

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, JUNE 21, 2016

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

The Alliance City Council met in a Regular Meeting, June 21, 2016 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 June 14, 2016. 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 Yeager opened the June 21, 2016 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Yeager and Council Members Feldges, Korber-Gonzalez, Seiler and Jones. Also present were City Manager Cox, City Attorney Ediger and City Clerk Jines.

- Mayor Yeager read the Open Meetings Act Announcement.
• The Consent Calendar was the first matter for Council’s consideration.

Councilman Feldges made a motion, which was seconded by Councilman Seiler to approve the Consent Calendar as follows:

CONSENT CALENDAR – JUNE 21, 2016

1. Approval: Minutes of the Regular Meeting, June 7, 2016.
2. Approval: Payroll and Employer Taxes for the period May 21, 2016 through June 3, 2016 inclusive: \$206,141.77 and \$14,692.39 respectively.
3. Approval: Claims against the following funds for the period June 1, 2016 through June 14, 2016: 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; \$1,026,281.67.

4. Approval: Update the roster of the Alliance Volunteer Fire Department by adding Zachary Magnuson.
5. Approval: The issuance of the following Contractor Licenses:

General Contractor	Paul Reed Construction & Supply
Groundwork	Troy Hopkin dba Blackeagle Energy Services
6. Approval: Resolution No. 16-76 will authorize the City to enter into an Economic Development Agreement with Steph Mantooth dba Steph's Studio.
7. Approval: Resolution No. 16-77 granting a Special Designated License to D-Head Inc. dba The Gathering Spot for July 14, 15 and 16, 2016 in conjunction with Heritage Days.
8. Approval: Resolution No. 16-78 renewing our Airport improvements loan with First National Bank of North Platte with a maturity date of June 1, 2017.
9. For Your Information: The City is in receipt of the Official Notice of revised Electrical Resources Pooling Agreement Policies & Procedures and the Financial Policies & Guideline from the Municipal Energy Agency of Nebraska (MEAN). Copies of each have been provided for your review and knowledge.

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

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

Roll call vote with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Seiler, Jones, Feldges.

Voting Nay: None.

Motion carried.

- The next agenda item was the approval of a Cemetery Certificate to Walter A. Seiler for the South Half of the Northeast Quarter of Lot Nine (9), Section Two (2), Block Seventeen (17), Second Addition to the Alliance Cemetery.

Roll call vote with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Jones, Feldges.

Abstaining: Seiler.

Voting Nay: None.

Motion carried.

- City Manager Cox gave his City Manager's Report which follows in outline form:
 1. BNSF – Alliance Railway Heritage Community Award; “No City more important than Alliance”
 2. Recycling:
 - a. WasteCAP Nebraska & EcoCycle here last week
 - b. Ed Tvrs attended Recycling Conference in Grand Junction as well as Vail, Loveland
 - c. I will attend Atchison Recycling Operations
 3. Slide at Pool – Was offline, but is now fixed
 4. Senator Sue Crawford (Chair of Urban Affairs Committee) – working on TIF in anticipation of Committee summer hearings
 5. Fire Dept:
 - a. Sponsoring “Downed Officer” Training Thursday
 - b. Instructor Lt Chris Misselt of Box Elder, SD PD
 - c. 12 from Alliance attending
 - d. After completion, each officer will receive a “Downed Officer Kit”
(Tourniquet, Bandages, CPR Face Shield, Trauma Scissors, Medical Tape, Gloves)
 6. Streetscape:
 - a. Pre-Bid Walk Thru on Monday
 - b. Schedule:
 - Special Bid Opening on 6.30
 - Bid Award: 7.19
 - Construction:
 - 300 Block in 2016
 - 400 Block in 2017
- The next matter before Council was to hear the request of Doug Edwards regarding the current regulations on parking of recreational vehicles.

Doug Edwards, 1642 Colorado Avenue appeared before Council and requested that the regulations regarding the parking of recreational vehicles be returned to the previous rules prior to Council's change which took place in January. He stated that 24 hours was an inadequate amount of time to prepare or unpack a recreational vehicle. Mr. Edwards believes that since the vehicles are taxed and licensed there is a right to have them parked on public streets the same as other vehicles. He does not believe requiring the vehicles to remain hitched to another vehicle is best for our community as it takes more space and has environmental issues such as additional pollution. If the true problem is vision to other motorists at intersections, the curbs should be painted yellow to restrict the parking at that site. Mr. Edwards stated the Police Department is harassing recreational vehicles owners daily and not politely informing. He believes the City is trying to boost business for storage facilities. Mr. Edwards also read a letter from Rod and Deb Soloman sharing the same views.

Joel Zilmer, 688 Hampton Avenue stated he contacted the Scottsbluff Police Department and they have the same requirements as the City of Alliance. Sidney also has the same requirement; however, they do not enforce it during the summer. Mr. Zilmer also owns property close to Sidney but chooses to license his recreational vehicles in Box Butte County as he believes this is the right thing to do; however if he is not able to park his vehicles more than 24 hours he may look at changing that decision. Mr. Zilmer stated that Sgt. Digmann had contacted him regarding his recreational vehicle and was polite and courteous. Mr. Zilmer recommended to Council that they consider allowing the parking of recreational vehicles starting two weeks prior to Memorial Day and ending one week following Labor Day.

James Weber, 5801 Sarpy Road commented on the "Robinson Act" and that recreational vehicle owners pay a great deal of taxes such as licensing, tire and park access. He stated if the City does not change the parking regulation the County will be losing a large amount of money.

Don Jones, 350 East 15th Street stated 24 hours is not enough time to pack or unpack a recreational vehicle. Mr. Jones wanted to know exactly who was enforcing this regulation, as he had been told by his neighbors that City employees from other departments were at his residence.

Cheryl Johnson, 408 East 9th Street stated her displeasure with the new regulations. She stated the City is making it very difficult for citizens that have "toys" because they are not allowed to build garages to meet their needs.

Mike Reed, 649 Hampton Avenue stated he was a dispatcher for the Sheriff's Department and he knows how much the Police Department personnel complain about enforcing this new regulation. He commented that some of the Police Department are not aware that current State Statutes allow the vehicles to be parked on the street if hooked up to another vehicle. Mr. Reed also believes the City sneaked this parking change in during the winter. He stated nobody reads the newspaper or listens to the radio.

Julia Murdoff, 1305 East 3rd Street, stated she read it in the newspaper but did not understand that the regulation would be year-round. She expressed her frustration that they cannot be parked in the row (curb strip) or in her own yard. City has no right to prohibit this activity as she pays taxes to the middle of the street and should be able to use her row.

Casey Chasek, 801 Emerson Avenue stated he has a problem with City personnel telling his 12 year old daughter who was playing basketball in their driveway that his camper has to be moved. He stated he did not want this to happen again.

Jeremy Bishop, 313 Hillcrest Avenue asked if there could be some compromise such as a permit being issued to allow for additional time to park?

Scott Bolinger, 507 Niobrara Avenue, expressed his displeasure and informed the public he had supplies for picketing.

Melissa Goss, 1629 Buchfinck Avenue stated that 24 hours was not adequate time to load and unload her recreational vehicle. She stated there are times that when they get home her husband goes straight to work and that she is unable to hook up the camper to her vehicle or drive with the camper.

Dave Lawrence, 822 Niobrara Avenue, stated he loves this community and only wants the best and to see it grow. He feels communication on this subject was lacking. The current rules are very cumbersome. Could a letter not have been enclosed in the utility bills in January to inform the public so arrangements could have been made by individuals with recreational vehicles. He asked the Council to please use common sense when readdressing this matter and come up with a solution that will better meet the needs of the City and residents with recreational vehicles.

Councilman Feldges informed the audience that he has been contacted by several residents that have expressed the difficulties they have driving and seeing around their neighbors recreational vehicles.

Don Jones, 350 East 15th Street, once again addressed Council and stated to really get recreational vehicles ready it takes a minimum of three days. He would like the Council to consider restricting after seven days.

Councilwoman Korber-Gonzalez asked Mr. Jones what he thought of the use of hang tags or permits. Mr. Jones stated he was not in favor. Councilwoman Korber-Gonzalez then read an e-mail from Matthew Serl, plainshunter00@hotmail.com against the new regulation and two letters which have been received by the City from Beverly Preble, 1636 Colorado Avenue; Dana Bentley, 1041 Duncan Avenue asking Council to keep the 24 hour parking limitation for recreational vehicles.

Doug Edwards, 1642 Colorado Avenue concluded his request by asking Council if the City was enforcing the previous seven day limitation of parking recreational vehicles. He stated he felt that if it had been enforced we would not be addressing this issue and it would not have been changed.

Council took no action at this time.

- The next item on the agenda was a presentation from Panhandle Area Development District representatives Jeff Kelly and Deb Cottier. Mr. Kelly presented a PowerPoint for the services and benefits that PADD provides area communities. He requested that the Council consider rejoining PADD for the upcoming fiscal year.

Council thanked Mr. Kelly for the presentation and stated the request would be considered during the upcoming budget process. No additional action was taken at this time.

- Resolution No. 16-79 which will approve an Agreement between the City of Alliance and James Jelinek to allow for ROW access and the second reading of Ordinance No. 2804, which

will approve the Final Plat for Bomgaars Addition, were the next items before City Council. The following information was provided:

[At the last City Council meeting during the discussion at the public hearing for the first reading, considerable dialogue was held regarding a request for an agreement that the City would not change weight restrictions on the access road in the future. The City Council was given an opinion that Council could not bind future governing bodies to such an agreement because the activity may be considered a governmental function; however, legal counsel for the City agreed to recommend such an agreement to the City if the landowner agreed to a clause that recognized the potential that the actions of the Council may not be binding upon future Councils, but it would clearly show the intention of this Council. Legal counsel for the landowner persisted with the desire to have an agreement. In an effort to expedite the process and avoid delays, the City Attorney drafted an agreement which has been agreed to by the landowner. That agreement is enclosed in the packet for Council's consideration under a separate resolution along with the second reading of the ordinance.

FROM PREVIOUS MEETING

The City of Alliance is in receipt of an application for a Final Plat from James Jelinek as the land owner and Dave Meyer representing Bomgaars, the potential future developer. The Final Plat application is to separate a 5.434 acre tract of land for the development of a new retail store for Bomgaars, the dedication of a 66' wide frontage road and easement for utilities and drainage.

The location of the proposed subdivision is in the Northeast Quarter of the Southeast Quarter of Section 34, Township 25 North, Range 48 West of the 6th Principal Meridian. It is located at the southwest corner of the intersection of West 3rd Street, US Highway 385, and Country Club Road.

The property is bordered to the north, west, and south, by A (Agriculture) zoning and to the east by C-3 (Highway Commercial) zoning. The land to be platted is zoned A (Agriculture). The zoning of the unplatted lands being platted should be changed from A to C-3 before the approval of the Final Plat as retail sales establishments are not permitted uses in the A (Agriculture) zoning district and the new lot would be of a nonconforming size.

The City of Alliance Planning Commission met at its regular meeting May 10, 2016 and held a public hearing at which time Terry Curtiss, acting as a representative of the land owner, requested the item be tabled until the issue of the owner's use of the access to his farming operation is resolved. They closed the public hearing and voted to table the item and to reconvene at a special meeting on May 24, 2016. At which time they voted to affirm a recommendation to the Alliance City Council for the approval of the Final Plat of Bomgaars Addition to the City of Alliance contingent on the addition of signature lines for the property

owner in the dedication portion of the plat, the submittal of a streetlight plan, the submittal of public improvement guarantees, a petition letter asking the City to annex the subdivision, and that the Council discuss the possibility of an agreement or statement indicating to the current property owner that the City does not have any intentions of placing weight restrictions on the frontage road keeping him from his field to the south. Said subdivision of land is described as Lands in the Northeast Quarter of the Southeast Quarter of Section 34, Township 25 North, Range 48 West of the 6th Principal Meridian, Box Butte County, Nebraska.]

Councilman Korber-Gonzalez made a motion to approve Resolution No. 16-69 which was seconded by Councilman Jones. The resolution follows in full below:

RESOLUTION NO. 16-79

WHEREAS, The City of Alliance has received a request from James Jelinek for an Agreement to assure the right to operate agricultural trucks, tractors, and equipment on the ROW for operations on the Jelinek Real Estate; and

WHEREAS, The request is being made as part of the Final Plat process for Bomgaars Addition; and

WHEREAS, Mr. Jelinek has been made aware that in this instance the City Council may not bind future governing bodies to this type of agreement because the activity is a governmental function.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, hereby approve and authorize the Mayor to sign on behalf of the City the Agreement with James Jelinek to assure the right to operate agricultural trucks, tractors, and equipment on the ROW for operations on the Jelinek Real Estate.

Roll call vote with the following results:

Voting Aye: Korber-Gonzalez, Seiler, Yeager, Jones, Feldges.

Voting Nay: None.

Motion carried.

A motion was made by Councilman Korber-Gonzalez, seconded by Councilman Seiler to approve the second reading of Ordinance No. 2804 which Clerk Jines read by title and follows in its entirety.

ORDINANCE NO. 2804

AN ORDINANCE APPROVING THE FINAL PLAT OF BOMGAARS ADDITION TO THE CITY OF ALLIANCE, SITUATED IN THE NORTHEAST QUARTER OF THE

SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 25 NORTH, RANGE 48 WEST OF THE 6TH P.M., CITY OF ALLIANCE, COUNTY OF BOX BUTTE, STATE OF NEBRASKA.

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

SECTION 1. The City of Alliance has received the application for approval of the Final Plat of Bomgaars Addition to the City of Alliance, situated in the Northeast Quarter of the Southeast Quarter of Section 34, Township 25 North, Range 48 West of the 6th P.M., City of Alliance, County of Box Butte, State of Nebraska, from Dave Meyer representative of Bomgaars.

SECTION 2. The Planning Commission held a public hearing May 10, 2016, to consider the Final Plat, and after such hearing, tabled action until a Special Meeting on May 24, 2016 and then recommended approval of the Final Plat and said Plat is now submitted to the City Council for approval.

SECTION 3. The subdivision regulations of the City of Alliance contained in the Municipal Code, require the City Council by ordinance to adopt the final plat of any proposed subdivision within the City of Alliance.

SECTION 4. The City Council finds that the Final Plat contains the information required by Section 113-114 of the Alliance Municipal Code, which is relevant to this request.

SECTION 5. The City approval of this Plat is contingent upon the fulfillment of the requirement that an improvement guarantee and agreement for security be signed by the developer of the property, Dave Meyer, Bomgaars and approved by the City Engineer (Community Development Director) and the City Attorney, and all conditions required by the Planning Commission have been met.

SECTION 6. The City Council finds that the Final Plat of Bomgaars Addition to the City of Alliance, situated in the Northeast Quarter of the Southeast Quarter of Section 34, Township 25 North, Range 48 West of the 6th P.M., City of Alliance, County of Box Butte, State of Nebraska, is hereby approved by the City of Alliance and shall be filed with the County Clerk as provided by city code and state law within 30 days of the receipt of the improvement guarantee and agreement for security. The plat map which has been prepared is a part of these proceedings and is attached hereto and is incorporated herein and made a part hereof by reference.

SECTION 7. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Terry Curtiss, 416 Niobrara Avenue, the attorney for Mr. James Jelinek requested Council waive the statutory rule for reading of the ordinance on three separate days. Mr. Curtiss stated all of the conditions for the Final Plat have been met and they would like to move forward for the closing on the property.

Community Development Director Kusek reported to Council that all of the conditions have not been met for the Final Plat at this time. Bomgaars are working on completing the conditions prior to the July 5th City Council meeting as they are planning to break ground on July 11th, if possible.

Based on Mr. Kusek's report, Terry Curtiss withdrew his request for the waiving of three readings.

Susan Nielsen, 2821 South Hwy. 385, the local representative of Bomgaars briefly touched base on the missing components of the Final Plat conditions and thanked the Council and the City for the support and assistance they have received for this project.

Roll call vote on the second reading of Ordinance No. 2804 with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Seiler, Jones, Feldges.

Voting Nay: None.

Motion carried.

- Ordinance No. 2806 which will approve the new language for the Municipal Code in regard to the use of shipping containers was the next agenda item. Council was provided with the following information:

[Community Development staff and the Alliance Planning Commission have recognized the need for code that specifically deals with shipping containers within the City of Alliance. The Municipal Code does not have any language that regulates the use or placement of shipping containers.

This Code focuses on the requirements for the containers specifically on residential and light commercial (C-0, C-1, and C-2) properties and provides general guidelines for all other zoning districts.

The Code will allow containers to be used on residential properties for two specific uses. As long as a Building Permit exists for the lot, the container is allowed to house construction material, tools, etc. and may also be used for moving with the issuance of a Zoning Permit. The proposed Code maintains these uses in residential and light commercial neighborhoods while eliminating the possibility of the containers to be used as long term storage.

The most common use for these containers in commercial and industrial districts is construction and storage. They are used by contractors for material and equipment storage and shipment. The proposed Code has provisions written into it that allow these containers on heavy commercial and industrial properties with general requirements keeping them out of setbacks, rights of way, and easements.

State Statute 19-904.01 provides the legislative body with the ability to terminate a nonconforming use. Staff has documented two of these containers in residential districts at this time. The Planning Commission did not find it a worthwhile endeavor to formulate a specific time in which to require the preexisting use of these two containers to cease.

The City of Alliance Planning Commission met several times to draft a code that works as intended and is enforceable by staff. They held a discussion about the proposal at their regular meeting on June 9, 2015 and made recommendations to staff. Hoping for input from the public, they then held a public hearing at their regular meeting on July 14, 2015 wherein they finalized a draft copy. Staff did not believe this draft was enforceable on industrial and some commercial properties. They held another public hearing at the May 10, 2016 Planning Commission meeting where they recognized the difficulties with enforcement. They then changed the Code and recommended that the Alliance City Council add Section 115-175, titled *Shipping Containers* to the Alliance Municipal Code.]

A motion was made by Councilman Jones, seconded by Councilman Feldges to approve the second reading of Ordinance No. 2806 which Clerk Jines read by title and follows in its entirety.

ORDINANCE NO. 2806

AN ORDINANCE PERTAINING TO THE USE OF SHIPPING CONTAINERS AND ADDING SECTION 115-175 WITHIN THE ZONING REGULATIONS OF THE ALLIANCE MUNICIPAL CODE; PROVIDING FOR AN EFFECTIVE DATE AND REPEALING EXISTING PROVISIONS OF THE ALLIANCE CODE NOT CONSISTENT WITH THIS ORDINANCE.

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

SECTION 1. Section 115-175 of the Code of Ordinances of the City of Alliance, Nebraska is hereby added to read as follows:

Sec. 115-175. – *Shipping Containers*.

(1) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Shipping Container shall mean any container, which may otherwise be known as a container, freight container, ISO container, shipping container, hi-cube container, box, sea container, or container van, designed to store and move materials and products across various modes of the intermodal freight transportation system.

- (2) *General Restrictions.* Shipping Containers in all Zoning Districts:
- a. May be placed in the front yard setback only if being used for moving or relocating purposes.
 - b. May not be placed in the Fence Vision Triangle as defined in Section 115-172 of the Alliance Municipal Code.
 - c. Must be kept out of easements, public rights-of-way, and setbacks except as otherwise provided for in this code.
- (3) *Residential and Commercial Requirements.* In all Residential zoning districts and in the C-1, C-0 and C-2 Commercial districts no Shipping Container shall be allowed except as herein provided:
- a. **Moving:** A Shipping Container may be allowed on a developed lot, if used for moving purposes, for a period of 30 days after the issuance of a zoning permit. If additional time is required the applicant may apply for one 30 day extension.
 - b. **Construction:** Shipping Containers may be placed on a lot without a zoning permit if it is incidental to the permitted construction activities on the same lot. The Shipping Container must be removed with the completion of the project or expiration of the building permit.

SECTION 2. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote on the second reading of Ordinance No. 2806 with the following results:

Voting Aye: Korber-Gonzalez, Seiler, Yeager, Jones, Feldges.

Voting Nay: None.

Motion carried.

- The second reading of Ordinance No. 2807 which will amend Chapter 28 of the Alliance Municipal Code regarding electric services was the next item on the agenda. Council was provided with the following information:

[Chapter 28 of the City of Alliance Municipal Code addresses utility services within the City and surrounding areas. The current Code is somewhat unclear in regard to assumption of costs in relation to new electric services, service upgrades and line extensions. The wording and interpretation of the current Code has led to large credits offered by the City toward electric projects and minimal recapture of associated costs.

Current Code

The current credits are based on the three-year estimate of customer revenues based on the anticipated rate class which is difficult to establish and explain to customers and burdensome to administer with limited cost sharing. The Code did not allow for any adjustment if actual consumption varied from the estimated levels. For example in a recent fiscal year, only 11% of total costs were collected from customers on nineteen electric projects with a total cost just over \$400,000. Although the current practice is seen as consistent with the traditional concept of “public power”, it places a large burden on all rate payers and allows heavily subsidized line extensions and services with no guaranty of future revenues. Also, the line was blurred between line extensions and service installations with the waiver in the past of revenues that should have been collected by the City.

Proposed Code

Staff feels that it is important that the cost born by new customers as well as the existing ratepayers be fair. In other words, it is also important to strike the right balance so that the rest of the ratepayers do not have to subsidize an unfair portion of the costs for a new large customer. The revised Code accomplishes the following objectives:

- Defines urban and rural service, new service, service upgrade and line extension serving as a basis for establishing cost sharing.
- Clarifies that all electric projects involving electric service and line extensions are subject to the preapproval of the City of Alliance in regard to type of service (overhead or underground) and specification of materials.
- Establishes that the customer is generally responsible for 100% of the costs with the exception of the following:
 - Urban line extensions of less than 100 feet and rural line extensions of less than 660 feet which the City assumes all costs.
 - Credit of 50% of actual costs of longer line extensions. (The credit is waived if the service is not energized within six months of completion of the installation.)
- Upgrades some of the equipment specifications included in the Code.]

A motion was made by Councilman Feldges, seconded by Councilman Sciler to approve the second reading of Ordinance No. 2807 which Clerk Jines read by title and follows in its entirety.

ORDINANCE NO. 2807

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, AMENDING THE MUNICIPAL CODE BY WITHIN CHAPTER 28 – UTILITIES, ARTICLE III, ELECTRIC SYSTEM, SECTIONS 28-65, 28-81, 28-83, 28-84, 28-85, 28-88, 28-89, 28-90, 28-91, 28-94, 28-95, AND 28-97; REPEALING PRIOR PROVISIONS OF THE MUNICIPAL CODE

WHICH ARE INCONSISTENT WITH THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. The Alliance Municipal Code at Section 28-65 shall be amended as follows:

Sec. 28-65. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alliance Municipal Electric System (AMES) means the city manager, electric superintendent, employees or representatives or any combination of the persons mentioned within this definition.

Code means the National Electrical Code as adopted by the city and the 2007 edition of the National Electrical Safety Code.

Customer, subscriber, user, or consumer includes and refers to any individuals, developers, firms, agencies or corporations who may be a consumer of or an applicant for electric service.

Line Extension means a continuation of AMES existing electric distribution system as required to serve a proposed customer load.

New Service means a new run of conductors and associated hardware from the AMES' power distribution system to the point of connection at customer's premises.

Notice to AMES means the written or verbal notice or application addressed to: electric superintendent, the Utility Customer Service Office or AMES, P.O. Box D, Alliance, Nebraska 69301.

- (1) Nothing written in this article shall be interpreted to or place upon AMES any duty, obligation, or responsibility to install, maintain, or make repair (other than metering devices such as meters, current transformers, potential transformers or any AMES installed electrical equipment on the customer's premises or private property) on the customer's side of the point of delivery of electrical energy. This shall be the point the wires of AMES first attach to any building, structure, device or URD termination on the customer's premises or property.
- (2) No representative or employee of AMES shall have any right to promise, commit, or agree to anything not authorized by these rules and regulations. Written notice must be

presented to the city manager for consideration of authorization to delete or deviate from these rules and regulations.

Rural Service means outside of the City's corporate limits.

Service Upgrade means a change to the existing conductors and/or equipment for delivering energy from electric utility to customer premises being served.

Urban Service means inside the City's corporate limits.

SECTION 2. The Alliance Municipal Code at Section 28-81 shall be amended as follows:

Sec. 28-81. - Point of delivery and service entrance.

- (a) It shall be the sole responsibility of each prospective customer to obtain from AMES information as to the point at which AMES will provide service to the customer's premises, and thereafter to wire said premises in accordance with such information. AMES shall have no responsibility, duty or obligation to furnish service at any point other than that designated by the electric superintendent.
- (b) The point of delivery of all electric energy furnished by AMES to any customer shall be at the point where the wires of AMES first attach to any building, structure, device or wiring belonging to the customer. At such point AMES will attach its wires to approved devices. All approved structural brackets or framework required for attaching service wires to the customer's premises shall be furnished and installed by the customer at the customer's sole risk, cost and expense with the approval of AMES.

SECTION 3. The Alliance Municipal Code at Section 28-83 shall be amended as follows:

Sec. 28-83. - Same—Charges.

The customer shall pay 100% of the cost of any special installation, including labor, material and equipment costs, necessary to meet the customer's particular requirement for service other than standard voltages, or for the supply of closer voltage regulation or uninterrupted service than required by standard practice of AMES.

SECTION 4. The Alliance Municipal Code at Section 28-84 shall be amended as follows:

Sec. 28-84. - Length and type of electric service.

The length and type (either overhead or underground) of electric service wires which will be run to a residential, commercial or industrial customer will be established by AMES based on the wire size required, site conditions and normal service characteristic at customer's expense.

SECTION 5. The Alliance Municipal Code at Section 28-85 shall be amended as follows:

Sec. 28-85. - Installation of service.

- (a) AMES will permit the installation of service at any point on a building, residential or commercial, so long as the service wires and installation conform to the code. AMES will not be required to build additional line facilities in order to reduce customer wiring costs to serve a prospective customer when existing lines can be used. Where services are installed which will require the service wires to overhang the roof, the weatherhead shall be located at a sufficient height above the roof to permit code clearance between the roof and service conductors.
- (b) All overhead service wires carrying nominal voltages which supply single-phase or three-phase service shall be run from the point of delivery to the service switch and protective cabinet in continuous rigid metallic conduit which shall enter and be made fast to the protective cabinet by means of bushings and locknuts. AMES may at its option, if construction requirements warrant, permit the use of current transformers for electric metering when the service provides for a commercial or industrial load. All underground services shall be approved by AMES. All wires over which service is rendered at 600 volts or higher shall also be run in continuous rigid metallic conduit or schedule 80 PVC duct and shall terminate in terminators of proper electrical rating.
- (c) All service wires shall conform, in size and in conductivity, to all requirements of the code and in no case shall service wires be smaller or have lower conductivity than approved by the code.

SECTION 6. The Alliance Municipal Code at Section 28-88 shall be amended as follows:

Sec. 28-88. - Grounding of secondary and service wires.

All installations shall be grounded at the meter locations. The ground wire shall be continuous through those electric meter backs which have only one ground connector. The size of the ground wire and the method of installation thereof shall be in accordance with the code.

SECTION 7. The Alliance Municipal Code at Section 28-89 shall be amended as follows:

Sec. 28-89. - Service connection.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Service connection.

- (1) The term "service connection" means that portion of the distribution system installed for the particular use of any given customer, to-wit, that portion of the distribution system extending from the nearest pole or underground facility to the point of delivery, (i.e., to the first point of attachment to a building, device, wiring or other structure on the customer's premises).
 - (2) The term "service connection" does not include any lines, poles or facilities located on streets, alleys, public places or rights-of-way of AMES.
- (b) AMES shall own all service connections.
- (c) All underground services shall be code-approved insulated and/or shielded cable properly protected by metal conduit, schedule 40 or schedule 80 PVC, and shall terminate in an approved conduit, cable pothead, or other means as approved by AMES. The cable shall be protected with metallic conduit for a ten-foot length on any pole, an approved attachment bracket shall be installed by the customer for mounting of the conduits or adequately protected by schedule 80 PVC and a ten-foot length of PVC guard from ground level.
- (d) AMES inspections of these services must be completed before services will be energized.

SECTION 8. The Alliance Municipal Code at Section 28-90 shall be amended as follows:

Sec. 28-90. - Line Extension policy.

- (a) *Aerial construction line extension.*
- (1) *Single-phase for permanent, class 1, 2 or 3 nonseasonal loads.* Customer will pay actual costs in excess the credit as allowed in Sec. 28-90 (d), with 50 percent of the estimated cost paid prior to beginning of construction and the balance upon completion.
 - (2) *Single-phase for seasonal loads (including irrigation recirculation systems).*
 - a. Customer will pay actual costs in excess of the credit as allowed I Sec. 28-90 (d), with 50 percent of the estimated cost paid prior to the beginning of construction and the balance upon completion.
 - b. Motors up to and including 7.5 horsepower on seasonal loads are to be single phase (rural lines).
 - (3) *Three-phase for class 2, 3, 4 or irrigation.*
 - a. Customer will pay actual costs in excess of the credit as allowed in Sec. 28-90 (d) for construction or conversion from single phase, with 50 percent of the estimated cost paid prior to beginning of construction and the balance upon completion.
 - b. Center pivot irrigation system. The customer will be responsible for installing buried secondary service from transformer pole to pump location.

- (4) *Relocation of poles at the request of the customer.* The customer shall pay for all costs involved in relocating existing poles, transformers and equipment.
 - (5) *Temporary line extensions.* Any temporary extension for use of construction, temporary power, or any other uses; customer will be charged labor, equipment and materials, plus 25 percent material handling charge to construct and salvage said extension. Salvage material, other than customers', will be retained by the city.
- (b) *Underground construction for extensions from aerial system at primary voltage.*
- (1) *Single-phase to all service classifications seasonal or nonseasonal loads.* The customer shall pay actual costs in excess of the credit as allowed in Sec. 28-90 (d), with 50 percent of the estimated cost paid prior to beginning of construction and the balance upon completion.
 - (2) *Three phase for all service classifications.*
 - a. The customer shall pay actual costs in excess of the credit as allowed in Sec. 28-90 (d), with 50 percent of the estimated cost paid prior to beginning of construction and the balance upon completion.
 - b. If three-phase construction or single-phase conversion is required to extend aerial distribution to point of contact with underground, the extension conditions applicable to aerial extension shall apply as to any added costs.

Note—Subsection (b) of this section is to be interpreted as extending the line described in subsection (a) of this section from the AMES aerial distribution to transformers installed in close proximity to residence or commercial establishment for aesthetic or convenience of customer's load.
 - (3) *Three-phase for irrigation.* Customer will pay actual costs in excess of the credit as allowed in Sec. 28-90 (d), with 50 percent of the estimated cost paid prior to beginning of construction and the balance upon completion.
 - (4) *Temporary URD extensions.* All approved temporary underground extensions will be at the customer's sole expense and risk, including metering at a point on AMES distribution system.
 - (5) *Secondary services.* Services that are 600 volts and below from transformer installed on pole or individual pad-mount transformer:
 - a. Customer shall pay all URD costs, 50 percent of the estimated cost must be paid prior to beginning of construction and the balance upon completion.
 - b. Temporary services will be at customer's full expense, material, equipment and labor, to nearest existing distribution point.
- (c) *New areas by developers: service single- and/or three-phase systems.*
- (1) The developer shall pay all actual costs of aerial or URD systems.
 - (2) The developer shall install or cause to be installed all secondary services (120/240 volt three-wire) from transformer, pedestal or buried junction boxes installed as a part of the URD system.

- (3) Any relocation, after initial installation, of any URD facility shall be at the expense of the developer or others.
- (d) *Allowable electric extension credits*
 - (1) A credit of 50% of actual costs (including labor, equipment and materials) will be allowed for all extensions, where indicated elsewhere in Sec. 28-90.
 - (2) The credit is waived if the service is not energized within 6 months after completion.
 - (3) City assumes full actual costs of line extensions less than 100 feet for urban service and 650 feet for rural service.

SECTION 9. The Alliance Municipal Code at Section 28-91 shall be amended as follows:

Sec. 28-91. - Line extension.

- (a) AMES will extend its electric distribution system along roadways dedicated for public use or within the confines of utility easements wherever the electric superintendent considers it most desirable to locate such extensions. Extensions may be made either overhead or underground on such a basis as AMES determines to be economically and physically feasible. The applicant or group of applicants for an extension of the electric distribution system shall, as a part of the consideration of AMES extending its electric distribution system, execute and deliver without cost to AMES such easement indentures as in the opinion of AMES are or may be required at the time the extension is made or may be required in the future to extend its electric distribution system to an applicant or group of applicants located adjacent to the premises to be served by such extension. The applicant or group of applicants may also be required to contribute, in advance, that part of the estimated cost of construction in excess of the amount which, as provided in the line extension policy adopted by the city council.
- (b) AMES may not be required to set poles on or extend wires across lots or property owned by persons other than the applicant for electric service.
- (c) AMES shall not be required to extend its distribution system underground but may extend its distribution system when a contiguous group of customers or developers in a platted subdivision request the same. Such underground extensions shall be made on a basis as the electric superintendent determines to be economically and physically feasible.

SECTION 10. The Alliance Municipal Code at Section 28-94 shall be amended as follows:

Sec. 28-94. - Power installations.

- (a) Before purchasing any motor or power consuming appliance to be supplied from the system of AMES or before installing any power service, the customer or prospective customer should confer with AMES concerning such motor, other power consuming appliance or starting or controlling equipment therefor which the customer proposes to purchase or install. AMES specifically reserves and shall have the right to specify the

character, type, voltage, frequency and phase of any power installation to be served from its system.

- (b) AMES will not install separate meters for single-phase lighting and power service unless the connected single-phase load is in excess of 7.5 horsepower.
- (c) All three-phase motors shall be served at voltages as approved by AMES.
- (d) Any motor or other power consuming appliance with a rating of 10 horsepower or more must have inherent characteristics or must be equipped with such starting or controlling device, a soft-start system, as will limit the starting current under all conditions to a value not exceeding three times the full load running current; however, these requirements may be waived for such period of time if AMES determines there is no adverse effect on the quality of services afforded other customers. Capacitors of adequate size will be installed on the above installations at the customer's expense, if not within the acceptable power factor limits, before service will be supplied by AMES. Starting or controlling devices shall follow the requirements of IEE Standard 519-1992 under HARMONIC GUIDELINES.

SECTION 11. The Alliance Municipal Code at Section 28-95 shall be amended as follows:

Sec. 28-95. - Transformer installation and transformer vaults.

- (a) Where a customer's electrical load is such that it cannot be served properly from a conventional service connection and where adequate and suitable space for installation of transformers in an adjacent street or alley is not available, the customer shall furnish and set apart, without charge, a space on the premises which, in the opinion of AMES, shall be satisfactory and adequate for the installation.
- (b) Where a customer's electrical load is such that, in the opinion of AMES, a vault inside the customer's building is required or needed for installation of transformers, the customer shall furnish and set apart, without charge, a space inside the building which, in the opinion of AMES, shall be satisfactory and adequate for the installation. The customer shall, at his sole cost and expense, construct and prepare the vault in conformity with all rules, regulations and requirements of the code and shall furnish and install all bus work, conduits, disconnecting devices and hardware in said vault.
- (c) AMES will provide, furnish and install transformers at the customer's cost for electric service from its distribution system of normal distribution voltages. Electric service with underground distribution shall be furnished and installed, or caused to be so, in compliance with AMES requirements by the customer at his sole cost and expense. Upon completion and acceptance the distribution line shall become the property of AMES.

SECTION 12. The Alliance Municipal Code at Section 28-97 shall be amended as follows:

Sec. 28-97. - Aerial or underground estimated costs.

- (a) Cost estimates for preliminary plats will be furnished to developers/owners for planning purposes on request. They will be given an estimated cost for the electric aerial or

underground system for a subdivision, trailer park or planned unit development after meeting the following requirements:

- (1) Furnish the electric department with two copies of the final approved subdivision plat.
 - (2) Furnish the number, size, and location of points of service at which electric service is requested.
- (b) When the developer/owner requests the actual construction of the project be started, a payment of 50 percent of the quoted estimated cost will be required. This partial payment need only be paid on the portion of the electric system which is to be constructed and not necessarily on the whole subdivision project provided said portion is suitable for partial electric service. Quoted estimated costs will include main feeders, primaries and streetlights as shown on the approved utility plat. Changes or modifications requiring additions to the quoted estimated cost shall be at the expense of the developer or owners.

SECTION 13. All ordinances or parts of ordinances passed and approved prior to passage, approval and publication of this ordinance in conflict herewith are now repealed.

SECTION 14. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote on the second reading of Ordinance No. 2807 with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Jones, Feldges, Seiler.

Voting Nay: None.

Motion carried.

- The third reading of Ordinance No. 2802 amending the Alliance Municipal Code regarding the Civil Service Commission was the next item before Council. The following background information was provided to Council.

[On October 24, 1985, City Council adopted Ordinance No. 1855 incorporating the Civil Service Act, as found in the Nebraska Revised State Statutes. At that time, not all sections of the ordinance were codified. The proposed changes will codify the ordinance and update the discipline section based on recommendations of our legal department in compliance with statutes and in accordance with current practices and past experiences.

The adoption of this ordinance will incorporate and ensure compliance with the necessary requirements of the Civil Service Act and update the Municipal Code to reflect changes to the Nebraska Statutes and revise the discipline section.]

A motion was made by Councilman Seiler to approve the third reading of Ordinance No. 2802. The motion was seconded by Councilman Korber-Gonzalez. City Clerk Jines read the Ordinance by title which follows in its entirety:

ORDINANCE NO. 2802

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, AMENDING THE MUNICIPAL CODE TO INCLUDE PROVISIONS IN CHAPTER 2 RELATING TO THE CIVIL SERVICE COMMISSION TO COMPLY WITH THE CIVIL SERVICE ACT SECTIONS 19-1825 THROUGH 19-1848, REISSUE REVISED STATUTES OF NEBRASKA, 1943, AMENDING OTHER PROVISIONS OF THE MUNICIPAL CODE SO THAT THEY ARE NOT INCONSISTENT, PROVIDING FOR AN EFFECTIVE DATE, AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION 1. Chapter 2, Article VI, Division 2 of the Alliance Municipal Code is amended by adding the following language:

DIVISION 2. CIVIL SERVICE COMMISSION

Sec. 2-261. Civil Service Commission Created.

There is hereby created in the City, a Civil Service Commission which shall have three (3) members who shall each be a citizen of the United States, a resident of such City for at least three years immediately preceding such appointment, and an elector of the county wherein such person resides.

Sec. 2-262. Appointment of Members.

The members of the Civil Service Commission shall be appointed by the City Manager. At the time of any appointment, not more than two members of the Civil Service Commission including the one or ones to be appointed shall be registered electors of the same political party. Confirmation of the appointment(s) by any other legislative body shall not be required.

Sec. 2-263. Members' Term of Office.

The first persons appointed to the Civil Service Commission shall for terms of two (2) years, four (4) years, and six (6) years respectively. Thereafter, all appointments shall be for six (6) years.

Sec. 2-264. Removal from Office.

Any member of the Civil Service Commission may be removed from office for incompetency, dereliction of duty, malfeasance in office, or other good cause by the City Manager, except that no member of the Civil Service Commission shall be removed until written charges have been preferred, due notice given such member, and a full hearing had before the City Manager.

Sec. 2-265. Compensation of Members.

Members of the Civil Service Commission shall serve without compensation.

Sec. 2-266. Meetings.

The Civil Service Commission shall hold meetings as may be required for the proper discharge of its duties.

Sec. 2-267. Chairperson.

The Civil Service Commission shall annually elect one of its members as chairperson.

Sec. 2-268. Secretary and Chief Examiner.

The Civil Service Commission shall appoint a secretary and a chief examiner. The Commission may merge the positions of secretary and chief examiner and appoint one person to perform the duties of both positions. The Commission shall appoint the city's personnel officer as secretary and chief examiner, if requested to do so by the City Manager.

Sec. 2-269. Quorum.

Two (2) members shall constitute a quorum for the transaction of business.

Sec. 2-270. Powers and Duties.

The Commission shall adopt and promulgate procedural rules and regulations consistent with the Civil Service Act. Such rules and regulation shall provide in detail the manner in which examinations may be held and any other matters assigned to it by the City Manager. At least one copy of the rules and regulations, and any amendments, shall be made available for examination and reproduction by members of the public. One copy of the rules and regulations and any amendments shall be given to each full-time firefighter and full-time police officer. The members of the civil service Commission shall devote due time and attention to the performance of the duties specified and imposed upon them by the Civil Service Act.

Sec. 2-271. Positions Covered.

The Civil Service Act shall apply only to all present full-time firefighters or full-time police officers of the City, including any paid full-time police or fire chief of such department, and future appointees to such full-time positions. Full-time police officers shall mean police officers in positions which require certification by the Nebraska Law Enforcement Training Center, who have the power to arrest, who are paid regularly by the City, and for whom law enforcement is a full-time career, but shall not include clerical, custodial, or maintenance personnel. Full-time firefighters shall mean duly appointed firefighters who are paid regularly by

the City and for whom firefighting is a full-time career, but shall not include clerical, custodial, or maintenance personnel who are not engaged in fire suppression.

Sec. 2-272. Position Creation and Elimination.

All positions subject to the Civil Service Act shall be created or eliminated by the Mayor and Council.

Sec. 2-273. Establishment of Salaries and Compensation.

The Civil Service Act shall not be construed to infringe upon the power and authority of the City Manager to establish salaries and compensation of all employees within the compensation schedule or ranges established by the Mayor and Council for the positions.

Sec. 2-274. Payment of Compensation for Services.

No treasurer, auditor, comptroller, or other officer or employee of the City subject to the Civil Service Act shall approve the payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services to any person subject to the jurisdiction and scope of the Civil Service Act unless the person to receive such salary, wage, or other compensation has been appointed or employed in compliance with such Act.

Sec. 2-275. City's Duty to Commission.

The Mayor and Council shall provide the Commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated, lighted, and supplied with all office supplies and equipment necessary to carry on the business of the Commission and with such clerical assistance as may be necessary. It shall be the duty of the City to appropriate each fiscal year, from the general funds of the City, a sum of money sufficient to pay the necessary expenses involved in carrying out the purposes of such act, including, but not limited to, reasonable attorney's fees for any special counsel appointed by the Commission when the City Attorney is not authorized by the City Manager to represent the Commission. The City Manager may establish the hourly or monthly rate of pay of such special counsel. The City shall afford the Commission, its members and employees all reasonable facilities and assistance to inspect all books, papers, documents, and accounts applying or in any way appertaining to any and all positions and employments subject to civil service and shall produce such books, papers, documents and accounts. All city officers and employees shall attend and testify whenever required to do so by the Commission, the accused, or City Manager.

Sec. 2-276. Political Fund Contribution and Political Service.

No person holding any position subject to civil service shall be under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever. No person shall be removed, reduced in position or salary or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person

under civil service, or promise or threaten to do so for giving, withholding, or neglecting to make any contribution of money, services, or any valuable thing for any political purposes.

Sec. 2-277. Tenure of Employment.

The tenure of a person holding a position of employment under the Civil Service Act shall be only during good behavior.

Sec. 2-278. Causes for Disciplinary Action.

Any such person may be removed or discharged, suspended with or without pay, demoted, reduced in rank, or deprived of vacation, benefits, compensation, or other privileges, except pension benefits, for any of the following reasons:

1. Incompetency, inefficiency, or inattention to or dereliction of duty;
2. Dishonesty, prejudicial conduct, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, any act of omission or Commission tending to injure the public service, any willful failure on the part of the employee to properly conduct himself or herself, or any willful violation of the Civil Service Act or the rules and regulations adopted pursuant to such act;
3. Mental or physical unfitness for the position which the employee holds;
4. Drunkenness or the use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid or preparation to such an extent that the use interferes with the efficiencies or mental or physical fitness of the employee or precludes the employee from properly performing the functions and duties of his or her position;
5. Conviction of a felony or misdemeanor tending to injure the employee's ability to effectively perform the duties of his or her position; or
6. Any other act or failure to act which, in the judgment of the Civil Service Commissioners is sufficient to justify the offender to be an unsuitable and unfit person to be employed in the public service.

Sec. 2-279. Disciplinary Action Procedure.

1. No employee in the civil service who shall have been permanently appointed or inducted into civil service shall be removed, suspended, demoted, or discharged, except for cause and then only upon the written accusation of the Police or Fire Chief, City Manager, or any citizen or taxpayer.
 - a. Written Accusation. The written accusation shall set forth the alleged misconduct, charges, or grounds for investigation against the employee. The written accusation shall be filed by the complainant with the City Manager who shall cause a copy of such written accusation to be delivered within 48 hours after the filing to the (a) Police or Fire Chief unless either be the complainant, and (b) employee personally or by certified mail, addressed to the employee at the residence address of the employee shown in the personnel records.

- b. Suspension. The Police Chief and Fire Chief with approval of the City Manager, or City Manager shall have the authority to immediately suspend, an employee against whom such written accusation has been filed, pending the confirmation of the suspension, or a decision of the City Manager to reinstate the employee, remove, demote, discharge, or suspend the employee, with or without pay.
- c. Investigation of Written Accusation. Prior to the decision of the City Manager to reinstate the employee or remove, demote, discharge, or suspend the employee, with or without pay, the City Manager shall within a reasonable period of time investigate the alleged misconduct, charges, or grounds against the employee and explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present his or her version of the circumstances which resulted in the filing of the written accusation.
- d. If the City Manager's investigation reveals other misconduct, charges, or grounds the City Manager shall direct the complainant Chief to amend the written accusation to include the other misconduct, charges, or grounds by filing an amendment to the written accusation with the City Manager who shall cause a copy of such amended accusation to be delivered after the filing as provided in a. above. The City Manager shall explain the basis of the employer's evidence to the employee and provide the employee an opportunity to present his or her version of the circumstances which resulted in the filing of the amended written accusation.

In the event that a Police or Fire Chief is being disciplined, the City Manager shall follow the same procedures as are followed by the Police or Fire Chief in disciplining employees under the Act.

- e. Upon completion of this procedure the City Manager may make one of the following findings to resolve the alleged misconduct, charges, or grounds set forth in the written accusation: (1) to be without merit, (2) to not warrant disciplinary action, (3) to warrant disciplinary action less severe than removal, demotion, discharge, or suspension, with or without pay, such as an oral or written reprimand, or (4) to warrant removal, demotion, discharge, or suspension, with or without pay.
 - f. City Manager's Response. If the City Manager's determination comes under e.(4) above, within five (5) calendar days after making a decision, the City Manager shall file a copy of his or her decision with the Secretary of the Commission who shall follow the same procedure as provided in a. Written Accusation above.
2. Civil Service Commission Review. Any civil service employee so removed, suspended, demoted or discharged, may, within ten (10) calendar days after receiving written notice of the City Manager's decision, file a written demand for an investigation and public hearing by the Civil Service Commission, with the secretary of the commission and a copy to the City Manager. The failure to file such a request shall constitute a waiver of the employee's right to review by the Civil Service Commission and the City Manager's decision shall become final.

3. Employee's Responsibilities after Filing Appeal. Simultaneously with filing the demand for investigation and public hearing, the employee shall mail or deliver the following upon the City Manager and Secretary of the Civil Service Commission:
 - a. A *response* to the statement of the charge(s);
 - b. The names of the witnesses who will be called on behalf of the employee and a general statement of the nature of their testimony; and
 - c. Copies of the documents to be introduced.

4. City's Responsibility after Employee Files Appeal. Within ten (10) calendar days of receipt of the employee's notice of appeal, the City Manager shall cause to be mailed or delivered the following notice to the employee and Secretary of the Civil Service Commission:
 - a. A statement of the charge(s);
 - b. The names of the witnesses who will be called on behalf of the City Manager and a general statement of the nature of their testimony;
 - c. Copies of the documents to be introduced.

5. Investigation Conducted on Employee's Appeal. Upon receipt of a written demand, the Commission shall conduct an investigation. The Commission may be represented in such investigation and public hearing by the City Attorney if authorized by the City Manager. If the City Attorney does not represent the Commission, the Commission may be represented by special counsel appointed by the Commission for any such investigation and hearing. The investigation shall consist solely of a review of the written submissions of the City Manager and employee to determine whether any individuals or documents should be subpoenaed by the Commission for the subsequent public hearing before the Commission ultimately to determine whether the City Manager acted in good faith for cause. Good faith for cause shall mean that the action was not arbitrary or capricious and was not made for political or religious reasons.

6. Public Hearing Conducted on Employee's Appeal. The Commission shall schedule a public hearing no less than ten (10) nor more than twenty (20) calendar days from the date of filing of the employee's written demand for an investigation. The Commission shall notify the City Manager and employee in writing at least five (5) calendar days prior to the date of the hearing, of the date, time and place of the hearing. Both parties shall be permitted to appear in person and by counsel and to present his or her case and may present evidence by testimony and documents and shall be permitted to cross-examine witnesses. A decision shall be rendered no later than ten (10) calendar days after the hearing.

7. Commission's Finding. The Commission may affirm the action taken by the City Manager if such action is supported by a preponderance of the evidence. If the Commission finds that the removal, suspension, demotion or discharge was made for political or religious reasons or was not made in good faith for cause, it shall order the

immediate reinstatement or reemployment of such employee in the position or employment from which such employee was removed, suspended, demoted, or discharged, which reinstatement shall, if the Commission in its discretion so provides, be retroactive and entitle such person to compensation and restoration of benefits and privileges from the time of such removal, suspension, demotion, or discharge.

After the hearing, in lieu of affirming the removal, suspension, demotion, or discharge, the Commission may modify the order of removal, suspension, demotion, or discharge by directing a suspension, with or without pay, for a given period and the subsequent restoration to duty or demotion in position or pay. No later than ten (10) calendar days after the hearing the Commission shall certify its findings in writing to the employee and the City Manager who shall enforce them.

8. Appeal. If such judgment or order be concurred in by the Commission or a majority thereof, the accused or governing body may appeal to the district court according to Nebraska Statutes.

SECTION 2. All other ordinances or parts ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. This ordinance shall become effective upon its passage, approval and publication shall be in pamphlet form.

Roll call on the final reading of Ordinance No. 2802 with the following results:

Voting Aye: Korber-Gonzalez, Seiler, Yeager, Jones, Feldges.

Voting Nay: None.

Motion carried.

Mayor Yeager stated, “the passage and adoption of Ordinance No. 2802 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The next matter before Council was consideration of Resolution No. 16-80 which will accept the donation of a steel picnic shelter from Friends of Carhenge. The following background information was provided to Council:

[Friends of Carhenge gifted Carhenge and the ten acres of ground on the site to the citizens of Alliance in 2013. Having a passion for the tourism site, the Friends agreed to continue to be a fundraising organization for improvements to Carhenge. Friends of Carhenge continue to maintain their organization as a legal non-profit corporation with a 501(c)(3) tax status.

Friends of Carhenge is proposing to have a shelter constructed in the Carhenge parking area to provide a shady location for visitors to eat, rest, lengthen their stay and otherwise enjoy their time more in Alliance.

The shelter will comfortably hold either three picnic tables end to end or four picnic tables side by side. The all-steel construction on a concrete pad (10' X 24') will make this a low maintenance, long-term structure and will be gray in color to match the cars. The shelter will have a flat roof, sloping to the west on four steel supports.

The contractor chosen by friends of Carhenge is Peltz Construction of Alliance.

Value of this gift from Friends of Carhenge is approximately \$10,000.]

Kendra Schott, 1124 Grand Avenue, President of Friends of Carhenge, was in attendance to speak about the donation and answer questions of Council.

Mayor Yeager made a motion which was seconded by Councilman Jones to approve Resolution No. 16-80 which follows in its entirety:

RESOLUTION NO. 16-80

WHEREAS, The City of Alliance owns and operates the Carhenge attraction; and

WHEREAS, The City of Alliance accepted Carhenge from the Friends of Carhenge in August, 2013; and

WHEREAS, Friends of Carhenge conducted a fundraiser in 2014 for the purpose of placing picnic shelters at Carhenge; and

WHEREAS, Friends of Carhenge would now like to donate a steel picnic shelter which will be placed on a 10' x 24' concrete pad and includes the installation expenses; and

WHEREAS, The value of this donation is approximately \$10,000 and the City Council believes it is in the best interest of the City of Alliance to accept the donation from the Friends of Carhenge.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the donation of a picnic shelter valued at approximately \$10,000 for Carhenge be accepted from the Friends of Carhenge.

Roll call vote with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Seiler, Jones, Feldges.

Voting Nay: None.

Motion carried.

- The next item before Council was Resolution No. 16-81 which will award the Airport Seal Coat of Taxiways and Aprons to Maxwell Asphalt of Salt Lake City, UT in the amount of \$746,643.00. Council was provided with the following background information:

[M.C. Schaff and Associates on behalf of the City of Alliance prepared an Invitation to Bid for the Federally-approved Airport Seal Coat of Taxiway and Apron Project Number 3-31-0003-18-2016(C04). The project was advertised for four weeks with five prime contractors and two subcontractors requesting plans and specifications.

One bid was opened at the scheduled time on June 2, 2016 at the Alliance Municipal Airport. The bid has been reviewed by the Engineer with no pricing errors identified and compliance noted with Disadvantaged Business Enterprise (DBE) goals, Buy American Certification, and bid bond requirements. The only bidder, Maxwell Asphalt of Salt Lake City, Utah was 17% more than the Engineer's estimate. Due to only one bid being received, M.C. Schaff prepared an Independent Cost Analysis for the single bidder which the Nebraska Department of Aeronautics (NDA) and Federal Aviation Administration (FAA) have reviewed and accepted.

The bid is summarized below:

Bidder	Total Base Bid
Maxwell Asphalt, Salt Lake City, UT	\$746,643.00
Engineer's Estimate	\$635,488.75

M.C. Schaff and Associates is recommending that the Council approve the bid proposal from Maxwell Asphalt in the amount of \$746,643 subject to the final approval of the bid by the Federal Aviation Administration and Nebraska Department of Aeronautics. M.C. Schaff's formal letter of recommendation is included in the packet as well as a tentative list of subcontractors and a list of completed airport seal coat projects from Maxwell Asphalt.

In addition to the actual construction costs, engineering and NDA administration costs of \$71,135 will be added for a total project cost of \$817,778. The City of Alliance's 10% match will be \$81,778.

Airport staff is recommending moving forward with this project. If the City of Alliance decides to reject this bid which the FAA has approved, then the City may have to pay for the design and bidding fees to date which is almost \$23,000. The seal coat would remain the next project to be completed and the City would then pay for all rebidding costs and may have to pay any costs above this current bid price. As the City has experienced with the 10th Street project, the airport would likely pay more than the \$81,778 if delayed because of increased costs and rebidding expenses in another year.]

Councilman Jones made a motion to approve Resolution No. 16-81, which was seconded by Councilman Seiler. The resolution follows in its entirety:

RESOLUTION NO. 16-81

WHEREAS, The City of Alliance, operates the Alliance Municipal Airport; and

WHEREAS, The City prepared an Invitation to Bid for the Federally-approved Airport Seal Coat of Taxiways and Aprons Project No. 3-31-0003-18-2016(C04); and

WHEREAS, One bid was received and our engineers, M.C. Schaff and Associates prepared an Independent Cost Analysis for a single bidder which the Nebraska Department of Aeronautics and the Federal Aviation Administration have reviewed and accepted; and

WHEREAS, Maxwell Asphalt of Salt Lake City, UT bid the project in the amount of Seven Hundred Forty-six Thousand Six Hundred Forty-three and no/100ths (\$746,643.00); and

WHEREAS, The City's share of the cost of this project is 10% which includes engineering and Nebraska Department of Aeronautics administration costs for a total of Eighty-one Thousand Seven Hundred Seventy-eight and no/100ths (\$81,778.00).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Mayor is authorized to enter into a contract with Maxwell Asphalt of Salt Lake City, UT in the amount of Seven Hundred Forty-six Thousand Six Hundred Forty-three and no/100ths (\$746,643.00) for the Alliance Municipal Airport Project No. 3-31-0003-18-2016(C04).

BE IT FURTHER RESOLVED that said award is contingent upon final approval of the bid by the Federal Aviation Administration and the Nebraska Department of Aeronautics.

Roll call vote with the following results:

Voting Aye: Korber-Gonzalez, Yeager, Jones, Feldges, Seiler.

Voting Nay: None.

Motion carried.

- Resolution No. 16-82 which will award the Highway 385 Water Main Replacement to K.L. Wood Co., Inc. in the amount of \$35,601.25 was the next item before Council. The following information was provided:

[The Nebraska Department of Roads has requested a portion of the City of Alliance's infrastructure be moved as a part of the Heartland Express project in order to avoid conflict with the proposed roadway and the infrastructure of the City. The section of water main that is required to be moved is on Highway 385 between 3rd Street and Kansas Street. This consists of 665 feet of 12" water main.

The City of Alliance opened bids for this project on June 13th 2016. A representative of M.C. Schaff and Associates was present for the bid opening and reviewed the bids received.

Three bids were received for this project as follows:

Contractor	Bid
K.L. Woods, Alliance, NE	\$35,601.25
Adams Civil Resources, Sidney, NE	\$49,100.00
Nienhueser Construction, Sidney, NE	\$49,988.00

The engineer's estimate for this project was \$49,100. M.C. Schaff and Associates recommended awarding the bid to K.L. Wood of Alliance, Nebraska.

Funding for this project was not included in this year's budget as notification occurred after the final approval. Funding will have to be drawn from the Water Distribution Contingency Fund (GL #08-52-52-47-791) which has a balance of \$150,000.]

Councilman Jones made a motion to approve Resolution No. 16-82 which was seconded by Councilman Feldges. The resolution follows in full below:

RESOLUTION NO. 16-82

WHEREAS, In preparation of the improvements which will be taking place on U.S. Highway 385, the City has been requested by the Nebraska Department of Roads to relocate some of our infrastructure; and

WHEREAS, As a result of this request, the City prepared bid specifications for the relocation of 665 feet of 12" water main between 3rd Street and Kansas Avenue; and

WHEREAS, Three bids were received and the lowest, responsible and responsive bid was received from K.L. Wood Co., Inc., of Alliance, NE in the amount of Thirty-five Thousand Six Hundred One Dollar and 25/100th (\$35,601.25); and

WHEREAS, Funding for this project was not included within this fiscal year as notification was received after the budget approval, therefore funds are being requested from the Water Distribution Contingency Fund.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Mayor is authorized to sign a contract with K.L. Wood Co., Inc. in the amount of Thirty-five Thousand Six Hundred One Dollar and 25/100th (\$35,601.25) for the relocation of 665 feet of 12" water main between 3rd Street and Kansas Avenue.

BE IT FURTHER RESOLVED Council is authorizing a change order allowance of up to 10% toward this project should it be necessary due to the type of work being completed.

BE IT FURTHER RESOLVED that the use of \$39,200.00 Water Distribution Contingency Fund from Account No. 08-52-52-47-791 is hereby authorized for the payment of this project.

Water Superintendent Earl Winter was in attendance and answered questions regarding the project for Council.

Roll call vote with the following results:

Voting Aye: Seiler, Korber-Gonzalez, Yeager, Jones, Feldges.

Voting Nay: None.

Motion carried.

- Staff made the recommendation to Council to establish a meeting date to hold a Budget Workshop; July 26, 2016 was proposed.

By consensus, Council decided to hold a Budget Workshop on July 26, 2016 beginning at 8:00 a.m. The location is yet to be determined.

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

A motion was made by Councilman Feldges, seconded by Councilman Jones, to accept the resignation of Mr. Virgil Hatch from the Alliance Park and Tree Board.

Roll call vote with the following results:

Voting Aye: Seiler, Korber-Gonzalez, Yeager, Jones, Feldges.

Voting Nay: None.

Motion carried.

Councilman Feldges announced following Board openings: two vacancies on the Board of Adjustment; one vacancy on the A-2 Downtown Improvement Board; one vacancy on the Alliance Housing Authority, and two youth ex-officio positions on the Library Board, two vacancies on the Museum Board, one vacancy on the Park and Tree Board and one vacancy on the Alliance Planning Commission. Anyone interested in serving on these Boards should contact the City Clerk's Office. Information on all of the City Boards is also available on our web site, www.cityofalliance.net

- Prior to adjourning Council requested staff to follow-up on a few items as a result of the recreational vehicle parking matter. Council wanted (1) to be sure residents were being granted 24 hours of parking prior to being contacted, (2) if we knew how many accidents involved the parking of a recreational vehicle, (3) uniform training regarding the enforcement of recreation vehicle parking be provided to the Police Department, (4) the possibility of a community survey

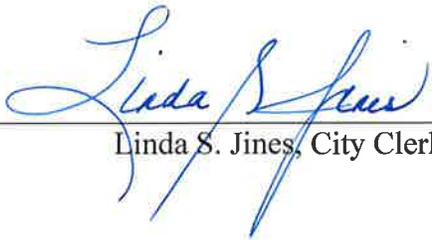
being conducted on this issue and (5) to ensure that juveniles are not being notified of the requirement to move a recreational vehicle.

- Mayor Yeager stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:56 p.m.”

(SEAL)



Ralph Yeager, Mayor



Linda S. Jines, City Clerk

