NETWORK PROVIDERS
MAXIMUM CALENDAR YEAR BENEFIT AMOUNT	Unlimited	
Note: The maximums listed below are the total for Network and Non-Network expenses. For example, if a maximum of 60 days is listed twice under a service, the Calendar Year maximum is 60 days total which may be split between Network and Non-Network providers.		
DEDUCTIBLE, PER CALENDAR YEAR		
Per Plan Participant	\$2,800 \$3,000	\$3,250 \$3,360
Per Family Unit	\$5,600	\$5,750 \$6,720
MAXIMUM OUT-OF-POCKET AMOUNT, PER CALENDAR YEAR (including deductible)		
Per Plan Participant	\$5,400 \$4,000	\$9,750 \$8,000
Per Family Unit	\$10,800 \$8,000	\$17,250 \$16,000
The Plan will pay the designated percentage of Covered Expenses until out-of-pocket amounts are reached, at which time the Plan will pay 100% of the remainder of Covered Expenses for the rest of the Calendar Year unless stated otherwise.		

Plan Enhancement – Mammogram/Prostate Screening – Amendment #6

The City of Alliance currently covers the Affordable Care Act's requirements for both mammograms and prostate screening. This amendment will cover procedures on an annual basis.]

A motion was made by Councilman Jones, seconded by Councilman Mischnick to approve Resolution No. 22-99 which follows in its entirety:

RESOLUTION NO. 22-99

WHEREAS, The City of Alliance offers health insurance to our employees; and

WHEREAS, Amendment No. 4 incorporates the No Surprise Act (NSA) within the City's current health plan; and

WHEREAS, Amendment No. 5 amends the plan language to reflect an increase in the Per Plan Participant deductible in order to retain an embedded deductible; and

WHEREAS, Amendment No. 6 will enhance the current plan benefits for mammogram and prostate procedures.

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NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that Amendment No. 4, Amendment No. 5, and Amendment No. 6 be incorporated into the City's health insurance plan.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

- Board appointments were the last item on the agenda for Council.

A motion was made by Councilman Bentley, seconded by Councilman Mischnick to reappoint Kelsey Turman to the Board of Adjustment with a term ending December 31, 2023, to appoint Sam Jackson to the Board of Adjustment for a term ending December 31, 2023, to reappoint Evan Mehne to the Board of Adjustment for a term ending December 31, 2024, to reappoint Vickie Stetson-Mattox to the Planning Commission for a term ending December 31, 2025, and to reappoint Richard Arndt to the Planning Commission for a term ending December 31, 2025.

Roll call vote with the following results:

Voting Aye: Dafney, Mischnick, Jones, Bentley and McGhehey.

Voting Nay: None.

Motion carried.

There being no further business before Council, Mayor Dafney adjourned the meeting at 7:28 p.m.


Mike Dafney, Mayor

(SEAL)


Tarrah S. Johnson, City Clerk

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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.

