

MINUTE RECORD FOR CITY OF ALMA  
REGULAR CITY COUNCIL MEETING  
May 15, 2017

A meeting of the City Council of the City of Alma, Nebraska was held at City Hall on Monday, the 15th day of May, 2017, at 5:30 p.m.

Present were Council Members: Tom Moulton, Mayor Haeker, Randy Stahlecker, Mike Clements and Jon Davis. Also present were: Administrator Doug Wilson, Superintendent Russ Pfeil, Treasurer Lorri Bantam, and Clerk Lori Tripe. Attorney Doug Walker was absent. 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 Hal Haeker advised the public of the Open Meetings Act which is posted on the east wall of the meeting room, and then proceeded to call the regular meeting of May 15, 2017, at 5:30 p.m. and the following business was transacted:

Roll Call: Tom Moulton-present, Mayor Haeker-present, Randy Stahlecker-present, Mike Clements-present, and Jon Davis-present. Motion made by Clements seconded by Stahlecker to determine this meeting as previously publicized, duly convened and in open session. There being no discussion upon the motion made and upon roll call vote, the following voted yes: Clements, Stahlecker, Moulton, and Davis. Voting No: None. Motion carried.

Mayor Haeker opened the floor to approve the minutes of the May 1, 2017, Regular Council Meeting. Motion made by Davis seconded by Moulton to approve the May 1, 2017, regular council minutes as presented. There being no discussion and upon roll call vote, the following voted yes: Davis, Moulton, and Stahlecker. Clements – abstained. Voting No: None. Motion carried.

Mayor Haeker opened the floor to discuss the claims and invoices for period May 2, 2017, through May 15, 2017 for a total of \$121,518.31. Bantam noted the pool slide payment was made and described where the funds came from. Motion by Moulton, seconded by Clements to approve the May 2, 2017, through May 15, 2017 claims as presented for a total amount of \$121,518.31. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Moulton, Clements, Davis and Stahlecker. Voting No: None. Motion carried.

Mayor Haeker opened the floor to discuss the treasurer's report. Treasurer Bantam noted the fire pension fund is at zero, eventually this balance will not even show. The Fire Protection account will be staying for the expenditures that will still exist for the fire department building. The airport fund account will also receive a transfer to take it out of the red. Motion made by Davis, seconded by Stahlecker to approve the treasurer's report as presented. There being no further discussion upon the motion made and upon roll call vote, the following voted yes: Davis, Stahlecker, Clements and Moulton. Voting no: None. Motion carried.

Mayor opened a public hearing at 5:37 pm to consider and possibly approve a catering application submitted for license C67595V Licensee Name: Kent A. Shaffer, Trade Name: "The Station". The catering license would cost Mr. Shaffer \$100 vs. paying \$40 for each special designated license (SDL) and with the catering license he would NOT be limited to 6 SDL's per year. There was no one to contest the application.

Motion by Davis, seconded by Clements to close the public hearing. There being no discussion upon the motion made, the following voted yes: Davis, Clements, Stahlecker and Moulton. Voting no: None. Public hearing was closed at 5:42 pm.

Motion by Stahlecker, seconded by Davis to approve the catering license application for license C67595 – Licensee Name: Kent A. Shaffer Trade Name: "The Station". There being no discussion upon the motion made, the following voted yes: Stahlecker, Davis, Clements and Moulton. Voting no: None. Motion carried.

Mayor opened the floor to discuss and possibly approve Ordinance 2017-5 Updating the Itinerant Merchant, Solicitor and Peddler Ordinance. City Attorney Walker was unable to attend the meeting. Clerk Tripe said the changes to the original ordinance were basically to limit the door to door time from 9 am to sunset, remove the 90 day expiration date for a permit, remove the contagious disease clause and add permit

exceptions.

Council Member Stahlecker introduced Ordinance No. 2017-5 entitled as follows: ORDINANCE NO. 2017-5 AN ORDINANCE OF THE CITY OF ALMA, NEBRASKA TO REPEAL ALMA MUNICIPAL CODE SECTIONS 111.01 THROUGH 111.12 REGARDING PEDDLERS AND SOLICITORS AND REPLACING SAID SECTIONS WITH NEW PEDDLER AND SOLICITOR ORDINANCES SECTIONS 111.01 THROUGH 111.11; REPEALING ALL PRIOR ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE and moved that the statutory rule requiring reading on three different dates be suspended Council Member Moulton seconded the motion to suspend the rules and upon the motion the following Council Members voted yes: Stahlecker, Moulton, Clements and Davis. The following voted no: None. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of this ordinance.

This ordinance was then read by title and thereafter Council Member Clements moved for final passage of this ordinance and said motion was seconded by Council Member Davis. The Mayor then stated the question, "Shall Ordinance Number 2017-5 be passed and adopted?" Upon roll call vote, the following Council Members voted Yes: Clements, Davis, Stahlecker and Moulton. Voting no: None. The passage and adoption of this ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted; and the Mayor in the presence of the City Council signed and approved the ordinance and the Clerk attested the passage and approval of the same and affixed her signature thereto and ordered the ordinance to be published in pamphlet form as provided herein. True and complete copies of this ordinance is attached hereto and incorporated by reference.

The Mayor opened the floor for administrator comments. Wilson said the City crew and swimming pool staff have been working hard getting the pool ready to open. Finding a few issues, however it appears the pool should be ready to open this coming weekend.

Things running pretty smoothly at the RV Park, no major issues.

The Library had an issue concerning a few young boys. Sheriff's Department was called and boys were advised to stay away from library. Swimming Pool has been advised of the names and told to not allow them to get out of hand at the pool.

Plans are moving forward with the Open House/Dedication of the Airport Terminal Building scheduled for June 8<sup>th</sup> at 2:00 PM.

At the last council meeting compost keys being used by others was discussed. Upon research, the names mentioned are using the correct keys. No abuse as previously thought.


Mayor Haeker opened the floor to open comments.

Councilman Moulton had an RV Park camper in complaining for about an hour and it was about the same issues as before. Wilson said he is checking into who cleans the Methodist bathhouse to see if they may be interested in cleaning the RV Park's bathhouse.

Councilman Davis said the parking lot on the west side of the pool is rough. Pfeil said the guys were planning on blading the parking lot with the new John Deere tractor and possibly add more crushed concrete. Davis said the pool flume slide committee needs to get letters sent regarding the banner program. He also asked the Council if there was any interest in buying the old Pizza Hut and turning it into a parking lot? The Council agreed there is no interest at this time.

Councilman Clements asked about the armor coating of Tenth Street. It is supposed to have happened and Russ said he has asked Travis to give Higgins, the contractor, a call.

Motion made by Moulton, seconded by Clements to adjourn the meeting at 6:02 PM. There being no further discussion upon the motion made, the following voted yes: Moulton, Clements, Stahlecker and Davis. Voting no: None. Meeting was adjourned at 6:02 pm.

  
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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.



  
Lori Tripe, City Clerk

## ORDINANCE NO. 2017-5

AN ORDINANCE OF THE CITY OF ALMA, NEBRASKA TO REPEAL ALMA MUNICIPAL CODE SECTIONS 111.01 THROUGH 111.12 REGARDING PEDDLERS AND SOLICITORS AND REPLACING SAID SECTIONS WITH NEW PEDDLER AND SOLICITOR ORDINANCES SECTIONS 111.01 THROUGH 111.11; REPEALING ALL PRIOR ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE AND PROVIDING FOR AN EFFECTIVE DATE.

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

**SECTION 1.** Alma Municipal Code Sections 111.01 through 111.12 regarding Peddlers and Solicitors are hereby repealed.

**SECTION 2.** The Municipal Peddlers and Solicitors Code Sections repealed by Section 1 of this Ordinance are hereby replaced with the following Code Sections 111.01 through 111.11.

### CHAPTER 111: SALES AND ADVERTISING

#### Section

#### *Peddlers and Solicitors*

- 111.01 Definitions
- 111.02 Permit required
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal Procedure
- 111.08 Exhibition of identification
- 111.09 Policy on soliciting
- 111.10 Time when Peddlers and Solicitors may do business
- 111.11 Peddler and Solicitor Exceptions

#### ***PEDDLERS AND SOLICITORS***

##### **§ 111.01 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***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.

**PEDDLER.** Any person, not an itinerant merchant, who:

- 1) Travels from place to place by any means carrying goods for sale, or making sales; or
- 2) Without traveling from place to place, sells or offers goods for sale from any public place within the city. This does not apply to Farmers Markets or public events including but not limited to the community Fourth of July celebration or other events approved by the City Council.

**SOLICITOR.** Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

#### **§ 111.02 PERMIT REQUIRED.**

- A. Any person who is an itinerant merchant, peddler or solicitor shall obtain a permit before engaging in such activity within the city.
- B. The fee for the permit required by this subchapter shall be as set from time to time by the city.
- C. No permit issued under this subchapter shall be transferable.
- D. It shall be unlawful for any itinerant merchant, solicitor, or peddler, directly or indirectly to sell, attempt to sell, solicit, or make solicitations on the streets, in any office or business building, by house to house or in any other private or public place by personal solicitation, or any other way in the City of Alma unless such person, organization, society, association, or corporation shall have obtained a permit as provided hereafter.

#### **§ 111.03 APPLICATION PROCEDURE.**

- A. All applicants for permits required by this subchapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:
  1. The name and address of the applicant;
  2. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

3. The local address of such individual;
  4. The permanent address of such individual;
  5. The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
  6. The time period or periods during which it is proposed to carry on applicant's business;
  7. The nature, character and quality of the goods or services to be offered for sale or delivered;
  8. Whether or not the applicant or the individual identified in division 2. above or the person identified in division 5. above has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.
- B. Applicants for peddler or solicitor permits may be required to provide further information concerning the following items, in addition to that requested under division A. above:
1. A description of the applicant;
  2. A description of any vehicle proposed to be used in the business, including its registration number, if any.
- C. If a peddler or solicitor permit is approved, applicant will not use or represent in any way to any potential customer that the granting of said permit is an endorsement by the City of Alma of the products or services being sold.

Penalty, see § 10.99

#### **§ 111.04 STANDARDS FOR ISSUANCE.**

- A. Upon receipt of an application, an investigation of the applicant's business reputation and moral character may be made.
- B. The application may be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:
  1. Has been convicted of a crime of moral turpitude;
  2. Has made willful misstatements in the application;
  3. Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors and the like;

4. Has committed prior fraudulent acts; or
5. Has a record of continual breaches of solicited contracts will constitute valid reasons for disapproval of an application.

#### **§ 111.05 REVOCATION PROCEDURE.**

Any permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his or her last known address, at least ten days prior to the date set for the hearing.

#### **§ 111.06 STANDARDS FOR REVOCATION.**

A permit granted under this subchapter may be revoked for any of the following reasons:

- A. Any fraud or misrepresentation contained in the permit application;
- B. Any fraud, misrepresentation or false statement made in connection with the business being conducted under the permit;
- C. Any violation of this subchapter;
- D. Conviction of the applicant of any felony, or conviction of the applicant of any misdemeanor involving moral turpitude; or
- E. Conducting the business permitted in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

#### **§ 111.07 APPEAL PROCEDURE.**

- A. Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the City Council. The appeal shall be taken by filing with the City Council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The City Council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.
- B. The order of the City Council after the hearing shall be final.

#### **§ 111.08 EXHIBITION OF IDENTIFICATION.**

- A. Any permit issued to an itinerant merchant under this subchapter may be posted conspicuously in or at the place(s) named therein.
- B. The City Clerk may issue a permit to each peddler or solicitor approved pursuant to the provisions of this subchapter. The permit shall contain the expiration date of the permit and the number of the permit. The permit shall be kept with the applicant during such time as he or she is engaged in the business permitted.

Penalty, see § 10.99

#### **§ 111.09 POLICY ON SOLICITING.**

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residences.

#### **§ 111.10 TIME WHEN PEDDLERS AND SOLICITORS MAY DO BUSINESS.**

It is hereby declared that it is unlawful for any solicitor, salesman, or peddler to solicit any individual between the hours of sunset and 9am unless they have a previous appointment with the resident of the premises solicited.

#### **§ 111.11 PEDDLER AND SOLICITOR EXCEPTIONS.**

- A. This Article shall not apply to any established society, school, church, association, or corporation that is organized and operated exclusively for religious, philanthropic, benevolent, fraternal, charitable, or educational purposes, not operated for pecuniary profit, when no part of the net earnings of which inures to the benefit of any person, private, shareholder, or individual, and where such solicitation may be in the form of collections or contributions at the regular exercises or services of any church, religious society, lodge, benevolent order, or fraternity or similar organization, or any branch thereof.
- B. No permit will be required for qualified representatives of any church, having an established congregation and conducting regular services, in the City. It shall be the duty of the City Clerk to verify that the congregation is actually established in the City.
- C. Nothing herein shall be construed to apply to any person, or persons selling products at a Farmers Market or public event approved by the City Council, or to wholesale sales representatives.

**SECTION 3. REPEAL OF CONFLICTING ORDINANCES.** That all Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 4. EFFECTIVE DATE.** That this Ordinance shall become effective and be in full force from and after its passage, approval, and publication as required by law.

PASSED and APPROVED this 15<sup>th</sup> day of May, 2017.



ATTEST:

Lori Tripe  
Lori Tripe, City Clerk

CITY OF ALMA, NEBRASKA

By: Hal D. Hacker  
Hal D. Hacker, Mayor