

MINUTE RECORD FOR CITY OF ALMA
REGULAR CITY COUNCIL MEETING
August 7, 2023

A regular meeting of the City Council of the City of Alma, Nebraska was held at City Hall on Monday, August 7, 2023, at 5:30 p.m.

Present were Council Members: Tom Moulton, Larry Casper, Dyann Collins, and Mayor and Acting Administrator Hal Haeker. Absent: Chris Tripe. City Clerk Dawn McNulty, Treasurer Tashia Butterfield, and City Attorneys Doug Walker and Jaclyn Daake were also in attendance. Notification of this meeting and the agenda was given in advance by posting, a designated method for giving notice. Advance notice of the meeting and the agenda was given to the Mayor and all members of the City Council. All proceedings hereinafter were taken while the convened meeting was open to the attendance of the public.

Mayor Haeker advised the public of the Open Meetings Act posted on the east wall of the meeting room, and then proceeded to call the regular meeting of August 7, 2023, at 5:30 p.m. and the following business was transacted:

Roll call: Tom Moulton-present, Dyann Collins-present, Chris Tripe-Absent, Larry Casper-present, and Mayor Haeker-present. Motion by Collins, second by Moulton to determine this meeting as previously publicized, duly convened and in open session. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Collins, and Moulton. Voting no: None. Motion carried.

Mayor Haeker opened the floor to approve the minutes of the July 17, 2023, regular council meeting. Motion by Moulton, second by Collins to approve the minutes of the July 17, 2023, regular council meeting. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Collins, and Moulton. Voting no: None. Motion carried.

Mayor Haeker opened the floor to discuss the claims and invoices for July 18, 2023, through August 7, 2023, for a total of \$ 302,907.76. Motion made by Moulton, second by Collins to approve the claims. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Collins, Casper, and Moulton. Voting no: None. Motion carried.

Mayor Haeker opened the floor to discuss the Treasurer's report. Treasurer Tashia Butterfield stated we received interest payments on our CD's, and we made a payment on the golf club house. The gas usage for July was down but the revenue was up. The water usage was up, as was the revenue from the previous month. Mayor Haeker expressed concern that we may run short on the water revenue when compared to previous year's numbers. Motion by Collins, second by Casper to accept the Treasurer's report as presented. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker opened the floor to discuss the Rural Workforce Housing Land Development Grant Sub Agreement. Sharon Hueftle of SCEDD was in attendance and spoke about the grant. Sharon stated that there were still unanswered questions on the grant that she is working with the Department of Economic Development with. There were new sub agreements that came in June. That once you change the use of land development to housing you have changed the use and you owe everything back to the federal government. So, if the City buys a property for \$5,000, spend \$25,000 raising and preparing the land for housing, we owe \$25,000 back to the feds. Sharon asked that we do not sign the contract as she is still working on the issues, and there is an extension in place until September 15, 2023. Sharon stated that this is written as a zero percent loan program and not a grant. She has been in contact with all twelve awardees and will continue to work on this issue with the people at the DED. Sharon is asking that we hold off on doing anything right now as she continues to work on these issues and make this work. Jaclyn Daake asked for clarification as to what obligates us to owing the money. Sharon stated from the contract, federal interest in property and federal interest in program income that every bit will have to be paid back and that is their interpretation, and she has emails from DED stating that. DED is saying that every bit that is put into that property must be paid back. LB1014, the legislation last year in 2022, when they passed all these programs, it was set aside for development, it does not state development for housing. You do land development for a purpose, for commercial purposes, agricultural or residential. Because they named it Rural Workforce Housing Land Development, would tell me that that it was for housing development. But in the Legislation, it does not say for housing, just for

development. The DED says that the minute you are not using it for that purpose, you owe the money back. Sharon does not want everyone to reject it and then it goes back to the Legislature and come back out as a program for everyone. SCEDD has asked for a meeting with the Director of the Department of Economic Development, and SCEDD is awaiting an answer on if they are getting a meeting. The problem is the way that they are interpreting the agreement. It is being interpreted as a zero percent loan that must be paid back. Casper asked what the word Grant means? Because it says Grant on the first page, not a loan program. Sharon said that she understands the frustration and she has been fighting it. Four attorneys at DED came back and said that it was a zero percent loan. The DED website still had the grant manual up and they are the ones that have come up with these rules. The agreement states that the program income is not reimbursed back. The City buys a lot, spends \$5,000 to buy it, \$10,000 to raise it, sells it for \$50,000. What happens to that \$35,000? I know we must pay back the \$15,000. If we go look at 2.05 paragraph 2, this says the public gets a recorded interest in it and it will be released when the cost of the original purchase and any improvements. That is just reimbursing what they have given us stated Daake. Casper stated that there was one way of looking at it but what happens if we can only sell the lot for \$5,000? Daake stated that this was one of the questions that she wanted a definite answer to. Daake said that the DED gives us the money up front to buy the property and make the improvements. I do not think that anything in here states that we must pay back everything. Sharon said that it was supposed to be a grant. Casper stated that this is not a grant. Daake said that her understanding was that we would not be on the hook for any loss, but Sharon stated that this is not the way that it is being interpreted by DED and their lies the problem. Moulton stated that it is 100 percent payback, so if we go in the hole, the money is coming out of our pocket. Sharon read from the contract that we pay the treasury back the cost of the original purchase and the cost of any improvements. Casper asked where that extra money came from, the general fund? That is not a grant though. Daake states that her understanding of the contract is that we would not be in the hook for any loss. Sharon states that that is not what the contract says. It conflicts and that is the problem with the contract. Exhibit A #9 reads once the private party purchases the property, funds from the sale will be used to pay back the Treasury. Daake stated that we are not interpreting the contract properly. Sharon said that this is how the DED is interpreting it and they are the ones that are administering it. Moulton stated that if we go in the hole, then we are on the hook to pay it. Daake stated that she does not feel that is the interpretation on the contract. Sharon stated that this is one of the points that needs to be clarified. Daake replied that she does not want us to get hung up on this. We are contracting with the Federal Government, and DED is the feeder for the for the funds. Sharon said that Brittany at DED wrote the contract and that is the intent of this contract. Casper shared that we have been awarded these funds, but we have not signed the contracts. Sharon said that it may be the recommendation to sign the contracts but not spend any of the money. Sharon said that she has been asking questions about these issues since the award was made months ago and has not received any clarity from DED. The deadline to sign the contract is September 15th. Daake asked if it would be in our interest to contact Brittany, or the head of DED. Sharon stated that Brittany wrote the contract, and that the intent of the contract is that if you spend the money, you pay it all back rather you sell it for that or not. That was what the attorneys told her to draft. Walker shared that the contract needed to be rewritten so that the intent was clear. Casper said that we are not going to sign the contract if he had anything to say about it. Sharon said that if we sign it but do not spend anything, you do not own anything. That may become the suggestion or the recommendation after meeting with DED to get some clarity. I tried not having to go head-to-head with them or having our communities go head-to-head with DED. I have been asking questions about the program income and when we sell the property and how you calculate that. The DED just kept telling me it was under review, and no one ever answered any of our questions. Some towns have reached out to their Senators about meeting with DED. Daake asked is there is still discussion happening at DED about this program? Sharon stated that there was, and that is one of the reasons why there was an extension given on the contracts until September 15th. Mayor Haeker asked, previously we were going to hire SCEDD to administer the program for us, would SCEDD still be willing to administer the program if you do not know how to administer it. Sharon stated that she would need to get clarity. If Alma felt like they could go forward with it the way it is now, they can help with that. But all the reports will go back to the DED. The City will have to do it according to what DED says. Daake asked if it would be helpful to reach out to DED ourselves, to Brittany or Casey. Sharon stated that I am seeing the issue arise not with what is written, it is more about them telling us what we must do and how that is conflicting with federal law with what is written and how it is

recorded. That is their problem. Sharon stated that she does not feel that she has any communities that can afford the attorney time to fight this or the capacity to do research on this. Walker asked if the NDED has thought about redrafting the contract so that it is not so confusing? Sharon stated that Brittany had told her that she does not expect any changes to the contract. Sharon said she plans to go over her head for a meeting with the head of DED as well as reaching out to the seven senators that cover the areas for a meeting with them on the same day. There is no reason not to try to bring them along on this. Walker stated that the City at least needed to know what is going on and get them involved. Sharon stated she felt like the head of DED was very responsive and positive about a meeting, but if we do get a meeting, we need to send an email out to the senators to let them know what we are working on and so we can meet with the senators too. One more thing that Brittany said was because it says if you are awarded Rural Workforce Housing Funds, you must have them invested within 24 months. Based on the application that we sent in, the contracts came back with counts in them this time, they did not the first time. We put in a list that was a rolling list and we did not put in a pricing list. Mayor Haeker stated that he did not read that in our contract. When we get programs like this, we are so happy to get the grant. But there have been cases in the past, if you are accepted and then you decide, no, you do not spend the money. Then next time you apply, you are seen as if we gave you funds before and did not spend them, so you are skipped over. Casper stated that I understand that, but this is not a grant and unless it is clarified, we cannot pay it back. Sharon shared that there is a chance that the DED can turn this around and make this work. I would hate to have you reject it without us going in and talking to them. Daake asked if that was resolved in your eyes by using the same language that is recorded in the contract just taking that one sentence and replacing it with a problematic one. Sharon stated I would like to hear from them that the DED are not expecting us to pay it all back. I really do not want to read the language one way and have them enforce it another. If it were just according to this, that would certainly be helpful, but the DED is saying that it changes because of the legislation. Daake shared that there is also this use issue. Sharon stated that the DED is saying that we are changing the purpose. Daake asked what the problem with that is. Sharon said when it is no longer needed for the original authorized purpose, you must pay the fed, transfer title to the feds, or sell it and pay the feds. Daake confirmed that there were two issues with the contract that needed to be changed. She said that she is going to reach out and ask for clarification on both issues. Mayor Haeker suggested that we put this on the agenda for the next meeting for further discussion. Daake stated she will contact DED and pursue these issues.

Mayor Haeker opened the floor to discuss the Swimming Pool closing date. Rhonda, the pool manager, was in attendance and shared that she would like to close the pool on the weekend of the 19th -20th. She has a lifeguard training on the 26th that she needs to attend. The other lifeguards are back in school, and in sports, so there are just not enough lifeguards to keep the pool open after that date. It had been her desire to keep the pool open until Labor day weekend but she just does not have enough help to keep it open.

Mayor Haeker opened the floor to discuss Resolution 07-2023 Municipal Annual Certification of Program Compliance to Nebraska Board of Public Roads Classifications and Standards 2023. This is a resolution that we complete every year to be compliant. Motion by Moulton, second by Casper to accept the Resolution 07-2023 Municipal Annual Certification of Program Compliance to Nebraska Board of Public Roads Classifications and Standards 2023. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker then opened the floor to discuss the Request for a 1% Increase in Restricted Funds for 2023/2024 Fiscal Year. Motion by Moulton, second by Collins to accept the Request for 1% Increase in Restricted Funds for 2023/2024 Fiscal Year. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker then opened the floor to discuss An Agreement for Provision of Limited Professional Services from Miller and Associates. This has to do with the gas grant that Kent has been working on. Motion by Moulton, second by Casper to accept the An Agreement for Provision of Limited Professional Services from Miller and Associates. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker then opened the floor to discuss Frontier Installation Agreement Letter. Moulton commented that it was hard to read the informational maps that Frontier had sent because the maps were so small. Casper mentioned that we had other companies competing in the area, Pinpoint and Vyve. City Clerk

Dawn mentioned that there was an extension given on the 15-day timeline on the letter due to it having to go before the board. Motion by Collins, second by Casper to accept the Frontier Installation Agreement Letter. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker then opened the floor to discuss the Downtown Drainage Project Final Project Documents. Moulton mentioned that there was broken concrete in front of the theatre. This was the area that was in question due to the rain while pouring concrete. Moulton suggested that we not sign off on the project until this has been looked at and fixed. Moulton recommended that we approve the motion but hold the check until this issue is resolved. Casper asked about the concrete being guaranteed for a year, Mayor Haeker stated it was guaranteed for two years. Motion by Moulton, second by Casper to accept the Downtown Drainage Project Final Project Documents. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Casper, Moulton, and Collins. Voting no: None. Motion carried.

Mayor Haeker then opened the floor to discuss the Budget. Mayor Haeker went over budget figures before and after the budget workshop. Mayor Haeker talked about the transfer from the General funds into the other accounts, streets, shop, auditorium, etc. The city shop budget was discussed and the transferring of a lift gate to the gas departments budget. There was a drop in the municipal park and cutting that Michael had done on that account. Municipal pool, we added \$65,000 from the street department. At the Auditorium we had \$250,000 in there and we lowered it down to \$65,000. We have already spent that money on the tuck pointing that is being done right now. Casper asked, How is that going to impact us getting the grant? "We are not applying for the grant this year, so it will not impact us" replied Mayor Haeker. Moulton asked about what happened to the beginning balances and Tashia stated that there was a miscalculation with a balance being counted twice in the beginning which skewed the numbers. It has been corrected on the worksheets. We are not spending the CD balance. Casper asked when do we make the final approval of the budget? Mayor Haeker commented that it is in September. He will send this to Michael, and he will go through it again.

Mayor Haeker then opened the floor to discuss Sewer Rate Ordinances. This was also part of the budget meeting. The wastewater sewer is based on the first 3 months of the year and then they take an average for the rest of the year. What we are talking about is the new ordinance will repeal all ordinances, so does this eliminate the 3-month average and just go by the new rates that we just put in there? The new rates are going to go up considerably for the customers in the summer using more water. That is why we based it on the first 3 months. Daake replied that she felt the old ordinance was clear to her about what her sewer obligations are going to be. She suggested repealing the current ordinance and making a new one with the 3 months in place. Casper asked for clarification about amending or repealing the ordinances. Daake stated that we should revoke the old one and approve a new ordinance. Walker stated that the new ordinance will state that it is repealing all prior ordinances so that will take care of it.

Mayor Haeker opened the floor for the Administrator's Report. Mayor Haeker discussed Peddlers and Hawkers Permits. Mayor Haeker stated that we have one citizen that has a permit, which is concerned about others in the community that are selling goods that do not have permits. Who is considered a hawker or a peddler? Mayor Haeker read the definition of a peddler or hawker and itinerant merchant. Several examples of peddlers in the community were discussed. Peddler and solicitor exceptions were discussed. Mayor Haeker read the code 111.01 **BUSINESS**. The business carried on by any person who is an itinerant merchant, peddler or solicitor as defined in this section. **GOODS**. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs. **ITINERANT MERCHANT**. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle or any place within the city. Mayor Haeker posed the question of why the Girl Scouts are not a Peddler or Itinerant Merchant? Daake stated that they fall under the 111.11 Peddler and Solicitor exceptions. Mayor Haeker stated why does not a girl scout a person selling a loaf of bread out of their front yard fit one of the descriptions. Casper asked who is enforcing this issue, the sheriff? Moulton stated that it is their responsibility to do so. If someone complains to the Sheriff's department about them not having a permit, they should be going out and checking on it. Daake stated what the question is, is does the council want to change this so this is easier to interpret or more consistent to enforce, or enforce it more, or is it a non-issue. Daake said that we need to be able to protect our citizens and have some recourse. Collins asked if there was any way to put a Peddlers need permit sign at the city limits. Mayor Haeker talked

about peddlers on public rather than private property. Moulton stated that it does not matter where you are at, you need a permit. Daake said that we would be doing linguistic gymnastics to craft an ordinance for private and public property. Walker cited that the ordinance stated "the city" which covers both private and public property.


Mayor Haeker then opened the floor to discuss Personnel Issues concerning the City Administrator position. Mayor Haeker then entertained for a motion to enter Executive Session at 7:22 p.m. Motion by Moulton, second by Collins to enter Executive Session to discuss personnel issues concerning the administrator position. Upon roll call vote, the following voted yes: Collins, Casper, and Moulton. Voting no: None Motion carried

Motion to reconvene regular session by Casper, second by Moulton. Upon roll call vote, the following voted yes: Collins, Casper, and Moulton. Voting no: None Regular Session reconvened at 7:55 p.m.

Motion to adjourn the meeting by Casper, second by Moulton There being no further discussion on the motion made and upon roll call vote, the following voted yes: Collins, Tripe, Casper, and Moulton. Voting no: None. The meeting was adjourned at 7:57 p.m.


Hal Haeker, Mayor

I the undersigned Clerk hereby certify that the forgoing is a true and correct copy of the proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advanced notification of the time place and of said meeting and the subjects to be discussed at said meeting.


Dawn McNulty, City Clerk

