

June 6, 2023

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, JUNE 6, 2023

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

The Alliance City Council met in a Regular Meeting, June 06, 2023 at 7:00 p.m. in the Alliance Learning Center Community Meeting Room, 1750 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on May 31, 2023. 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 provided 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 Jones opened the June 06, 2023 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Jones, Vice Mayor McGhehey and Council Members Mischnick, Andersen, and Mashburn. Also present were City Manager Sorensen, City Attorney Hoelsing, City Treasurer Baker and City Clerk Pitt.

- Mayor Jones read the Open Meetings Act Announcement.
- The Consent Calendar was the next item on the agenda. A motion was made by Councilman Jones and seconded by Councilman McGhehey to remove claim two, and vote on Councilman Mashburn's conflict claim as it's own item.

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried

A motion was made by Councilmen Mashburn, which was seconded by Councilman McGhehey to approve the Consent Calendar as follows:

CONSENT CALENDAR – JUNE 6, 2023

June 6, 2023

Approval: Minutes of the Regular Meeting, May 16, 2023.

Approval: Payroll from May 19, 2023 in the total amount of \$253,400.49.

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; \$2,127,121.93.

Approval: Resolution 23-41 will approve the Agreement with Aging Office for the Senior Center Facility 212 Yellowstone Ave.

Approval: Resolution No. 23-42 will approve a budget transfer for the Alliance Learning Center in the total amount of \$6,700.

Approval: Resolution No. 23-43 will approve a budget transfer to Tourism in the total amount of \$12,700.

NOTE: City Manager Sorensen and City Treasurer Baker have reviewed these expenditures and to the best of their knowledge confirm 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: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

A motion was made by Mayor Jones, seconded by Councilmen Mischnick to approve Councilmen Mashburn's conflict claim in the total amount of \$130.78.

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen.

Voting Nay: None.

Abstain: Mashburn.

Motion carried.

June 6, 2023

- Next before Council was a Public Comment for the proposed amendment of Ordinance No. 2956 on the final reading, which will amend Section 22-175 and 22-177 of the Alliance Municipal Code in regards to the dates and times fireworks may be legally sold and discharged.

Mayor Jones asked if anyone from the audience was present speak on behalf or against the proposed Ordinance.

With no public comment offered, a motion was made by Mayor Jones to approve the final reading of Ordinance No. 2956, with six days of discharge and sale.

Motion died with lack of a second.

Mayor Jones asked for any discussion or comments from the City Council.

Councilmen Mashburn expressed that the change from 10 days to 5 day was very dramatic and feels that 7 days is a workable compromise.

Councilmen Andersen agreed with Councilmen Mashburn, stating that 7 days seems to be the best compromise after hearing input from various citizens. Thanking all the citizens for coming forward with their comments and concerns.

Councilmen Mischnick stated that he feels for the Veterans and Citizens affected by the fireworks, but 7 days seems more than fair for a compromise.

Mayor Jones commented that he feels if this Ordinance is revisited that the Council should consider an area for fireworks to be discharged for a longer period of time, instead of throughout the entire City.

Vice-Mayor McGhehey expressed his concerns with having only a designated area to discharge fireworks and feels that would a barrier.

A motion was made by Councilmen Mashburn and second by Councilmen Andersen to pass and adopt Ordinance No. 2956 on final reading. City Clerk Pitt read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2956

AN ORDINANCE AMENDING SECTIONS 22-175 AND 22-177 OF THE ALLIANCE MUNICIPAL CODE TO AMEND DATES AND TIMES WHEREIN FIREWORKS MAY BE LEGALLY DISCHARGED; REPEALING EXISTING ORDINANCES, RESOLUTIONS, POLICIES, OR PORTIONS THEREOF NOT CONSISTENT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

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

June 6, 2023

SECTION 1. The City Code, at Section 22-175. – Prohibited, nonapplicability, is hereby amended as follows:

“Sec. 22-175. - Prohibited; nonapplicability.

- (a) It shall be unlawful for any person to manufacture, display, sell, offer for sale, give away, use, start, discharge or explode, or cause to be manufactured, displayed, sold, offered for sale, given away, used, started, discharged, or exploded, any firework.
- (b) The provisions of the immediately preceding subsection shall not apply to:
 - (1) Non-wire sparklers, toy pistols or toy pistol caps;
 - (2) The possession of pyrotechnics which are in transportation to points outside the city;
 - (3) The possession or transportation of such pyrotechnics held by wholesale dealers for sale and shipment in unbroken packages to points or places outside the city;
 - (4) The sale, storage, or use of railroad track torpedoes or other signaling devices used by railroads;
 - (5) The sale, storage or use of flashlight compositions by photographers or dealers in photographic supplies;
 - (6) Pyrotechnic displays on the occasion of public celebrations or festivals, if the person conducting such pyrotechnic display shall first have applied for and have been granted by resolution of the mayor and city council permission to conduct such display;
 - (7) The sale and use of fireworks between June 28 and July 4 each year, during time periods authorized by state statute as modified by resolution of the mayor and city council, or by another section of this article;
 - (8) The use of blank cartridge pistols at sporting events by authorized persons; or
 - (9) The use of blank cartridge pistols or other pyrotechnics by a person designated by the city manager or designee to implement the waterfowl management policy.
- (c) The terms "firework" or "fireworks" in this article shall refer to "consumer fireworks" as they are defined and amended by R.R.S. 1943, ch. 28, art. 12.”

SECTION 2. The City Code, at Section 22-177. – Legal Dates, times, and age restrictions for discharging fireworks, permit required, is hereby amended as follows:

“Sec. 22-177. - Legal dates, times and age restrictions for discharging fireworks; permit required.

- (a) It shall be unlawful to discharge any firework as defined and permitted by state statute, prior to June 28 and after July 4 and at any time other than the dates and times specifically authorized by state statute and as modified by resolution of the mayor and city council.
- (b) Fireworks may be legally discharged between the hours of 9:00 a.m. and 10:00 p.m. on June 28 to July 3; and between the hours of 9:00 a.m. and 12:00 midnight on July 4. The city manager or his or designee may authorize in writing the discharge of fireworks between 9:00 a.m. and 12:00 midnight on July 5 if, in the discretion of the city manager or his or her designee, sufficient circumstances warrant an extension of the holiday celebration, provided that no firework may be discharged on July 5 without the written authorization of the city manager or his or her designee.
- (c) The use or possession of fireworks by any person under 12 years of age is prohibited unless direct supervision is provided by a person 18 years of age or older.

June 6, 2023

(d) The city manager or designee shall issue a permit allowing the sale of fireworks during permitted periods for that calendar year under the following standards:

(1) Proof of fireworks license from the state fire marshal under state administrative code title 157, chapters 2 and 4, permissible fireworks list and licensing requirements, as per the current International Fire Code, fireworks as adopted by the city;

(2) Sale and retail display with storage in type 5 magazine 3301.1.3, 3301.2.3, 3302 and 3308.11.

(e) At no time shall it be lawful to discharge a firework in any manner that is unsafe or dangerous to persons or property in any manner prohibited by R.R.S. 1943, § 28-1242 as now constructed or hereafter amended.

(f) At no time shall it be lawful to discharge a firework into or upon any city recreational property unless the city has granted a special permit for such discharge.”

SECTION 3. All other Ordinances or parts of Ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance.

SECTION 4. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

PASSED AND APPROVED this 6th day of June, 2023.

Roll call vote with the following results:

Voting Aye: Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: Jones.

Motion carried.

- The following item, Resolution No. 23-44 will authorize amendments to the lease and easement agreement, the solar power purchase agreement and the generator interconnection agreement with SE Municipal Solar, LLC for the Solar Energy System. The following information was provided:

[The City recently executed the following contracts with SE Municipal Solar, LLC:

City staff presents three documents to Council for approval:

Lease and Easement Agreement for Solar Energy System effective November 28, 2022;

Solar Power Purchase Agreement effective November 28, 2022; and

Generator Interconnection Agreement effective November 28, 2022.

Since the approval and execution of those agreements, the Municipal Energy Alliance of Nebraska (“MEAN”) has proposed a multi-community enhancement to SE

June 6, 2023

Municipal Solar, LLC facilities in the State of Nebraska. Under the proposal, the solar field of the City's facility will grow from 2.4MW to 7.8MW. The solar field will be owned and operated by SE Municipal Solar, LLC under its lease with the City, and all energy production from the solar field will be interconnected and sold to the City at the City's transfer substation. Of that amount sold, the original 2.4MW capacity will still be purchased from SE Municipal Solar, LLC at the rate originally set forth in the Power Purchase Agreement, and the remaining 5.4MW will be first "sold" to MEAN by SE Municipal Solar, LLC and then sold by MEAN to the City under the City's current energy purchase agreements with MEAN, at the regular MEAN rate. MEAN will then reduce the amount of energy delivered to the City at other substations of the City.

The larger facility will require upgraded interconnection infrastructure. The City is committed to installing the following infrastructure at the estimated costs:

1. Transmission line to sub-transmission facility: \$520,000
2. 3 Transformers for step-down of energy on to City's grid: \$414,000

Under the amended agreements, SE Municipal Solar, LLC will agree to pay for approximately 70% of transmission line installation and transformer cost. The City will be responsible for the remaining approximate 30%, meaning the City is anticipated to budget \$280,200 for its net share in the next fiscal year.

Under the original agreements, the City expected a costs of infrastructure upgrades to be \$350,000, and SE Municipal Solar, LLC anticipated reimbursing up to \$200,000 to the City for those costs, if those costs qualified for tax credits. The amendments to the original agreement therefore propose a possible higher cost to the City, but not changes to the power purchase rates.

To address this, SE Municipal Solar, LLC has committed in the amendments to paying rent. Originally no rent was anticipated under the lease agreement. However, under this lease amendment, the City will received approximately 70% of \$500 per acre per year. The facility will cover approximately 54 acres. Therefore City staff anticipates an initial rental amount of approximately \$19,000 annually, with a 2% automatic increase per year. The additional infrastructure costs to the City should be recovered through rent receipts over a period of 7 years, and rent will continue to be received for another 18 years under the lease term.

Before Council are the following for approval, which will adjust the previous agreements in order to accommodate the larger solar facility:

First Amendment to Lease and Easement Agreement for Solar Energy System effective November 28, 2022;

June 6, 2023

First Amendment to Solar Power Purchase Agreement effective November 28, 2022; and

First Amendment to Generator Interconnection Agreement effective November 28, 2022.

RECOMMENDATION: Approve Resolution 23-44 to authorize the Mayor to sign the first amendments to the lease and easement agreement, the solar power purchase agreement, and the generator interconnection agreement.]

Electric Superintendent Bridge provided the Council with an overview of the amendments to the agreements, explaining the reasoning for it.

A motion was made by Vice-Mayor McGhehey, seconded by Councilman Mischnick to approve Resolution No. 23-44 which follows in its entirety:

Resolution No. 23-44

WHEREAS, the operation of its municipal electrical system, the City of Alliance, Nebraska (the “City”) provides electricity to customers and users, and purchases at wholesale costs electricity from wholesale electricity providers through power purchase agreements (the “Original Agreements”);

WHEREAS, the City approved and executed the following documents:

Lease and Easement Agreement for Solar Energy System effective November 28, 2022;

Solar Power Purchase Agreement effective November 28, 2022; and

Generator Interconnection Agreement effective November 28, 2022.

WHEREAS, SE Municipal Solar, LLC desires to increase the size of the solar facility under the Original Agreements to accommodate the involvement of the Municipal Energy Alliance of Nebraska (“MEAN”); and

WHEREAS, the City and SE Municipal Solar, LLC have agreed to terms of the following amendments to the Original Agreements for the solar electricity generation project (the “First Amendments”):

First Amendment Lease and Easement Agreement for Solar Energy System effective November 28, 2022;

First Amendment Solar Power Purchase Agreement effective November 28, 2022; and

First Amendment Generator Interconnection Agreement effective November 28, 2022.

June 6, 2023

NOW, THEREFORE, BE IT RESOLVED BY the Mayor and the Council of the City of Alliance, Nebraska that the First Amendments are hereby approved and the Mayor is authorized to sign the Agreements and any other ancillary documentation on behalf of the City of Alliance, Nebraska.

PASSED AND APPROVED this 6th day of June, 2023

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was an Executive Session for the City Manager Performance Evaluation.

Councilmen Andersen motioned, pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943, that Council finds it necessary to enter into a closed session for the City Manager's Performance Evaluation, the motion was seconded by Vice-Mayor McGhehey.

Roll call vote with the following results:

Voting Aye: Jones, Mischnick, McGhehey, Andersen and Mashburn.

Voting Nay: None.

Motion carried.

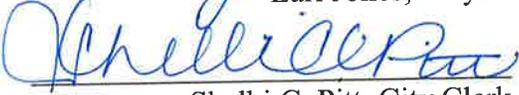
The Alliance City Council entered Executive Session at 7:20 p.m. and ended at 8:25 p.m.

The Alliance City Council adjourned the June 6, 2023 City Council Meeting at 8:27 p.m.

(SEAL)



Earl Jones, Mayor



Shelbi C. Pitt, City Clerk

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