

November 19, 2009

# ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, NOVEMBER 19, 2009

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

The Alliance City Council met in a Regular Meeting, November 19, 2009 at 7:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on November 12, 2009. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been delivered to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

Vice Mayor Rowley opened the November 19, 2009 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Council Members Kusek, Benzel, Rowley and Feldges. Also present were City Manager Caskie, City Attorney Miller and City Clerk Jines.

- Vice Mayor Rowley read the Open Meetings Act Announcement.
- Motion by Councilman Benzel, seconded by Councilman Feldges to excuse Mayor Yeager from the meeting.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The first item on Council’s agenda was the Consent Calendar.

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Motion by Councilman Kusek, seconded by Councilman Benzel to approve the Consent Calendar which follows in its entirety:

**CONSENT CALENDAR – NOVEMBER 19, 2009**

1. Approval: Minutes of the Regular Meeting, November 5, 2009.
2. Approval: Payroll and Employer Taxes for the period October 17, 2009 through October 30, 2009 inclusive: \$166,119.75 and \$11,764.28 respectively.
3. Approval: Claims against the following funds for the period November 2, 2009 through November 16, 2009: 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; \$948,324.38.
4. Approval: Resolution No. 09-126 accepting the completed reconstruction project of 10<sup>th</sup> Street between Sheridan and Box Butte Avenues and authorizing final payment.
5. Approval: *Request for Reserved or Exclusive Use of City Streets* of the Alliance Chamber of Commerce for their Annual Christmas Parade. The parade will be held on Thursday December 3, 2009 between 5:00-7:00 p.m. with the actual start time set for 6:00 p.m. The parade line up will begin at 10<sup>th</sup> Street the parade will start at 8<sup>th</sup> Street and proceed South on Box Butte Avenue ending at 1<sup>st</sup> Street. Copy of the Certificate of Insurance has been provided.
6. Approval: The issuance of a Cemetery Certificate to Robert A. Harvey and Karen M. Harvey for the West One Half (W1/2) of Lot Eight (8), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery.
7. Approval: The issuance of the following Contractor Licenses:
 

Journeyman Plumber:	Jason Richards dba CST Mechanical, Inc.
Master HVAC:	Rick Camacho dba CST Mechanical, Inc.
Master Plumber:	Rick Leib dba CST Mechanical, Inc.

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

Councilman Benzel asked about a charge to repair pickup beds at Rhino Lining. City Attorney Miller advised Council the bed had holes in it from animal cages that were repaired and rhino lining installed. He inquired about charges to K.L. Wood for well construction. City Manager Caskie informed Council that a data entry mistake had been made by staff. He also asked about internet charges with different vendors. City Manager Caskie advised Council that some outlying areas do not have access to fiber which necessitates the need for multiple carriers. Councilman Feldges inquired about a charge for animal cages. City Manager Caskie told Council the charge was for cat cages only. He asked why there are still vehicles parked at

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the Animal Shelter. City Attorney Miller told Council that several vehicles are being sold at auction in the near future. City staff is still working with the FAA to move the impound lot to the airport. Councilwoman Rowley asked about bomb threat meals. City Manager Caskie indicated that meals were provided to police officers and volunteers that monitored the site. Councilman Feldges questioned a charge for flashers. City Manager Caskie advised Council they have been installed in Laing Lake to deter the geese from overwintering in the City by disrupting their sleep patterns.

Councilman Kusek and Councilman Benzel both asked about a final walk through with the Nebraska Department of Roads on the 10<sup>th</sup> Street Reconstruction Project. Public Facilities Director Eric Lenz advised Council that the District Engineer inspected each item on the punch list compiled by Council. Councilman Benzel asked if any type of warranty is issued. Mr. Lenz advised Council the contractor extends a one year warranty. Councilman Kusek asked if the District Engineer had a problem with the existing cracks. Mr. Lenz replied the engineer found the cracks acceptable. Councilman Feldges asked if a charge to Design Minds was separate from the contract previously approved. City Manager Caskie indicated it is a progress payment on the contract.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- A proclamation for National Hospice/Palliative Care Month was the next item on Council's agenda.

Councilman Kusek read the proclamation which follows in its entirety:

### **PROCLAMATION**

*WHEREAS*, hospice and palliative care provides patients and families the highest quality care during life-limiting illness and at the end of life, through pain management and symptom control, caregiver training and assistance, and emotional and spiritual support, allowing patients to live fully up until the final moments, surrounded and supported by the faces of loved ones, friends, and committed caregivers; and

*WHEREAS*, last year, more than 1.4 million Americans living with life-limiting illness, and their families, received care from the more than 4,700 hospice and palliative care programs in communities throughout the United States; and

*WHEREAS*, professional and compassionate hospice staff—including physicians, nurses, social workers, therapists, counselors, health aides, and clergy—provide comprehensive care focused on the wishes of each individual patient; and

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*WHEREAS*, more than 400,000 trained volunteers contribute 18 million hours of service to hospice program annually; and

*WHEREAS*, providing high-quality hospice and palliative care reaffirms our belief in the essential dignity of every person, regardless of age, health, or social status, and that every stage of human life deserves to be treated with the utmost respect and care; and

*WHEREAS*, hospice and palliative care providers encourage all people to learn more about options of care and to share their wishes with family, loved ones, and their healthcare professionals; and

*NOW, THEREFORE*, on behalf of the members of the City Council of the City of Alliance, I do hereby proclaim the month of November to be

### **National Hospice/Palliative Care Month**

And encourage citizens to increase their understanding and awareness of care at the end of life and to observe this month with appropriate activities and programs.

*IN WITNESS THEREOF*, I have hereunto set my hand this 19th day of November in the year of the Lord Two Thousand and Nine.

The proclamation was presented to Beth Bourn, Kim Miller and Tabitha Garza.

- The first reading of Ordinance No. 2655 authorizing the issuance of Water Bonds was the next item for Council's deliberation.

Motion by Councilman Benzel, seconded by Councilman Feldges to approve Ordinance No. 2655 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### ORDINANCE NO. 2655

AN ORDINANCE AUTHORIZING THE ISSUANCE OF (1) A \$5,158,662 PRINCIPAL AMOUNT WATER REVENUE BOND, SERIES 2009A, AND (2) A \$696,259 PRINCIPAL AMOUNT WATER REVENUE BOND, SERIES 2009B; EACH IN THE FORM OF A PROMISSORY NOTE OF THE CITY, TO PAY THE COSTS OF ACQUIRING, CONSTRUCTING, IMPROVING, EXTENDING, EQUIPPING AND FURNISHING IMPROVEMENTS TO THE CITY'S WATER TREATMENT PLANT AND WATER SYSTEM; APPROVING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ PROJECT NO. D311496 AND NDEQ PROJECT NO. D311511); PRESCRIBING THE FORM AND DETAILS OF THE BOND AND THE COVENANTS AND AGREEMENTS TO

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PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO.

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

#### FINDINGS AND DETERMINATIONS

The Mayor and Council (the "Council") of the City of Alliance, Nebraska (the "City"), hereby find and determine as follows:

1. The City is a city of the first class and political subdivision duly organized and existing under the laws of the State of Nebraska, and, pursuant to Chapter 16, Reissue Revised Statutes of Nebraska, as amended, owns and operates a water treatment plant and water system (collectively, the "Water System"), which is a revenue-producing facility as described in Sections 18-1803 to 18-1805, inclusive, Reissue Revised Statutes of Nebraska, as amended (the "Act"), serving the City, its inhabitants and others within its service area.

2. It is necessary, desirable, advisable and in the best interest of the City and its inhabitants that the City acquire, construct, improve, extend, equip, and furnish certain improvements to the Water System, including, but not limited to, construction of new water wells, chlorination and treatment house, standby generators, telemetry and associated equipment, replacement of water mains and abandonment and demolition of certain existing facilities, and all associated items with respect to the City's existing water treatment plant and water system (collectively, the "Project").

3. The City is authorized under the provisions of the Act to issue and sell revenue bonds to pay the costs of the Project, provided that the principal of and interest on such revenue bonds shall be payable solely from the revenues derived from the operation of the Water System (the "Water Revenues").

4. Pursuant to Ordinance No. 2467, passed and approved on July 5, 2003 (the "2003 Ordinance"), the City has heretofore issued its \$3,595,000 principal amount of its Water Revenue Refunding Bonds, Series 2003, dated July 10, 2003 (the "2003 Water Bonds") for the purpose of refinancing the costs of making improvements to the Water System.

5. Pursuant to Ordinance No. 2620, passed and approved on August 7, 2008 (the "2008 Ordinance"), the City has heretofore issued \$4,800,000 principal amount of its Water Revenue Bond Anticipation Notes, Series 2008, dated September 11, 2008 (the "2008 Water Notes") for the purpose of paying the costs of making certain improvements to the Water System.

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6. The City does not have outstanding any bonds or other obligations payable from the Water Revenues other than the 2003 Water Bonds and the 2008 Water Notes.

7. The Nebraska Department of Environmental Quality (“NDEQ”) has agreed to loan the City (a) not to exceed \$5,158,662 under and pursuant to a Loan Agreement (NDEQ Project No. D311496) between the City and NDEQ dated the date of its execution and delivery thereof (the “2009A Loan Agreement”) and (b) not to exceed \$696,258 under and pursuant to a Loan Agreement (NDEQ Project No. D311511) between the City and NDEQ dated the date of its execution and delivery thereof (the “2009B Loan Agreement”) for the purpose of paying the costs of the Water Project under the terms and conditions set forth therein.

8. The 2003 Ordinance permits the issuance of additional obligations of the City payable from the Water Revenues on a parity with the 2003 Water Bonds (“Parity Bonds”) if (a) The annual net income derived by the City from the operation of the Water System for the Fiscal Year next preceding the issuance of such Parity Bonds, after deduction from gross income of the reasonable expenses of operation, maintenance and repair of the Water System, but before depreciation, amortization and interest payable on outstanding 2003 Bonds or other debt, must have been equal to one hundred twenty-five percent (125%) of the maximum amount required to be paid out of said income in any succeeding Fiscal Year on account of both principal and interest becoming due with respect to all outstanding bonds of the City, including the Parity Bonds proposed to be issued; provided, that in calculating such annual net income for the purpose of the 2003 Ordinance, there shall be included such additional net income which the certified public accountant or accountants employed by the City to make the annual audit of the accounts of the Water System of the City shall certify that the estimate would have been generated on a pro forma basis for such Fiscal Year as a result of any adjustment in rates which may have been implemented prior to the issuance of the Parity Bonds proposed to be issued, (b) there is no default in any of the payments required to be made into the respective fund and accounts described in the 2003 Ordinance, (c) the amount required to be paid into the Bond Fund shall be proportionately increased to the extent necessary to pay installments of interest and principal as they become due, and (d) the amount required to be maintained and/or the payments required to be made into an account established for such Parity Bonds in the Reserve Fund shall be so that the ultimate balance accumulated and maintained in such account shall be equal to the Reserve Requirement on the Parity Bonds proposed to be issued.

9. It is necessary, desirable, advisable and in the best interest of the City and its inhabitants to authorize the issuance and delivery of (a) a water revenue bond in the principal amount of \$5,158,662 pursuant to the Act as herein provided in the form of a promissory note (the “2009A Water Bond”) in accordance with the 2009A Loan Agreement and (b) a water revenue bond in the principal amount of \$696,258 pursuant to the Act as herein provided in the form of a promissory note (the “2009B Water Bond”) in accordance with the 2009B Loan Agreement to provide funds for such purpose.

10. The City is not in default in the payment of principal of or interest on the 2003 Water Bonds or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in the 2003 Ordinance; and, prior to the issuance of the

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2009A Water Bond and the 2009B Water Bond (collectively, the “2009 Water Bonds”), the City shall demonstrate compliance with the requirements of the 2003 Ordinance.

11. All conditions, acts and things required by law to exist or to be done precedent to the issuance of the 2009 Water Bonds herein authorized do exist and have been done and performed in regular and due course and time as provided by law.

## ARTICLE I

### DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to the words and terms defined in the 2003 Ordinance, the following capitalized words and terms used in this Ordinance shall have the following meanings:

“Event of Default” means the events defined as such in the Loan Agreement.

“2009A Loan Agreement” means the Loan Agreement (NDEQ Project No. D311496) dated the date of its execution and delivery, between the City and NDEQ.

“2009B Loan Agreement” means the Loan Agreement (NDEQ Project No. D311511) dated the date of its execution and delivery, between the City and NDEQ.

“NDEQ” means the Nebraska Department of Environmental Quality of the State of Nebraska.

“Ordinance” means this Ordinance as from time to time amended in accordance with the terms hereof.

“Parity Bonds” means the 2003 Water Bonds and the 2009 Water Bond, together with any additional parity bonds or other long-term obligations payable out of the net income and revenues of the Water System hereafter issued or incurred in accordance with the provisions of this Ordinance and standing on a parity and equality with the 2003 Water Bonds and the 2009 Water Bond with respect to the payment of principal and interest out of the net income and revenues of the Water System, so long as any such bonds remain outstanding and unpaid or until provision is made for the payment and defeasance of such bonds.

“Payment Date” means any date on which principal of or interest on the 2009 Water Bond is payable in accordance with the provisions of the Loan Agreement.

“Permitted Investments” means any securities and obligations that are at the time permitted by the laws of the State of Nebraska for investment of the City’s money held in the funds referred to in Section 501 hereof.

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“Redemption Date,” when used with respect to any part of the 2009 Bond to be redeemed, means the date fixed for such redemption pursuant to the terms of this Ordinance.

“Redemption Price,” when used with respect to any part of the 2009 Bond to be redeemed, means the price at which such portion of the 2009 Bond is to be redeemed pursuant to the terms of this Ordinance.

“2003 Water Bonds” means the Water Revenue Refunding Bonds, Series 2003, dated July 10, 2003, issued in the original aggregate principal amount of \$3,595,000.

“2009 Water Bonds” means, collectively, the 2009A Water Bond and the 2009B Water Bond.

“2009A Water Bond” means the Water System Promissory Note of the City issued in accordance with the provisions of this Ordinance and the 2009A Loan Agreement.

“2009B Water Bond” means the Water System Promissory Note of the City issued in accordance with the provisions of this Ordinance and the 2009B Loan Agreement.

## ARTICLE II

### AUTHORIZATION OF LOAN AGREEMENT, 2009 WATER BOND

Section 201. Authorization of Loan Agreement; Issuance of 2009 Water Bond. The City is authorized to enter into (a) the 2009A Loan Agreement between the City and NDEQ and (b) the 2009B Loan Agreement between the City and NDEQ, each in substantially the form presented to and reviewed by the Council at the meeting at which this Ordinance was passed and adopted (copies of which shall be filed in the records of the City). The Mayor is authorized to execute the 2009A Loan Agreement and the 2009B Loan Agreement, each with such changes therein as such official deems appropriate, for and on behalf of and as the act and deed of the City.

In connection with the execution and delivery of the 2009A Loan Agreement, and to evidence the City’s payment obligations thereunder, the City is authorized and directed to execute and deliver a water revenue bond in substantially the form of the 2009A Water Bond attached to the 2009A Loan Agreement as Attachment F, in the total principal amount of not to exceed \$5,158,662.

In connection with the execution and delivery of the 2009B Loan Agreement, and to evidence the City’s payment obligations thereunder, the City is authorized and directed to execute and deliver a water revenue bond in substantially the form of the 2009B Water Bond attached to the 2009B Loan Agreement as Attachment F, in the total principal amount of not to exceed \$696,258.

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Section 202. Description of 2009A Water Bonds. The 2009A Water Bonds shall be dated the date of its execution and delivery, shall be due and payable on the dates and in the amounts (subject to optional and mandatory redemption as provided in the 2009A Loan Agreement), and shall bear interest as set forth in Section 2.03 of the 2009A Loan Agreement, payable as provided in Section 2.05 of the 2009A Loan Agreement.

The 2009B Water Bonds shall be dated the date of its execution and delivery, shall be due and payable on the dates and in the amounts (subject to optional and mandatory redemption as provided in the 2009B Loan Agreement), and shall bear interest as set forth in Section 2.03 of the 2009B Loan Agreement, payable as provided in Section 2.05 of the 2009B Loan Agreement.

Section 203. Administrative Fee. In addition to the principal of and interest on the 2009A Water Bond and the 2009B Water Bond, the City shall pay all administrative fees as set forth in Section 2.06 of the 2009A Loan Agreement and the 2009B Loan Agreement, respectively.

Section 204. Method and Place of Payment of 2009 Water Bonds. The principal of and interest on the 2009A Water Bond and the 2009B Water Bond shall be payable in any coin or currency of the United States of America that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal and interest on the 2009A Water Bond and the 2009B Water Bond payable on each respective Payment Date shall be paid by check or draft to the registered owner thereof on the business day prior to such Payment Date by check or draft mailed by the City to such registered owner at the address on file with the City.

Section 205. Execution, Authentication and Delivery of 2009 Water Bonds. The Mayor and City Clerk are hereby authorized and directed to prepare and execute the 2009A Water Bond and; the 2009B Water Bond as herein specified.

Section 206. Sale of 2009 Water Bonds. The City shall sell and deliver the 2009A Water Bond and the 2009B Water Bond to NDEQ at a purchase price of 100% of the principal amount thereof. The City Treasurer is authorized to execute and deliver such documents as may be appropriate for and on behalf of the City to effect the sale of the 2009A Water Bond and the 2009B Water Bond as provided herein, such officer's signature thereon being conclusive evidence of such official's and the City's approval thereof.

Section 207. Disbursement of 2009 Water Bond Proceeds. The proceeds of the 2009 Water Bond shall be disbursed as provided in Section 2.04 of the Loan Agreement to pay the costs of the Water Project.

### ARTICLE III

#### REDEMPTION OF 2009 WATER BONDS

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Section 301. Redemption of 2009 Water Bonds. At the option of the City, all or a portion of the 2009A Water Bond may be prepaid in accordance with the provisions of Section 2.05 of the 2009A Loan Agreement at a redemption price equal to 100% of the principal amount thereof, plus accrued interest thereon to the Redemption Date. The 2009A Water Bond is subject to mandatory prepayment by the City upon the occurrence of the event specified in Section 2.05(c) of the 2009A Loan Agreement.

At the option of the City, all or a portion of the 2009B Water Bond may be prepaid in accordance with the provisions of Section 2.05 of the 2009B Loan Agreement at a redemption price equal to 100% of the principal amount thereof, plus accrued interest thereon to the Redemption Date. The 2009B Water Bond is subject to mandatory prepayment by the City upon the occurrence of the event specified in Section 2.05(c) of the 2009B Loan Agreement.

#### ARTICLE IV

##### SECURITY FOR 2009 WATER BONDS

Section 401. Security for 2009 Water Bonds. The 2009 Water Bonds are a special obligation of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the revenues derived from the operation of the Water System, after providing for the costs of operation and maintenance thereof, including operating income, investment income, gifts, bequests, contributions, grants and other moneys made available to the City with respect to the Water System from sources other than funds raised by taxation. The City hereby pledges said net income and revenues to the payment of the principal of and interest on the 2009 Water Bonds and hereby authorizes the grant to the holders of the 2009 Water Bonds of a security interest in said revenues and all amounts on deposit in the Revenue Fund and the Bond Fund established pursuant to the 2003 Ordinance. The 2009 Water Bonds shall not be or constitute general obligations of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the 2009 Water Bonds, either as to principal or interest.

The covenants and agreements of the City contained in this Ordinance, the 2009A Loan Agreement, the 2009B Loan Agreement and in the 2009 Water Bonds shall be for the equal benefit, protection and security of the legal owners of the 2009 Water Bonds. The 2009 Water Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the net income and revenues derived from the operation of the Water System and in all other respects with any 2003 Water Bonds and any additional Bonds issued pursuant to the 2003 Ordinance.

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ARTICLE V

INCORPORATION OF PROVISIONS  
OF 2003 ORDINANCE

Section 501. Incorporation of Provisions of 2003 Ordinance. The 2009 Water Bonds are hereby determined be “Additional Bonds” within the meaning of such term as defined and used in the 2003 Ordinance. The Mayor and Council have previously passed and approved the provisions of the 2003 Ordinance and (a) Sections 12 to 21, inclusive, of the 2003 Ordinance are hereby incorporated herein by this reference as though fully set forth herein.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 601. Amendments. The rights and duties of the City, and the terms and provisions of the 2009 Water Bonds, the 2009A Loan Agreement, the 2009B Loan Agreement or of this Ordinance, may be amended or modified at any time in any respect by Ordinance of the City in accordance with the provisions of Section 6.03 of the 2009A Loan Agreement and the 2009B Loan Agreement.

Every amendment or modification of the provisions of the 2009 Water Bonds or of this Ordinance shall be expressed in an ordinance adopted by the governing body of the City amending or supplementing the provisions of this Ordinance and the respective Loan Agreement and shall be deemed to be a part of this Ordinance.

Section 602. Further Authority. The officers of the City, including the Mayor and City Clerk, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 603. Relationship of Loan Agreement. In the event that any conflict arises between the provisions of the 2009A Loan Agreement and the provisions of this Ordinance, the provisions of the 2009A Loan Agreement shall prevail. In the event that any conflict arises between the provisions of the 2009B Loan Agreement and the provisions of this Ordinance, the provisions of the 2009B Loan Agreement shall prevail.

Section 604. Severability. If any section or other part of this Ordinance, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

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Section 605. Governing Law. This Ordinance shall be governed by and constructed in accordance with the applicable laws of the State of Nebraska.

Section 606. Effective Date. This Ordinance shall take effect and be in full force from and after passage by the Council, approval by the Mayor, and publication in pamphlet form as provided by law.

Councilman Feldges asked if the 2003 and 2008 Water Revenue Bonds are in addition to or part of BANS. City Manager Caskie explained a Bond Anticipation Note was issued to begin construction. When the City receives \$5.1 million, Wells Fargo will be repaid so the total indebtedness for the project is the combination of the two numbers.

Motion by Vice Mayor Rowley, seconded by Councilman Kusek to suspend the statutory rule requiring three separate readings of Ordinance No. 2655.

Roll call vote to waive the statutory reading with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2655 on final reading with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

Vice Mayor Rowley stated, "the passage and adoption of Ordinance No. 2655 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published."

- The next item to be presented to Council was an assessment of the Alliance Tennis Court sites by Olsson Associates.

Gary Gerhard, representative of Olsson Associates addressed Council reviewing the reports submitted. Councilman Feldges asked if eight inches of asphalt is adequate. Mr. Gerhard indicated it is more than adequate. He also asked if drainage is the problem. It was explained that when asphalt cracks it must be sealed to repel moisture. Once moisture has been allowed to enter the cracks, the freeze/thaw cycle causes the oil to strip away from the asphalt. He cautioned Council to expect cracks in asphalt. He said that every year the surface needs to be sealed. Mr. Gerhard indicated there are safety issues in the tennis court at 8<sup>th</sup> and Sweetwater

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because of elevation changes which causes toe catchers. Councilman Benzel suggested field work be pursued at 8<sup>th</sup> and Sweetwater Avenue.

Motion by Councilman Kusek, seconded by Councilwoman Rowley to instruct staff to begin the engineering process of the option of crack repair and overlay for Spring construction for 18<sup>th</sup> and Box Butte Avenue tennis courts with Olsson Associates.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Resolution No. 09-128 authorizing an Agreement with Olsson Associates to provide professional services for the design and bidding for the Golf Course Irrigation Well Project was the next item for Council's consideration.

Motion by Councilman Feldges, seconded by Councilman Kusek to approve Resolution No. 09-128 which follows in its entirety:

#### **RESOLUTION NO. 09-128**

*WHEREAS*, The City of Alliance owns and is responsible for the maintenance of the City of Alliance Golf Course; and

*WHEREAS*, The water well at the Golf Course has failed and needs to be replaced; and

*WHEREAS*, Olsson Associates have advised the City of Alliance that they would be willing to design the Golf Course well and provide bidding services for the City of Alliance for the sum of Seven Thousand Nine Hundred Three and No/100ths Dollars (\$7,903.00); and

*WHEREAS*, The City has had a good working relationship with Olsson Associates and staff recommends approval of an engineering contract with Olsson Associates.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that the Mayor is authorized to sign an engineering service contract with Olsson Associates in the amount of Seven Thousand Nine Hundred Three and no/100ths Dollars (\$7,903.00) for the design and bidding services for the Golf Course well.

Councilman Benzel asked if an engineer is necessary for an irrigation well. City Manager Caskie explained that a project over \$20,000 must be a bid project and that it is in the best interest of the City to have the oversight of an engineer to ensure a quality job.

Roll call vote with the following results:

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Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was Resolution No. 09-127 granting a Conditional Use Permit on Behalf of Excel Development Group.

Vice Mayor Rowley stated, "Now is the date, time and place to conduct a public hearing on the application of the City of Alliance on behalf of Excel Development Group for a Conditional Use Permit for the site plan of Phase 2 of Rosewood Estates, a senior housing development." Vice Mayor Rowley opened the public hearing at 8:12 p.m. Rick Houck, Community Development Director provided Council with an overview of the housing project. John Olafson, Director of Box Butte Development Corporation addressed Council providing additional facts about the project. The public hearing was closed at 8:17 p.m.

Motion by Councilwoman Rowley, seconded by Councilman Benzel to approve Resolution No. 09-127 which follows in its entirety:

#### **RESOLUTION NO. 09-127**

*WHEREAS*, The City of Alliance by and through Pamela Caskie, City Manager, and Rosewood Estates, has requested a Conditional Use Permit for the site plan and the approval of the senior housing development to be known as Rosewood Estates, Phase II; and

*WHEREAS*, The City of Alliance Planning Commission voted to recommend the granting of the Conditional Use Permit to the City of Alliance for Rosewood Estates, Phase II, which is Lots 22 through 30, Block 10 and Lots 9 through 11, Block 11, Lakefield Addition to the City of Alliance, Box Butte County, Nebraska, according to the recorded plat thereof; and

*WHEREAS*, City staff has viewed the property and found the property to be used consistent with the granting of the Conditional Use Permit; and

*WHEREAS*, City staff has found that the proposed use of the property would be in conformity with the City of Alliance Comprehensive Plan and the City of Alliance Zoning Ordinance; and

*WHEREAS*, City Council finds that no sufficient reasons exists why the Conditional Use Permit should not be granted.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that a Conditional Use Permit shall be issued to the City of Alliance, the property owner, on behalf of Rosewood Estates for the approval of the site plan and construction of Rosewood Estates, Phase II.

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*BE IT FURTHER RESOLVED* that the Conditional Use Permit shall be presumed inactive if the conditional use is not commenced within twelve (12) months of November 19, 2009.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzal, Feldges.

Voting Nay: None.

Motion carried.

- The next item for Council's consideration was Resolution No. 09-129 authorizing a Lease Agreement for office space at the Alliance Municipal Airport Terminal for Transportation Security Administration staff.

Motion by Councilman Kusek, seconded by Councilman Feldges to approve Resolution No. 09-129 which follows in its entirety:

**RESOLUTION NO. 09-129**

*WHEREAS*, The City of Alliance owns a Municipal Airport; and

*WHEREAS*, The United States of America desires to lease 384 square feet to be used for such purposes as determined by the General Services Administration; and

*WHEREAS*, The existing lease for such office area expires November 19, 2009, and the United States of America has proposed a renewable lease effective November 19, 2009 to be in effect until November 18, 2014 unless terminated earlier; and

*WHEREAS*, City staff has reviewed the lease and has recommended its approval.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, that Lease No. GS-06P-90038 with the United States of America for office space at the Alliance Municipal Airport is hereby approved, and the Mayor and City Clerk are authorized to execute the lease on behalf of the City of Alliance.

Public Facilities Director Eric Lenz advised Council the current lease is half the amount charged.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzal, Feldges.

Voting Nay: None.

November 19, 2009

Motion carried.

- Resolution No. 09-130 authorizing submittal of a grant application to the Nebraska Department of Economic Development in the amount of \$85,000 to be used in the Box Butte Avenue Streetscape Project.

Motion by Councilman Feldges, seconded by Councilman Kusek to approve Resolution No. 09-130 which follows in its entirety:

**RESOLUTION NO. 09-130**

*WHEREAS*, The City of Alliance is working to design and construct the Box Butte Avenue Streetscape Project; and

*WHEREAS*, Part of the Streetscape Project will be to install new curbs, crosswalks, storm inlets and the removal of the mid-street medians in Box Butte Avenue; and

*WHEREAS*, The Nebraska Department of Economic Development Recovery Zone Economic Development Bond allocation has invited all counties and local governments within the State of Nebraska to apply for the Recovery Zone Economic Development Bonds; and

*WHEREAS*, Applications must be received by the Nebraska Department of Economic Development on or before December 4, 2009; and

*WHEREAS*, Applicants must be able to use any allocation no later than July 1, 2010; and

*WHEREAS*, Staff is requesting authority to make application for Eighty Five Thousand and no/100<sup>th</sup> Dollars (\$85,000.00) from the Recovery Zone Economic Development Bond for the installation of new curbs, crosswalks, storm inlets and removal of the mid-street medians in Box Butte Avenue, all consistent with the Box Butte Avenue Streetscape Project; and

*WHEREAS*, There is no matching requirement for these bonds; and

*WHEREAS*, The City Council of Alliance believes that it is in the best interest of the Economic Development of the City of Alliance to apply for these bonds.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that City staff is hereby authorized to make an application to the Nebraska Department of Economic Development Recovery Zone Economic Development Bond allocation in the amount of Eighty Five Thousand and no/100ths Dollars (\$85,000.00) for the installation of new curbs, crosswalks, storm inlets and for the removal of the mid-street medians in Box Butte Avenue.

*BE IT FURTHER RESOLVED* that all work shall be consistent with the Box Butte Avenue Streetscape Project.

November 19, 2009

City Manager Caskie advised Council that she believes the City is an unlikely recipient for funding.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Resolution No. 09-131 authorizing a Change Order on the Design Minds Museum Agreement was the next item to be discussed by Council.

Motion by Councilman Benzel, seconded by Councilman Kusek to approve Resolution No. 09-131 which follows in its entirety:

### **RESOLUTION NO. 09-131**

*WHEREAS*, The City of Alliance awarded a contract to Design Minds for the exhibit design and development for the Knight Museum and Sandhills Center; and

*WHEREAS*, Staff has determined it necessary to have additional services provided by Design Minds; and

*WHEREAS*, Design Minds has proposed to add the following design components to the existing design contract:

1) Additional Inspection Trips to Nashville, TN	\$1,000.00
2) Exterior Museum Sign	\$1,000.00
3) Donor Wall and Newberry Exhibit	\$2,500.00
4) Migration Interactive Content Development	\$7,500.00
5) Timeline Wall Review of Museum's Concept and Development	\$2,500.00
6) Purchase Images for Section 2 (Sandhills)	\$ 500.00

For a total additional cost of \$15,000.00; and

*WHEREAS*, Staff believes that the services are necessary for the completion of the design of the Knight Museum and Sandhills.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that the Mayor is authorized to sign an Addendum to the Design Minds contract to include additional inspection trips to Nashville, TN; design of the exterior museum sign; design donor wall and Newberry exhibit; design migration interactive content development; design timeline wall review of museum's concept and development and purchase of the images for Section 2 (Sandhills) for a total of \$15,000.00 so that work can proceed in a timely fashion.

November 19, 2009

*BE IT FURTHER RESOLVED* that the staff shall notify Design Minds that Council has approved the Addendum to the Contract so that work can commence.

Councilman Benzel asked why these items were not included in the original contract. City Manager Caskie advised Council a change order could have been issued from 1220 Exhibits, however it was less expensive to allow Design Minds to complete the development. She also said that monies received from the Eldred Foundation and the BNSF Foundation makes up the funding pool for museum projects. Councilman Feldges asked what the remaining amount is in the fund balance. City Manager Caskie advised Council that approximately \$50,000.00 remains.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was the Fourth Quarter Financial Report by Finance Manager Shari Lund.

Motion by Councilman Kusek, seconded by Councilman Benzel to accept the Fourth Quarter Financial Report as presented by Finance Manager Shari Lund.

Councilman Feldges commented that it appears the Water Fund is holding its own. Councilman Benzel questioned the pool demolition cost. City Manager Caskie will report back to Council regarding the charge.

Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- By consensus, directed staff to confirm a date in January for a Joint Meeting with the Box Butte County Commissioners.
- The last item on Council's agenda was a board appointment.

Motion by Councilman Benzel, seconded by Councilman Feldges to re-appoint Dixie Nelson to the A-1 Downtown Improvement Board for a term expiring October, 2012.

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Roll call vote with the following results:

Voting Aye: Rowley, Kusek, Benzel, Feldges.

Voting Nay: None.

Motion carried.

- Vice Mayor Rowley stated, “there being no further business to come before the Alliance City Council, the meeting is adjourned at 8:49 p.m.”

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Lori Rowley, Vice Mayor

(SEAL)

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Linda S. Jines, City Clerk