

March 4, 2025

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, MARCH 4, 2025

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

The Alliance City Council met in a Regular Meeting, March 4, 2025 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 February 26, 2025. 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 McGhehey opened the March 4, 2025 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor McGhehey, Vice Mayor Mashburn and Council Members Weisgerber, Liptack, and Turman. Also present were City Manager Sorensen, City Treasurer Baker, City Attorney Selzer and City Clerk Pitt.

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

CONSENT CALENDAR – March 4, 2025

1. Approval: Minutes of the Regular Meeting, February 18, 2025.
2. Approval: Payroll from February 21, 2025 in the total amount of \$261,260.00.
3. Approval: Claims against the following funds: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course, Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement; \$900,944.40.

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4. Approval: Resolution No. 25-30 which will authorize an agreement with Nebraska Department of Transportation for the operation of automated license plate reader on Highway 385 and 87; 3rd, 10th, 25th and Kansas Street; and Flack Avenue.
5. Approval: Resolution No. 25-31 which will authorize a Disadvantaged Business Enterprise Program for federal funds with the United States Department of Transportation assisted contracts at the Alliance Municipal Airport.
6. Approval: Resolution No. 25-32 which will authorize a three-year extension for the Economic Development Loan for with Box Butte Development Corporation.

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.

Councilman Liptack has questions regarding the Claims report.

Councilman Liptack and Mayor McGhehey had questions regarding Resolution No. 25-30. Police Chief Leavitt came before the Council to give an overview of Resolution No. 25-30.

Roll call vote with the following results:

Voting Aye: Turman, Weisgerber, Mashburn, Liptack and McGhehey.

Voting Nay: None.

Motion carried.

- The next item on the agenda for Council was Resolution No. 25-33 which will accept and allow the City of Alliance to proceed with the final steps of the Airport Electrical Project. The following information was provided:

**[RESOLUTION – ELECTRICAL PROJECT AGENCY AGREEMENT,
GRANT DOCUMENTS AND FEDERAL CERTIFICATIONS.**

The Alliance Municipal Airport has included on its Capital Improvement Program through the Federal Aviation Administration (FAA)) engineering fees for an electrical project to replace runway lighting on the airfield. The construction phase will not begin until the Summer of 2026 and will be included in that fiscal year's budget numbers.

The proposed project will replace the current lights for Runway 12/30 with High Intensity Runway Lights (HIRL) along with replacing the Medium Intensity Runway Lights (MIRL) on Runway 8/26. In addition, Runway guidance signs, wind cones, and the airfield generator will be replaced. New Precision Approach Path Indicator (PAPIs) and Runway End Indicator Lights (REIL) will

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be two pilot landing aids installed for Runway 8/26. The last part of the project will be removing the old shoulders of Runway 8/26 that remained after it was narrowed.

Following are items that need to be approved before the City of Alliance can accept a grant for the project:

1. Agency Agreement with Department of Transportation, Aeronautics Division. State law requires that the City have an Agency Agreement completed to allow the Nebraska Department of Transportation, Aeronautics Division to act as the Airport's agent for these funds.
2. Grant Application. The grant application is the airport's final notice to the FAA that they will proceed with the project. The all-inclusive cost of this project will not be known until the bidding process is completed, however the estimate for this project is \$5,332,538. The airport has been informed that the FAA is increasing the funding level to 95% and the City of Alliance providing the 5% match. The City of Alliance has also applied for a state grant that would cover up to 2% with a maximum amount of \$100,000 which comes off of our 5% match. The formal application must be completed before a grant can be issued.

This is the final step in proceeding with the project. City Council approved Airport Engineer Selection on December 15, 2020 and the consultant agreement for this specific project on October 15, 2024.

RECOMMENDATION - APPROVE RESOLUTION TO AUTHORIZE THE MAYOR TO:

1. **SIGN THE AGENCY AGREEMENT WITH THE NEBRASKA DEPARTMENT OF TRANSPORTATION, AERONAUTICS DIVISION.**

TO SIGN AND SUBMIT THE APPLICATION FOR FEDERAL ASSISTANCE, ANY FEDERAL CERTIFICATIONS, AND ELECTRONICALLY SIGN THE ACTUAL GRANT DOCUMENTS ONCE RECEIVED.]

A motion was made by Councilman Weisgerber, seconded by Vice Mayor Mashburn to approve Resolution No. 25-33. Which follows in its entirety:

RESOLUTION NO. 25-33

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

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WHEREAS, The City of Alliance is eligible to receive grant funding for the “Airport Electrical Project,” identified as, Grant Project No. 3-31-0003-028-2025; and

WHEREAS, The proposed project will replace the current lights for Runway 12/30 with High Intensity Runway Lights and Runway 8/26 with Medium Intensity Runway Lights; and

WHEREAS, The City of Alliance find it is in the City’s best interest to submit a grant application for the runway light electrical project at the Alliance Municipal Airport; and

WHEREAS, The City entered a Consultant Agreement with M.C. Schaff & Associates on October 15, 2024; and now are ready for the final steps of the project by signing the agency agreement and submitting the grant application for Grant Project No. 3-31-0003-028-2025; and

WHEREAS, The Nebraska Department of Transportation –Division of Aeronautics has provided the City with an Agency Agreement for execution.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Alliance, Nebraska, that the City of Alliance submit a grant application to obtain assistance for the Airport Electrical Project, identified as Grant Project No. 3-31-0003-028-2025.

BE IT FURTHER RESOLVED, by the Mayor and Council of the City of Alliance, Nebraska, that the City of Alliance shall enter into an Agency Agreement with the Nebraska Department of Transportation –Division of Aeronautics for Grant Project No 3-31-0003-028-2025 and that such an Agreement is attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED, The Mayor is authorized to sign all documents associated with the grant application and acceptance of the grant funding.

BE IT FURTHER RESOLVED, that the Mayor of the City of Alliance is hereby authorized and directed to execute said Agency Agreement on behalf of the City of Alliance and the City Clerk is hereby authorized to attest said execution.

BE IT FURTHER RESOLVED that said Agreement, referred to herein, is inserted in full and attached herewith and made a part hereof as Exhibit “O.”

Roll call vote with the following results:

Voting Aye: Mashburn, Liptack, Turman, Weisgerber and McGhehey.

Voting Nay: None.

Motion carried.

- The next item on the agenda for Council was the second reading of Ordinance No. 2997 which will accept and amend the City of Alliance Municipal Code Section 2, titled *Donations*. The following information was provided:

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[ORDINANCE – DONATIONS POLICY

The attached ordinance is presented to the Council to update the City’s policy on accepting and disposing of donations. The intent of this ordinance is to remove bureaucratic barriers to philanthropists who desire to contribute to our efforts “To Build the Best Hometown in America”.

This ordinance clarifies which categories, such as real property and donations with value over ten thousand dollars (\$10,000.00), which must be accepted by Council and which donations can be accepted administratively (i.e. those with a value under \$10,000.00). The ordinance also affirms the desire to require a dedicated funding source for the ongoing maintenance of substantial donations, such as the Knight Museum as a condition for accepting the donation.

Finally, while certain boards have a donation policy and there is a previously created donation policy, this ordinance updates and codifies the policy so that it can be applied equally across all city departments.

RECOMMENDATION: APPROVE THE FIRST READING OF THE ATTACHED ORDINANCE UPDATING THE CITY’S POLICY ON ACCEPTANCE AND DISPOSITION OF DONATIONS]

A motion was made by Councilman Liptack, seconded by Vice Mayor Mashburn to approve the second reading of Ordinance No. 2997. Which follows in its entirety:

Ordinance No. 2997

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA REGARDING THE ACCEPTANCE OF DONATIONS, DEFINING TYPES OF DONATIONS, SETTING RULES PERTAINING TO DONATIONS, AND AUTHORIZING THE CITY MANAGER TO PROMULGATE FURTHER RULES, POLICIES AND PROCEDURES FOR THE EXECUTION OF THIS ORDINANCE; REPEALING EXISTING PROVISIONS OF THE CITY CODE NOT CONSISTENT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1: Sections 2-221 through 2-225 of the Alliance Municipal Code shall provide as follows:

Sec. 2-221. Purpose.

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Sections 2-221 through 2-225 are intended to establish a formal and consistent process for the acceptance of donations made to the City for a public purpose, pursuant to Nebraska Revised Statutes, and shall also apply to all volunteer boards and commissions of the City.

Sec. 2-222. Definitions.

Donation is defined as any monetary or non-monetary gift, grant, devise, memorial, tribute or bequest to the city of Alliance.

Memorial is an item, object or monument established to preserve the memory of (a) deceased person(s) or an event that occurred in the past.

Tribute means an item, object or gift designed to acknowledge the contributions of still-living people or person(s) to society.

Sec. 2-223. Types of Donations.

- (a) A monetary donation includes cash, check, credit card payment, money order or other negotiable instrument. In the event of a stock donation, the donation will be liquidated and turned into cash or another liquid asset and treated as a monetary donation.
- (b) A non-monetary donation includes real or personal property, goods, or services.
- (c) Designated or restricted donations are those donations that the donor specifies for use by a particular city department, at a certain location, or for a specific purpose. Memorials and tributes shall be considered as restricted donations.
- (d) Undesignated or unrestricted donations are those donations that are given to the City for an unspecified or general use.

Sec. 2-224. Rules pertaining to Donations

- (a) *Consistency with city interests.* Donations may only be accepted when they have a purpose consistent with the City's goals and objectives and are in the best interest of the City and its residents. The City must always consider the public trust and comply with all applicable laws when accepting donations.
- (b) *Declined donations.* The City of Alliance reserves the right to decline any donation if, upon review, acceptance of the donation offer is determined in the sole discretion of the City to not be in the best interest of the City.
- (c) *Disposition of donations.* The City of Alliance reserves the right to remove any donated amenity for: safety reasons, deterioration caused by age, neglect or vandalism, and/or

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the city's inability to finance ongoing maintenance and/or repairs.

- (d) *Donation specifications.* The City of Alliance reserves the right to formulate and dictate the specifications for donations of personal property.
- (e) *Donation preference.* When donations are intended for the purchase of physical goods used in the course of conducting normal city business, it is preferred that the donation be made as a monetary donation to allow the city to take advantage of bulk purchasing and to ensure the consistency of goods.
- (f) *Acceptance of donations.*
 - i. Any person, group, or entity desiring to raise funds for donations to the City must receive the consent of the City Council prior to beginning fundraising efforts.
 - ii. Restricted donations, other than donations made for the purpose of assisting citizens in paying their utility bills, must first be approved by the City Council via resolution.
 - iii. All donations of real property, whether restricted or unrestricted, must first be approved by the city council via resolution.
 - iv. All personal property restricted donations and all personal property unrestricted donations greater than Ten Thousand dollars (\$10,000) must first be approved by the City Council via resolution. The City Council will determine whether or not the donation is in good taste, appropriate to the purpose of the City, and in accord with the standards of the community prior to accepting the gift.
 - v. In the event the gift, bequest or memorial intended for the City is of a nature that it is to be seen and enjoyed by the public such as a sculpture, statue, plaque, or other interpretive material, the City Council shall determine the appropriate location for said gift.
 - vi. The City shall not accept donations which are not permanent gifts to the city.
 - vii. The City shall not accept donations which require that the City agree to maintain the gift in perpetuity, unless such donation is accompanied by an endowment sufficient to cover its ongoing upkeep. All perpetual gifts and their associated endowments must receive prior approval from the City Council through a formal resolution. If, at any point, the endowment no longer provides adequate funding for maintenance, the City may discontinue upkeep once the funds are depleted and dispose of the donation in accordance with City policies.

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- viii. Unrestricted donations of personal property valued at less than or equal to Ten Thousand dollars (\$10,000) may be accepted by the City Manager or their designee without council action and shall be reported quarterly to the City Council.
- ix. *Memorial Plaques.* Costs for all memorial or tribute plaques shall be borne by the donor. The City must approve all text for memorial or tribute plaques prior to installation.

Sec. 2-225. City Manager.

The City Manager is authorized to promulgate further rules, policies, and procedures needed for the execution of this ordinance.

SECTION 2. All ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with this ordinance are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Roll call vote with the following results:

Voting Aye: Liptack, Turman, Weisgerber, Mashburn and McGhehey.

Voting Nay: None.

Motion carried.

- The next item on the agenda for Council was the first reading of Ordinance No. 2998 which will accept and amend the City of Alliance Municipal Code Sections 24-21 through 24-30, regarding *Sidewalks*. The following information was provided:

**[ORDINANCE – AN ORDINANCE OF THE CITY OF ALLIANCE,
NEBRASKA AMENDING ALLIANCE MUNICIPAL CODE SECTIONS
24-21 THROUGH 24-30 REGARDING SIDEWALKS**

Part of the workshop on December 2, 2024 touched upon sidewalks, building code enforcement and code enforcement. After that meeting the City Manager asked Brent Kusek, Community Development Director to research the history of our ordinance concerning the construction of sidewalks. He did a very thorough job going back to its origins:

"In Alliance, sidewalks were installed in accordance with Nebraska Revised Statutes 16-664 through 16-666 until 1965. This method requires Council to pass a resolution or ordinance ordering the sidewalk be constructed adjacent to a property and an assessment be placed on said property. This method, as opposed

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to sewer extensions, water extensions, street paving, etc., does not provide a means of remonstrance or protest by the adjacent property owner. The council orders it done and the property owner has no choice.

The City adopted its first subdivision ordinance in 1965 and it was prepared by Hare and Hare City Planners. This ordinance included sidewalks as a "Required Improvement" along with water main, sewer main, curb and gutter, and streets. It stated that after a plat was duly approved, construction may be allowed in the subdivision provided that no building permit shall be issued unless the required improvements are in place or suitable improvement districts have been approved for their construction.

The City adopted a large revision to the subdivision ordinance in 1976 that included sidewalks as a "Required Improvement" but removed sidewalk construction as a requirement for the issuance of a building permit. During the railroad boom and eventual bust, this resulted in contractors and developers leaving town before installing sidewalks, entire subdivisions without completed public improvements, and the City in large amounts of debt that nearly drove the City into bankruptcy.

In 1984 City Staff, the Planning Commission, and the City Council began the discussion of 1) how to get sidewalks installed in the subdivisions that were developed illegally without them, and 2) how do we keep this from happening again. The City Council relied on staff and the Planning Commission to determine and list which properties were developed without sidewalks and vacant properties that should have sidewalk constructed because they were a connecting route between two sidewalks.

Staff drafted a sidewalk ordinance that was approved by Council in late 1984. It required that new construction, additions to existing structures, accessory buildings, etc. on any lot without a sidewalk construct a sidewalk as part of that construction project. That was deemed as the solution to problem number 2 and over time would help with problem number 1. They made small amendments to the code over the next 3 years but it essentially stayed the same.

Council continued working with Staff and the Planning Commission to install sidewalks on a larger scale. In 1987 Council agreed that a letter that would be sent to all properties developed without sidewalks giving them three choices for installation. The options were 1) the owners pave it themselves, 2) the City does it by resolution and assesses it against the property, or 3) a sidewalk improvement district would be formed. Those were listed in the order of least cost to the property owner to the highest. Improvement districts are the most expensive way to install public improvements but they are attractive to developers because it allows for repayment of the associated costs to occur over a 15 to 20 year period, and once the developer sells the lot that burden is on the new owner.

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Council determined that there would be 2 phases to the sidewalk project based on installation priority. The Council held a public hearing during the finalization of the list of properties that would be required to install sidewalk and during finalization of the letter that would be sent to them. The letters went out. Variance requests for exemptions came in. Council got frustrated with each other and a motion was made by Councilman Worley to repeal the sidewalk ordinance until the other members were willing to enforce it. He got a second but the vote failed 2-3. Council held the line and phase 1 sidewalks were installed in late 1987 through 1988. Wolfgang Bauer left as City Manager and phase 2 did not move forward.

Council explicitly added that the lack of connecting sidewalks would not be considered a hardship or reason not to install a sidewalk. Eventually development on all lots will result in the sidewalks connecting to the rest of the sidewalk system. This is a part of long term thinking and planning and it isn't unique to Alliance. Situations we have considered reasons not to install a sidewalk in the past were lack of curb and gutter since that sets the street grade, and some sort of large grade difference that would make sidewalk installation dangerous or impossible. Even in those cases, before we issued building permits, we made the adjacent property owner sign a development deferment guarantee that said they will install a sidewalk if the City ever installs curb and gutter, the hardship conditions change, or the Council determines a sidewalk needs to be there. All three of those situations require Council action to implement.

I asked Scottsbluff, Chadron, and Gering when they require sidewalk construction. Gering and Chadron replied that they require it during development of the lot but their councils can order sidewalk installation on any lot at any time using the state statute. This is used primarily only in cases where there is a gap between two sidewalks that needs filled in for pedestrian safety. Chadron added that they won't issue Certificates of Occupancy until the sidewalk is installed. I asked the City Attorney, who also represents Scottsbluff, when Scottsbluff requires sidewalk construction and he said primarily during the construction process."

The last major iteration of this long-debated question was adopted by the City Council in 2019 which put the responsibility on staff to enforce the ordinance. This responsibility has gone back and forth between Council and Staff at different times. It was requested by a council member that staff prepare an ordinance to return the responsibility for deciding when and where to require the installation of sidewalk as part of the development process to the City Council. The attached ordinance reflects standard language that can be found in cities throughout Nebraska which rehearses the language found in State Statute wherein Council can order the construction of sidewalks. The proposed ordinance includes language that would allow staff to continue to enforce regulations while also clarifying the role that Council can choose to take in the process.

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RECOMMENDATION: Staff defers to Council.]

A motion was made by Councilman Turman, seconded by Mayor McGhehey to approve the first reading of Ordinance No. 2998. Which follows in its entirety:

Ordinance No. 2998

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA AMENDING ALLIANCE MUNICIPAL CODE SECTIONS 24-21 THROUGH 24-30 TO ELIMINATE A MINIMUM COST OF NEW CONSTRUCTION NECESSITATING THE CONSTRUCTION OF A SIDEWALK AND REQUIRING A SIDEWALK TO BE CONSTRUCTED PRIOR TO RECEIVING A BUILDING PERMIT; CHANGING THE MINIMUM COST REQUIREMENT FOR RENOVATIONS NECESSITATING THE CONSTRUCTION OF A SIDEWALK FROM \$2,500 TO \$500; AUTHORIZING CITY STAFF TO DIRECT THE REPAIR, REPLACEMENT, OR CONSTRUCTION OF SIDEWALKS AS REQUIRED BY OTHER CODE SECTIONS; CLARIFYING THE PROCESS FOR CITY COUNCIL TO ORDER CONSTRUCTION OF SIDEWALKS; PROVIDING FOR THE METHOD OF NOTICE TO A PROPERTY OWNER THAT THE CITY COUNCIL HAS ORDERED THE CONSTRUCTION OR REPAIR OF A SIDEWALK; ELIMINATING THE EXCEPTION FOR INSTALLATION OF SIDEWALKS FOR CUL-DE-SACS; PROVIDING THAT A PROPERTY OWNER MAY APPEAL THE CITY MANAGER'S DECISION TO THE CITY COUNCIL REGARDING THE UNDUE HARDSHIP EXCEPTION TO THE REQUIREMENT FOR INSTALLATION OF SIDEWALKS; REQUIRING A PERSON CONSTRUCTING SIDEWALKS TO APPLY FOR A PERMIT FROM THE CITY; PROVIDING THAT THE OWNER ADJACENT TO A SIDEWALK THAT IS DANGEROUS OR DEFECTIVE BE LIABLE FOR SUCH CONDITION; ALLOWING FOR PUBLICATION AS A METHOD OF NOTICE FOR A SUBSTANDARD SIDEWALK; PROVIDING FOR A REPLACEMENT TIME OF THREE MONTHS PER 75 LINEAR FEET OF SIDEWALK, UNLESS DIRECTED BY THE CITY COUNCIL; ALLOWING FOR PUBLICATION AS A METHOD OF NOTICE TO COMMENCE THE REPLACEMENT DEADLINE; PROVIDING FOR PUBLICATION AS A METHOD FOR NOTIFYING A PROPERTY OWNER OF CONSTRUCTION AFTER THE PROPERTY OWNER FAILS, REFUSES TO CONSTRUCT OR MAINTAIN A SIDEWALK AS REQUIRED BY OTHER CODE SECTIONS; SPECIFYING THE METHOD FOR MAKING SPECIAL ASSESSMENTS FOR SIDEWALKS; RENUMBERING PRIOR CODE SECTIONS; REPEALING EXISTING PROVISIONS OF THE CITY CODE NOT CONSISTENT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. Section 24-21 through 24-30 of the Alliance Municipal Code is created to read as follows:

Sec. 24-21. Required to construct.

- (a) *New construction.* All improvements including but not limited to houses, businesses, structures, and accessory buildings, shall construct and maintain a sidewalk within the street or streets right-of-way bordering the owner's lot or land, prior to receiving an official certificate of occupancy, except as provided hereafter.
- (b) *Renovation.* All lots or land currently without sidewalks where said lot or land abuts any street, avenue, or part thereof and doing renovation, rehabilitation, or additions to the building or buildings on said lot or land \$500.00 or more, as shown on the application for a building permit, verified by an estimate of costs, shall construct and maintain a sidewalk within the street right-of-way bordering the owner's lot or land, except as provided hereafter.
- (c) *City staff.* City Staff may direct the repair, replacement, or construction of sidewalk as provided for during new construction, renovation, or when maintenance or construction compliance is required as provided for in Section 24-24, *Construction requirements* and Section 24-25, *Maintenance* as provided below.
- (d) *City council.* Sidewalks to be constructed as provided by this article may be ordered by the city council at any time to be laid where sidewalks have not before existed, or where sidewalks have been condemned, or defective or unsafe walks ordered to be repaired by the city council. Sidewalks shall be ordered by the city council when petitioned for by a majority of the resident owners of property abutting the proposed walk, when no sidewalk exists or when sidewalks have been condemned. If a majority of the resident owners of property abutting the proposed walk have not petitioned the city council to make the improvements, then the city council may order that the improvements be made by a four-fifths (4/5) vote of the council. Notice of such order shall be served upon the owner or persons having charge of the premises abutting the proposed walk, in the manner provided for in this article, and in the case of the failure of such owner or person having the premises in charge, to build or repair the walk as so ordered, the city may proceed to rebuild or repair the walk and assess the cost thereof upon the property abutting thereon in the manner provided by the laws of the State. Property owners shall be granted forty-five (45) calendar days to comply with the order of the Council.
- (e) *Notice.* Whenever the Council orders that a sidewalk should be constructed, reconstructed, repaired, or widened in front of any lot or piece of ground in the city, including those areas where no sidewalk currently exists, as provided for above, they shall so order by resolution and the Street Superintendent or other designee of the City Manager shall serve, in person or via certified mail, on the owner of such lot or piece of ground, or his or her agent, a copy of the resolution, which shall be substantially in form as follows:

“RESOLUTION

Alliance, Nebraska

_____, 20__

Be it Resolved by the Mayor and Council of the City of Alliance, Nebraska:

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1. That a sidewalk be constructed (reconstructed, repaired, widened) within forty-five (45) days from the service or publication of this notice and shall be laid to the existing grade on the _____ side of _____ Street in the City of Alliance, Box Butte County, Nebraska, adjoining the following described premises, to-wit:

In accordance with the following specifications, to-wit:

Under the supervision of the Mayor and Council of the City of Alliance, Box Butte County, Nebraska, its City Manager or other agent, and in accordance with Chapter 24, Section II - *Sidewalks* of the City Code of Ordinances.

2. That in the event of the failure of the owner or his or her agent to have such walk constructed (reconstructed, repaired, widened, etc.), the Mayor and Council of the city will cause the same to be constructed (reconstructed, repaired, widened, etc.) and the entire cost of construction and managerial oversight thereof will be taxed as a special assessment against the within described premises as provided by law.
3. The City Manager's (or designated agent) estimate for the construction of the work of improvements is _____ Dollars.

Attest:

City Clerk

Signed:

Mayor"

- (f) *Publishing of Notice.* If the owner of such lot or piece of ground, or his or her agent, be a resident of the city, personal service or certified letter of the resolution to the owner or his or her agent shall be deemed sufficient notice. If the owner or his or her agent be a non-resident of the city, or is a resident thereof and cannot be found or reached via certified letter, or if the Council shall elect to serve notice on the owner or his or her agent by publication, the City Clerk shall cause a copy of the resolution to be addressed to "_____", legal owners of the following described property; "_____", to be published in a legal newspaper, designated by the Mayor and Council, and of general circulation in the city, for one publication. City Clerk shall obtain an affidavit of publishing from the newspaper. Such publication shall be deemed good and sufficient notice to the owners of the property subject to sidewalk construction.
- (g) *Evidence of Notice.* The affidavit of the newspaper or receipt of certified mail shall be prima facie evidence of the publication herein required and shall be preserved in the permanent records of the city. Photographic evidence with date-time stamps shall service as evidence of property postings. Notices served in person shall be substantially in form as follows:

"RETURN

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I (or we), the undersigned owner or owners (or designated agent or agents) of the described premises, acknowledge receipt of a copy of the included resolution.

Dated at _____ am/pm, this _____ day of _____, 20 ____.

_____(Names and signatures)

State of Nebraska)

Box Butte County)

I, _____ (name), _____ (job title) for the City of Alliance, Nebraska, hereby certify that I served a copy of the attached resolution on _____ (construction, reconstruction, maintenance of sidewalk, etc.) by delivering to _____ personally a true and correct copy of the attached resolution with all endorsements thereon on this the _____ day of _____ 20 ____.

_____(Name and signature)

Sec. 24-22. Exceptions.

- (a) *Sidewalk exemption boundary.* Within the following boundaries where the streets and sidewalks were platted in a grid pattern, there shall be contiguous sidewalk on the north side of the east-west streets, except when construction, traffic pattern or public safety dictate construction on both sides of the street and/or the south side. The boundary of such exception shall begin at First Street and Cody Avenue, north to Third Street, east to Black Hills Avenue, north on Black Hills Avenue to Eighth Street, west on Eighth Street to Dakota Avenue, north on Dakota Avenue to Tenth Street, east on Tenth Street to the alley between Black Hills Avenue and Platte Avenue, north to Sixteenth Street, east on Sixteenth Street to Box Butte Avenue, south on Box Butte Avenue to Twelfth Street, east on Twelfth Street to Flack Avenue, south on Flack Avenue to First Street, west on First Street to Cody Avenue. Property owners along the south side of the east-west streets may construct a standard sidewalk if they choose to do so. If a property owner constructs a sidewalk along the south side of an east-west street within this boundary, it must remain in place and be maintained in good repair.
- (b) *Undue hardship.* Building permits will not be issued without the sidewalk construction as part of the project unless in the judgment of the city manager or designee the construction of a sidewalk would place an undue hardship on the requesting property owner. An undue hardship is an adversity not experienced by other property owners within the city. The lack of connecting sidewalks is not a hardship. Property owner may request that the City Council consider an undue hardship on appeal of the decision of the City Manager.

Sec. 24-23. Types of sidewalk.

- (a) *Commercial sidewalks.*
 - (1) Commercial walks may be installed upon any street or avenue within the C-0, C-2, C-3, M-1, M-2, or M-3 zoning districts.

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- (2) Commercial walks must be installed and maintained along the following streets or portions thereof:
- a. West and east sides of Laramie Avenue between Second and Fourth Streets.
 - b. West and east sides of Box Butte Avenue between First and Sixth Streets.
 - c. North side of First Street between Laramie Avenue and Niobrara Avenue.
 - d. South side of Second Street from the west line of Lot 1, Block 28, Original Town, to the east line of Lot 17, Block 27, Original Town.
 - e. North side of Second Street from Laramie Avenue to the east boundary line of Lot 18, Block 22, Original Town.
 - f. South side of Third Street from Toluca Avenue to Niobrara Avenue.
 - g. North side of Third Street from Big Horn Avenue to Niobrara Avenue.
 - h. South side of Fourth Street from the west line of Lot 1, Block 17, Original Town, to Niobrara Avenue.
 - i. North side of Fourth Street from Laramie Avenue to Niobrara Avenue.
 - j. North side of Fifth Street from the west line of Lot 21, County Addition to Niobrara Avenue.
- (3) Where curbs are already installed, commercial walks shall be constructed only with the approval of the city manager or designee.
- (b) *Curb sidewalks.* Curb sidewalks shall not be permitted except in the following circumstances:
- (1) If it is replacing an existing curb sidewalk.
 - (2) If the property adjacent to the lot already has curb sidewalk.
 - (3) In case an area has both standard and curb sidewalk, or some other unusual circumstance, the city manager or designee shall determine the type of sidewalk to be installed.
- (c) *Standard sidewalks.* Standard sidewalks shall be considered the minimum required sidewalk type. Portions of this Code may allow or require other types of sidewalks.

Sec. 24-24. Construction requirements.

- (a) *Width.*
- (1) Curb sidewalks must be at least four feet (4') wide but are limited to a maximum of five feet (5') wide; or it must match the adjacent conforming existing curb sidewalk or standard sidewalk width.
 - (2) Standard sidewalks shall be constructed at least four feet (4') wide but are limited to a maximum of five feet (5') wide unless otherwise allowed; or it must match the conforming standard sidewalk width on the same block.

- a. Standard walks of six feet (6') in width shall be maintained on the west side of Box Butte Avenue from Sixth Street to Twelfth Street and the east side of Box Butte Avenue from Sixth Street to Tenth Street.
- b. Schools, museums, and churches may install commercial sidewalks.
- (b) *Thickness.* Sidewalks shall be a full four inches (4") thick except they shall be thickened to a full six inches (6") across driveway entrances.
- (c) *Cross slope.* Cross slope shall be no less than 1:96 but no more than 1:48 upward from the curb side to the property line side. Sidewalk cross slope shall be maintained across driveway entrances.
- (d) *Running slope.* The running slope of a sidewalk shall be no more than 1:20.
- (e) *Exceptions.* After receiving a written statement from the adjacent property owner, the city manager or designee shall be permitted to allow minor variance from (c) and (d) of this section in cases where there are topographic conditions that would prohibit the installation of the sidewalk to code. The written statement shall describe the present conditions in detail and how the exception will not be of detriment to the use of the sidewalk.
- (f) *Permit.* Any person constructing or reconstructing a sidewalk along any street or thoroughfare of the city shall apply for permission and obtain a permit from the city prior to construction in accordance with Section 24-101 -*Permitting* of the City Code of Ordinances.

Sec. 24-25. Maintenance.

Sidewalks shall be maintained in good repair by the adjacent property owner. The owner of any lot or pieces of land within the corporate limits of the city shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk adjacent to said property.

- (1) The following requirements shall be used as thresholds for initiating sidewalk repair or replacement. Exceeding any threshold listed below shall require replacement or repair of the sidewalk.
 - a. Vertical faults. Vertical faults between panels or cracks in the sidewalk shall not exceed one-half inch (1/2").
 - b. Horizontal faults. Horizontal gaps shall be filled or the sidewalk replaced when the gap exceeds one-half inch for those parallel to the direction of travel and three-fourths inches (3/4") for gaps perpendicular to the direction of travel.
 - c. Spalling. Degradation of the sidewalk surface shall not exceed one-half inch depth on fifty percent (50%) or more of a 48 inches by 48 inches section of sidewalk.
 - d. Sidewalk material. All sidewalks shall be either Portland cement concrete or brick; all other materials shall be replaced.
 - e. Obstructions. Items such as curb stops, valve boxes, etc., shall not extend more than one-half inch (1/2") above or below the finished surface of the sidewalk.
 - f. Cross slope. Cross slope shall not be greater than 1:24 and the sidewalk shall not slope towards the property line side.

- g. Running slope. The running slope of the sidewalk outside any intersection ramps shall be no greater than 1:12.
- (2) *Notification of substandard sidewalk.* The property owner of record shall be sent a notice by certified mail or personally served. The notice shall include the total amount of sidewalk that is in violation of code, the code subsection being violated, and the time frame for sidewalk repair or replacement. If staff is unable to locate the property owner using certified mail or personally serve them the notice, the property shall be posted with a copy of the notice or placed in a newspaper of general circulation in the manner described above.
- (3) *Replacement time.* When directed by City Staff, property owners shall have three (3) months per 75 linear feet of sidewalk identified as substandard to replace said portions of sidewalk, unless directed by the City Council as outlined in Section 24-21 above. The replacement time shall begin after the property owner receives notification from the city or after the notice is posted on the property or in the local newspaper of general circulation. The city manager or designee may grant an extension not to exceed three months per 75 linear feet in cases of inclement weather, unless the property owner has been directed by the City Council to repair, replace, construct, or reconstruct as outlined in Section 24-21 above, in which case only the City Council may grant an extension.

Sec. 24-26. Failure to construct or maintain.

In the event that the owner of any lot, lots, or land, abutting on any street, avenue, or part thereof shall fail or refuse to construct, reconstruct, maintain or repair any sidewalk abutting the owner's lot, lots, or land, within the time and in the manner as directed and required herein after receiving due notice to do so, the city council may pass a resolution authorizing the city manager or designee to cause such sidewalk to be constructed, reconstructed, or repaired, and the cost be paid entirely by the property owner of record.

- (1) *Notice of construction.* The property owner shall be personally served or notified by certified mail of the resolution authorizing the city manager or designee to cause such sidewalk to be constructed, reconstructed, or repaired, and that the cost of said work shall be paid entirely by the owner. If staff is unable to notify the property owner using certified mail, the subject property shall be posted with a copy of the notice for no fewer than 14 days, or placed as notice in the local newspaper at least twice, with publishing dates at least one week apart.
- (2) *Construction.* Fourteen (14) days after the property owner's receipt of the notice or fourteen (14) days after the property is initially posted on the property or in the local newspaper and upon a four-fifths vote of the council in the affirmative requiring construction of sidewalk, the city manager or designee shall cause such sidewalk to be constructed or reconstructed to city standards and upon completion of the sidewalk shall issue an invoice to the property owner payable in two months.
- (3) *Nonpayment.* If the cost of the work is unpaid for two months after such work is completed, the city council may assess the cost of sidewalk construction, reconstruction, or repair against the property by way of assessing it against the property.

Sec. 24-27. Assessment

- (1) *Notice of assessment.* Fourteen days before levying any assessment against the subject property, the city council shall:
 - a. Publish in a newspaper of general circulation a notice of the intent to levy an assessment on the subject property; the notice shall state at a minimum the assessment amount, the purpose, the date of the completion of the work, the legal description, and the address of the subject property.
 - b. Post a copy of the same notice on the subject property.
 - c. Personally serve or send a copy of the notice by means of certified mail to the last known address of the property owner of record. The last known address shall be that address listed on the current tax rolls at the time such notice was first published.
- (2) *Special Assessment.* All assessments made as referred to herein shall be made and assessed in the following manner: Such assessments shall be made by the city council at any meeting by a resolution fixing the costs of the construction or repair of such work along the lot adjacent thereto as a special assessment thereon, the amount charged against the same, which, with the vote thereon, by “yeas” and “nays” shall be spread at length upon the minutes; and notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published in and of general circulation in the city at least fourteen (14) days before the same shall be held, and all such assessments shall be known as “special assessments for improvements” and with the cost of notice shall be levied and collected as a special tax, in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes, but that such special assessments shall draw interest at a rate not to exceed the rate of interest specified in Section 45-104.01 R.R.S. Neb., as such may from time to time be adjusted by the Legislature; and the same shall be certified to the County Clerk at the same time as the next certification for general revenue purposes.
- (3) *Filing of lien.* Fourteen days after the notice is posted and the City Council has voted in the affirmative to make a special assessment for improvements against a property where improvements have been made by the city, the city shall file a lien at the Box Butte County Clerk's office against the property adjacent to which the sidewalk was installed.

Sec. 24-28. Snow removal.

- (1) *Removal.* It shall be the duty of the owner or occupant of every lot or parcel adjacent to a city sidewalk to clean and remove all snow, slush, and ice therefrom within 24 hours after such snow, slush, or ice has fallen, drifted, or accumulated thereon.
- (2) *Extent:* Removal shall include the entire width and length of the city sidewalk up to the centerline of any adjacent alley, and the portion of sidewalk extending into a street intersection.

- (3) Removal Location. Snow, slush, or ice shall not be moved from any lot, driveway, or adjacent sidewalk into the city street, alley, or onto any neighboring lot, nor shall any snow, slush, or ice be placed in the "sight vision triangle" or on any lot, in such a manner that may interfere with the regular flow of traffic or vision clearance of the roadway as determined by the city manager or designee. Such an offense of any part of this section shall be considered a municipal code violation and may be punishable by a \$100 fine per occurrence. In locations within a central business district zoning designation, where the building adjacent to the city sidewalk is constructed to less than a five foot front or side street setback, snow may be pushed into the street from the city sidewalk provided it is placed there no later than 12 hours after any snow, slush, or ice has fallen, drifted, or accumulated thereon.
- (4) Failure to remove. If, after 24 hours, the lot or parcel owner or occupant has failed to remove any snow, slush, or ice as set out herein, the city manager or designee shall post a notice on the property adjacent to the sidewalk or serve the owner or occupant with a notice requiring the removal of any snow, slush, or ice within 24 hours of the notice posting or their receipt of said served notice. The city manager or designee may cause the sidewalk to be cleared by hiring a contractor or by city employees should the owner fail to comply, with the notice.
- (5) Recovering costs. The city manager shall bill the property owner for all costs incurred clearing the sidewalk. The property owner shall have no more than sixty days to pay their removal costs in full to the city. After nonpayment the city manager may:
 - (a) Levy an assessment against such property in accordance with the procedures set forth in section 24-26 (d); or
 - (b) Recover such costs in a civil action.

Sec. 24-29. Liability and damages.

The owner of the lot, lots, or land shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk abutting said property

Secs. 24-30—24-40. Reserved.

March 4, 2025

SECTION 2. All ordinances, parts of ordinances, resolutions, and policies of the City of Alliance in conflict with this ordinance are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Councilman Weisgerber felt this was not the time to have this dropped on Council without more time to review.

A motion was made by Mayor McGhehey, seconded by Councilman Liptack to table Ordinance No. 2998 until further notice.

Roll call vote with the following results:

Voting Aye: Weisgerber, Mashburn, Liptack and McGhehey.

Voting Nay: Turman.

Motion carried.

- The last matter before Council was Board Appointment.

A motion was made by Mayor McGhehey, seconded by Councilman Liptack to appoint Matthew Mashburn to serve on the Community Redevelopment Authority with his term ending January 31, 2028. Which follows in its entirety:

Roll call vote with the following results:

Voting Aye: Turman, Weisgerber, Liptack and McGhehey.

Voting Nay: None.

Abstaining: Mashburn.

Motion carried.

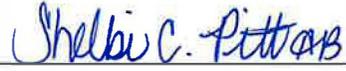
The Alliance City Council adjourned the March 4, 2025 City Council Meeting at 7:36 p.m.

March 4, 2025

(SEAL)



John McGhehey, 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