

August 16, 2011

ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, AUGUST 16, 2011

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

The Alliance City Council met in a Regular Meeting, August 16, 2011 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 August 9, 2011. 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.

Mayor Feldges opened the August 16, 2011 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Feldges, Council Members Yeager, Kusek, Benzel, and Gonzalez. Also present were City Manager Cox, City Attorney Miller and City Clerk Jines.

- Mayor Feldges read the Open Meetings Act Announcement.
- The first item on Council’s agenda was the Consent Calendar.

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

CONSENT CALENDAR – AUGUST 16, 2011

1. Approval: Minutes of the Regular Meeting, August 4, 2011.
2. Approval: Payroll and Employer Taxes for the period July 23, 2011 through August 5, 2011 inclusive: \$184,864.34 and \$13,232.68 respectively.

August 16, 2011

3. Approval: Claims against the following funds for the period July 29, 2011 through August 12, 2011: 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; \$294,463.88.
4. The Alliance Good Samaritan Society is seeking permission for the *Reserved or Exclusive Use of City Streets* for their Annual Fall Picnic. The event will be held on Thursday, September 1, 2011 between the hours of 9:00 a.m. and 2:00 p.m. The request is to close 6th Street between Flack and Boyd Avenues. A copy of their liability insurance has been provided as is made a part of this packet for your review.
5. Approval: Issuance of the following Contractor licenses:

Repair & Maintenance	Monte J. Weisgerber dba Weisguys Repair & Mtc.
General Contractor	Paul Reed Construction
Journeyman HVAC	Chris Trevino dba CST Mechanical, Inc.

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

Councilman Kusek made three inquires on the claims report:

- (1) What is the payment to EMS Billing Services, Inc? City Manager Cox stated it was 15% of ambulance collections.
- (2) Was the number of sunbrellas purchased for the swimming pool in the amount of \$6,379.32 correct? The purchase was to replace three which had been damaged.
- (3) Would the Council receive a report from Tourism Director Howard on his motel stays in Alliance? City Manager Cox stated it would be forthcoming along with other activities of that department.

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Kusek, Benzel, Gonzalez.

Voting Nay: None.

Motion carried.

- The next agenda item was the City Manager's report by J.D. Cox which follows in outline form:
 - Electric Department
 - Electric Reliability Study
 - Conference Call Scheduled 8/11 @ 9:00am
 - Kevin Groves preparing proposal to assist in completing punch list

August 16, 2011

- Water Department
 - Repaired 4" Break at 3rd & Sweetwater; Still have a 6" valve to repair
- Code Enforcement
 - Continue to gain compliance
- MIS
 - Investigating options for municipal code – Due 9/15
- Police
 - Upcoming proposal on school zones – 20 mph
- Fire/EMS
 - Test of Aerial Truck on 8/24
 - Painting Fire Hydrants
- RR - Potash Underpass
 - Replacing 1st of 5 sections
 - Schedule
 - 2011: One Section
 - 2012: Two Sections
 - 2013: Two Sections
- Airport
 - Advisory Ad hoc Meeting –August 31 @ 1:30 pm at Airport
- Streets & Roads
 - Street Overlay Project (Cemetery, 10th Street)
 - Bid Opening 9/6
- Sale of Lot – 12th & Flack
 - Bid Opening – Due Aug 23 @ 2:00 pm
- Sale of Lot Behind Kee's Computer
 - Bid Opening – Due Aug 23 @ 2:00 pm
- Big Blue Bay Pool
 - Last day pool open: Sunday after last day of school (8/21)
- Irrigation
 - Extensive Evaluation of underground systems complete
 - Many repairs and adjustments necessary
 - Repair and replacement this Fall/Winter
 - Plan to rebuild several over the Fall/Winter/Spring

August 16, 2011

- Winterizing
 - Mulching - Ordered six loads of mulching; apply when plants go dormant
 - Tree Trimming – Will begin “cleaning up” trees; much after leaves fall

- STAFFING
 1. Public Safety Dispatcher- Re-advertising
 2. Lineman – Pending
 3. Customer Service Clerk I (Anna’s previous position) – Pending
 4. Animal Control/Community Service Officer – Advertising
 5. Library Adult Services - Advertising
 6. RSVP Clerk – Advertising
 7. Human Resources Officer - HOLD
 8. Cemetery Maintenance Worker I – Advertising

- Promotion & Tourism
 - Program
 - Director Kevin Howard working on assessment and plan
 - Meeting with Tourism Advisory scheduled for 9/19
 - Will draft a interim plan to share with Council on 9/15

- UPCOMING COUNCIL MEETINGS
 - 8/18:
 - Tour of Old Power Plant at 3:00 pm
 - 9/1:
 - Very Busy Meeting
 - Budget – 3rd & Final Reading

- **CALENDAR RECAP**
 - Aug 21: Last Day – Pool
 - Aug 22: Bid Openings:
 - Airport Fire Station (2:00)
 - Tools AARF Truck (2:30)
 - Fire Station Roof (4:00)
 - Aug 23: Joint Meeting @ Museum (Noon)
 - Aug 23: Rosewood Estates Open House
 - Aug 31: Airport Advisory @ 1:30 pm at Airport
 - Sept 10: Out of Darkness Walk around Laing Lake (Suicide Prevention)
 - Sept 10: United Way Chalkathon (3rd & Box Butte)

- The next item on Council’s agenda was a presentation by the Panhandle Area Development District regarding the new membership fee schedule. City Manager Cox provided the following background information:

August 16, 2011

[In your packet is a listing of "PADD" dues. As you can see in the dues structure, Alliance is listed as the 3rd highest on the list of suggested dues. There was no explanation included as to why Alliance is being moved from \$3,506.47 to \$6,581.30. Representatives will be present to discuss this change.]

Jerrod Haberman, Executive Director of PADD addressed Council and explained the new dues structure for the Panhandle Area Development District and the services they provide to both cities and counties throughout the Panhandle. No action was taken.

- The next matter before Council is a Public Hearing on the proposed 2011-2012 Budget and the second reading of Ordinance No. 2681.

Mayor Feldges declared, "Now is the date, time and place to conduct a Public Hearing on the Proposed Budget." Mayor Feldges opened the public hearing at 7:40 p.m. Hearing no testimony, the public hearing was closed at 7:41 p.m.

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Ordinance No. 2681 on second reading. City Clerk Jines read the ordinance by title which follows in its entirety:

ORDINANCE NO. 2681

AN ORDINANCE TERMED "THE ANNUAL APPROPRIATION BILL" TO PROVIDE REVENUE FOR MUNICIPAL PURPOSES OF THE CITY OF ALLIANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012, BY IMPOSING A TAX ON ALL PROPERTY WITHIN THE CITY, ADOPTING A BUDGET, AND ADOPTING APPROPRIATIONS.

WHEREAS, The City Manager, in accordance with the requirements of Chapter 1, Article 2, Section 1-205, of the Municipal Code of the City of Alliance, Nebraska, has submitted to the City Council a preliminary budget. This preliminary budget being submitted to the City Council on August 1, 2011, upon which a workshop was held on August 1, 2011 and a proposed budget was produced. A public hearing will be held on said proposed budget on August 16, 2011, as required by law; and

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

SECTION 1. The budget for the fiscal year beginning October 1, 2011, submitted to and amended by the City Council, is hereby adopted.

SECTION 2. In order to provide revenue for municipal purposes, the following property tax revenues have been established for the City of Alliance:

CITY	MFO	AIRPORT	PUBLIC SAFETY	AIRPORT SINKING	TOTAL
------	-----	---------	------------------	--------------------	-------

August 16, 2011

Budget Amount	930,000	110,000	110,000	65,000	39,500	1,254,500
---------------	---------	---------	---------	--------	--------	-----------

1% Treasurers Fee	9,300	1,100	1,100	650	395	12,545
-------------------	-------	-------	-------	-----	-----	--------

Delinquent Allowance (5%) (can be up to 5%)	46,500	5,500	5,500	3,250	1,975	62,725
--	--------	-------	-------	-------	-------	--------

Total Property Tax

Request:	985,800	116,600	116,600	68,900	41,870	1,329,770
-----------------	---------	---------	---------	--------	--------	-----------

Using the following

tax levies:

	CITY	MFO	AIRPORT	PUBLIC SAFETY	AIRPORT SINKING	TOTAL
Proposed 2011	0.28147	0.03361	0.03361	0.01986	0.01207	0.38387

SECTION 3. In accordance with Reissue Revised Statutes Nebraska Chapter 16, Section 704, the following amounts shall be and hereby are recognized as the budget for the City of Alliance, Nebraska for the fiscal year 2012.

General Fund	6,302,736
Electric	12,104,834
Refuse	1,282,578
Sewer	488,300
Water	1,797,728
Golf Course Fund	293,318
Airport	1,607,389
Street Fund	2,841,638
RSVP	84,826
Museum Exhibit	12,100
BID #1 and #2	9,100

August 16, 2011

Nuisance Cleanup	6,600
HUD	12,000
Community Betterment (KENO)	27,300
Economic Development	95,000
LB 840 Fund	250,000
Redevelopment (TIF)	6,010
Sales Tax Fund	1,899,200
Tourism & Promotion	115,000
Capital Projects	291,700
Capital Equipment	65,000
General Internal Service	1,244,127
Enterprise Internal Service	501,475
Health Support Internal Service	2,156,650
General Debt Service	96,200
Airport Sinking Fund	45,750
Perpetual Care Fund (Cemetery)	11,000
<i>Gross Expenditures</i>	33,647,559

There is hereby included \$100,000 within the General Fund Budget [City Council Activity], \$10,000 within the General Fund Budget [Police Grant] \$40,000 within the Electric Fund, \$50,000 within the Water Fund, \$25,000 within the Sewer Fund, \$16,000 within the Refuse Fund, \$7,000 within the Airport Fund, and \$50,000 within the Streets Fund to be known as "Contingency." Expenditures from any Contingency will not be authorized without an affirmative vote of the City Council for each amount to be expended.

SECTION 4. The City has a total of Unused Restricted Funds Authority of \$_____ for Fiscal Year 2011.

SECTION 5. The tax levied under this Ordinance shall become due and payable, shall become delinquent and shall be subject to penalties, the execution of distress warrants and sale of property levied upon as provided by law.

SECTION 6. The City Clerk is hereby authorized and directed forthwith upon the passage, approval and publication of this Ordinance to forward a certified copy thereof to the County Clerk of Box Butte County, Nebraska.

SECTION 7. This Ordinance shall become effective October 1, 2011.

Motion by Councilman Kusek, seconded by Councilman Yeager to amend Ordinance No. 2681 for a housekeeping correction by decreasing the Health Support Services Fund by \$42,400 (Fund 57) which is already reflected in the proposed ordinance (A-6).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

August 16, 2011

Motion carried.

Motion by Councilman Kusek, seconded by Councilman Benzel to amend Ordinance No. 2681 for a housekeeping correction by decreasing the General Fund by \$7,900 (Fund 01) which is already reflected in the proposed ordinance (A-7).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Motion by Councilman Benzel, seconded by Councilman Gonzalez to amend Ordinance No. 2681 adding \$43,588.80 for the fire truck payment to Debt Service which will include a transfer from the General Fund (A-8).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Motion by Councilman Gonzalez, seconded by Councilman Benzel to amend Ordinance No. 2681 adding \$20,000 for museum shelving to Debt Service which will include a transfer from the General Fund (A-9).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Motion by Councilman Benzel, seconded by Councilman Yeager to amend Ordinance No. 2681 to move \$19,000 from the Keep Alliance Beautiful line item within the General Fund (Fund 01) to a Refuse Recycling Contingency Fund (Fund 06) with the City continuing to collect fees for recycling (A-10).

Roll call with the following results:

August 16, 2011

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Motion by Councilman Kusek, seconded by Councilman Gonzalez to amend Ordinance No. 2681 by reducing the transfer from the Water Fund (Fund 08) to the General Fund (Fund 01) by \$81,077 and decrease the General Fund balance accordingly (A-11).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Motion by Councilman Benzel, seconded by Councilman Gonzalez to amend Ordinance No. 2681 by changing the Keep Alliance Beautiful line item within the General Fund (Fund 01) from \$23,000 to \$5,000 (\$4,000 in account 01-81-82-47-755 and \$1,000 in account 06-41-42-47-755) (A-3).

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Finance Director Waggener reported to Council he had received the new assessed value figure from the Box Butte County Assessor. The assessed value is up 4% which is approximately a \$50,000 increase for a total of \$361,080,370.

City Manager Cox also informed Council there is approximately one percent built into the proposed budget for salary increases.

Roll call vote on the second reading of Ordinance No. 2681 with the following results:

Voting Aye: Feldges, Kusek, Benzel, Gonzalez.

Voting Nay: Yeager.

Motion carried.

August 16, 2011

- The next item for Council's consideration was Ordinance No. 2683 regarding the use of UTV's on public streets. City Manager Cox provided the following background information:

[In 2008, Council approved Ordinance 2604 which legalized the use of All-Terrain Vehicles (ATVs) on City Streets. In your packets is a proposed amendment to City Code that will also authorize "Utility-Type Vehicles." The UTV's have space for passengers and also have cargo space.

State Law of Nebraska defines a "UTV" as *(1) ... any motorized off-highway device which (a) is not less than forty-eight inches nor more than seventy-four inches in width, (b) is not more than one hundred thirty-five inches, including the bumper, in length, (c) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (d) travels on four or more low-pressure tires, and (e) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side. (2) Utility-type vehicle does not include golf carts or low-speed vehicles.*

Meanwhile, an "ATV" is defined: *All-terrain vehicle means any motorized off-highway device which (1) is fifty inches or less in width, (2) has a dry weight of nine hundred pounds or less, (3) travels on three or more low-pressure tires, (4) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (5) has a seat or saddle designed to be straddled by the operator, and (6) has handlebars or any other steering assembly for steering control.*

To simplify, an ATV carries only one person, while a UTV may carry more than one. The same state law does provide for municipalities to allow UTVs as well. Staff is recommending approval.]

Motion by Councilman Benzel, seconded by Councilman Yeager to approve Ordinance No. 2683 on first reading. City Clerk Jines read the ordinance which follows in its entirety:

ORDINANCE NO. 2683

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING ARTICLE 3 AT CHAPTER 3, RELATING TO UTILITY-TYPE VEHICLES; TO ALLOW THE OPERATION OF UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS UNDER CERTAIN CIRCUMSTANCES; TO IMPOSE RESTRICTIONS ON THE USE OF UTILITY-TYPE VEHICLES; TO ESTABLISH PENALTIES FOR VIOLATION; AND REPEAL EXISTING PROVISIONS OF CITY CODE NOT CONSISTENT HERewith.

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

SECTION 1. The Nebraska State Statutes allow cities of the first class to regulate the travel of vehicles on city streets.

August 16, 2011

SECTION 2. There has been a request that the City of Alliance authorize the operation of utility-type vehicles within the City of Alliance.

SECTION 3. The Alliance Municipal Code at Chapter 3, shall be amended as follows:

3-313. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; DEFINITIONS.

For the purposes of this section, all-terrain vehicle means any motorized off-highway vehicle which is (a) fifty inches or less in width, (b) has a dry weight of nine hundred pounds or less, (c) travels on four or more low-pressure tires, (d) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (e) has a seat or saddle designed to be straddled by the operator, and (f) has handlebars or any other steering assembly for steering control.

Street or highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Utility-type vehicle means any motorized off-highway vehicle which (A) is not less than forty-eight inches nor more than seventy-four inches in width, (B) is not more than one hundred thirty-five inches, including the bumper, in length, (C) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (D) travels on four or more low-pressure tires, and (E) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

Utility-type vehicle does not include golf carts or low-speed vehicles.

3-314. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; OPERATION.

An all-terrain vehicle or a utility-type vehicle may be operated on streets and highways, other than a controlled-access highway with more than two marked traffic lanes, within the corporate limits of the City of Alliance only if the operator and the vehicle comply with the provisions of this Article.

3-315. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; HOURS AND PURPOSE OF OPERATION.

An all-terrain vehicle or a utility-type vehicle may be operated only between the hours of sunrise and sunset. It is unlawful to operate an all-terrain vehicle or a utility-type vehicle on the City streets and alleys for pleasure. A three wheeled all-terrain vehicle shall not be operated in the City of Alliance.

3-316. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; SPEED.

August 16, 2011

An all-terrain vehicle or a utility-type vehicle shall not be operated at a speed in excess of thirty miles per hour and shall observe posted speed limits if lower than thirty miles per hour.

3-317. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; REQUIREMENTS.

When operating an all-terrain vehicle or a utility-type vehicle, the headlight and taillight of the vehicle shall be on. Whenever an all-terrain vehicle or a utility-type vehicle is moving all cargo must be securely attached to the vehicle in such a manner that the cargo will remain secured without any assistance of the operator.

3-318. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; EQUIPMENT REQUIRED.

Every all-terrain vehicle or a utility-type vehicle shall be equipped with a bicycle safety flag which extends not less than six feet above ground attached to the rear of the vehicle. The safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color. Every all-terrain vehicle or a utility-type vehicle shall also be equipped with: (1) A brake system maintained in good operating condition; (2) An adequate muffler system in good working condition; and (3) A United States Forest Service qualified spark arrester.

3-319. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; MODIFICATIONS, PROHIBITED.

No person shall: (1) Equip the exhaust system of an all-terrain vehicle or a utility-type vehicle with a cutout, bypass, or similar device; (2) Operate an all-terrain vehicle or a utility-type vehicle with an exhaust system so modified; or (3) Operate an all-terrain vehicle or a utility-type vehicle with the spark arrester removed or modified except for use in closed-course competition events.

3-320. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; COMPETITIVE EVENTS; EXEMPTIONS.

All-terrain vehicles or a utility-type vehicle participating in competitive events may be exempted from Section 3-319 (Modifications, Prohibited).

3-321. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; PERSONS AUTHORIZED.

Any person operating an all-terrain vehicle or a utility-type vehicle shall be 19 years of age and have a valid Class O operator's license as provided in Neb. Rev. Stat. 60-4,126. No one shall be permitted to be a passenger on an all-terrain vehicle within the City of Alliance. Except for the operator no person shall be permitted to ride, be pulled, pushed or propelled by an all-terrain vehicle or on any object attached to the all-terrain vehicle. Passengers are permitted to occupy a passenger seat in a bench or bucket-style utility-type vehicle so long as the passenger is using a safety restraint belt. No operator shall permit another to be a passenger while operating an all-terrain vehicle with saddle-style seating on the streets of the City.

August 16, 2011

3-322. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; INSURANCE REQUIRED.

Any person operating an all-terrain vehicle or a utility-type vehicle shall have liability insurance coverage for the vehicle while operating the vehicle on a street or highway. The person operating the all-terrain vehicle or a utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

It shall be unlawful for any person to operate any all-terrain vehicle or a utility-type vehicle on the city streets or alleys in Alliance until the owner has demonstrated proof of insurance to the Alliance Police Department and obtained a insurance decal for the current year. The Alliance Police Department will issue a decal for the current year that must be affixed to the all-terrain vehicle or a utility-type vehicle in a conspicuous place. The City will charge a fee of twenty-five (\$25.00) dollars for the issuance of the permit.

The Certificate shall be an annual permit from January 1 through December 31 of each year. The operator shall have until May first of the following year to re-new the certificate. During the first year that a certificate is purchased the fee will be prorated from the month that the certificate is obtained through December at two dollars per month and a one dollar administrative fee. Any permit purchased by a person for the same vehicle in a subsequent year shall not be prorated.

3-323. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; OPERATION WITHOUT COMPLYING.

All-terrain vehicles or a utility-type vehicle may be operated without complying with Sections 3-315 (Hours), 3-316 (Speed), 3-318 (Equipment Required), 3-321 (Persons Authorized), and 3-322 (Insurance Required) of this Article, on streets and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

3-324. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; OPERATION NOT PERMITTED.

An all-terrain vehicle or a utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted.

An all-terrain vehicle or a utility-type vehicle shall not be operated on the following streets in the City of Alliance, Box Butte Avenue between 1st Street to 16th Street, and 3rd Street. Provided that the crossing of these streets and avenues shall be permitted by an all-terrain vehicle or a utility-type vehicle if:

The crossing is made at an angle of approximately ninety degrees to the direction of the street or avenue and at a place where no obstruction prevents a quick and safe crossing;

The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or avenue;

August 16, 2011

The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

The crossing is made only at an intersection of such street or avenue with another street or avenue; and

Both the headlight and taillight of the vehicle are on when the crossing is made.

3-325. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; CROSSING OF A HIGHWAY.

Subject to Section 3-324 (Operation Not Permitted) the crossing of a highway shall be permitted by an all-terrain vehicle or a utility-type vehicle without complying with Sections 3-315 (Hours), 3-316 (Speed), 3-318 (Equipment Required), 3-321 (Persons Authorized), and 3-322 (Insurance Required) of this Article only if:

The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing;

The vehicle is brought to a complete stop before crossing the shoulder or roadway of the highway;

The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

Both the headlight and taillight of the vehicle are on when the crossing is made.

3-326. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE.

All-terrain vehicles or a utility-type vehicle may be operated outside the corporate limits of any municipality by electric utility personnel within the course of their employment in accordance with the operation requirements of Sections 3-315 (Hours), 3-316 (Speed), and 3-318 (Equipment Required) of this section, except that the operation of the vehicle pursuant to this subsection need not be limited to the hours between sunrise and sunset.

3-327. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; ACCIDENT, REPORT REQUIRED.

If an accident results in the death of any person or in the injury of any person which requires the treatment of the person by a physician, the operator of each all-terrain vehicle or a utility-type vehicle involved in the accident shall give notice of the accident in the same manner as provided in Neb. Rev. Stat. §60-699.

August 16, 2011

3-328. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; VIOLATIONS, PENALTY.

Any person who violates sections 3-313 to 3-327 shall be guilty of a misdemeanor and shall be subject to the penal provisions of 12-101.

Any violation of any other provision of the Alliance Municipal Code or the State of Nebraska Rules of the Road under Nebraska Revised Statutes in Chapter 60 may be punished under the penalty provisions of such chapter.

3-329. ALL-TERRAIN VEHICLE; UTILITY-TYPE VEHICLE; DEFINED AS A MOTOR VEHICLE.

Every All Terrain Vehicle (ATV) or a utility-type vehicle (UTV) as defined by the Statutes of Nebraska or the Alliance Municipal Code, which are operated within the jurisdiction of the City of Alliance, are hereby declared to be a motor vehicle and subject to all of the motor vehicle Rules of the Road and traffic laws as defined in either the Nebraska State Statutes or the Alliance Municipal Code.

All-terrain vehicles and utility-type vehicles which have been modified to include additional equipment not required by Nebraska Revised Sections 60-6,357 and 60-6,358 shall not be required to be registered under the Motor Vehicle Registration Act.

SECTION 4. That current applicable City Codes of the City of Alliance, Nebraska, and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall be in full force and effect October 1, 2011.

Motion by Councilman Kusek, seconded by Councilman Benzel to amend Ordinance No. 2683 in Section 3-321 regarding seat belt usage to read "Passengers are permitted to occupy a passenger seat in a bench or bucket-style utility-type vehicle so long as the operator and passengers are using a safety restraint belt."

Roll call with the following results:

Voting Aye: Benzel, Gonzalez, Feldges, Kusek, Yeager.

Voting Nay: None.

Motion carried.

Roll call vote on the first reading of Ordinance No. 2683 as amended with the following results:

Voting Aye: Feldges, Yeager, Kusek, Benzel, Gonzalez.

August 16, 2011

Voting Nay: None.

Motion carried.

- Resolution No. 11-91 awarding the bid for the Municipal Building tuck pointing project was the next item for Council's review. City Manager Cox provided the following background information:

[The goal of investing and renovating the Municipal Hall is consistent with the Community Goal #16, "to restore and maintain city facilities to be a source of community pride." The City has a total of \$235,000 budgeted for this year for investments into the Municipal Building. To date, a total of \$38,741 has been charged to the building funds. On the agenda for Council's consideration are bids for tuck pointing in this resolution as well as bids for heating system in item "G." Staff has been having difficulty finding qualified bidders to place quotes for work on the municipal building and only had one responsible bidder on this item, which placed a bid of \$35,358. Staff is asking for approval of this resolution, which will also approve Shari Lund Building Advocate, to be able to approve change orders up to 5%.

SUMMARY

2011 Municipal Investment Budget: \$235,000

Items Under Consideration on 8/16:

Previously Invested	\$ 38,741.
Tuck Pointing	\$ 35,358.
*Heat System	\$ 90,618
Remainder of Heat:	\$ 10,000(*Estimated)
Total Estimated YTD:	\$164,717

Total Budget Remaining After Heat & Tuck Pointing: \$70,283

Items Included in \$38,741 that have been completed to date:

- Carpet Replacement
- Mailroom Flooring Upgrade
- Painting
- Ceiling Repair/Replacements
- New Carpet
- Renovation of Conference Room
- Outdoor Landscaping

Additional building work under consideration:

- Window replacement
- Doors Upstairs
- Front Steps (East Side) Replacement

August 16, 2011

North side Entryway Renovation
 Bathrooms & Plumbing (including Toilets & Sinks)
 Handicap Accessibility (Replace with Compliant Access)
 Flag Pole]

Motion by Councilman Gonzalez, seconded by Councilman Benzel to approve Resolution No. 11-91 which follows in its entirety:

RESOLUTION NO. 11-91

WHEREAS, The City of Alliance Municipal Building has brick and mortar construction along with limestone and mortar; and

WHEREAS, The City of Alliance has observed that some of the mortar has failed and that some of the limestone is cracked and broken; and

WHEREAS, The City of Alliance contacted various vendors to see if they had the training and experience to rejuvenate the Municipal Building by removing the failed mortar and replacing it in a process generally referred to as tuck pointing; and

WHEREAS, The City of Alliance found two vendors who represented that they had the required ability, experience and equipment to perform the tuck pointing of the Municipal Building and were interested in bidding the project; and

WHEREAS, Staff researched both companies and found that one company had an unacceptable rating from the Better Business Bureau and requests that Council determine that based on the "F" Rating by the Better Business Bureau that the vendor is not a responsible, responsive bidder; and

WHEREAS, Staff only located one bidder that staff believes to be a responsive, responsible bidder that is interested in performing the necessary work and that is Robert E. Nation Incorporated, a/k/a RNI Masonry, a Nebraska Corporation located in Scottsbluff, Nebraska; and

WHEREAS, Robert E. Nation Incorporated has provided a bid in the amount of Thirty Five Thousand Three Hundred Fifty Eight and No/100ths Dollars (\$35,358.00) to tuck point the Municipal Building and the Fire Hall, said bid includes the Payment and Performance Bonds; and

WHEREAS, Staff is recommending that Council accept the proposal of Robert E. Nation Incorporated, as the lowest, responsive, responsible sole source bidder.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor be and hereby is authorized to enter into a contract with Robert E. Nation Incorporated, in the amount of Thirty Five Thousand Three Hundred Fifty Eight and No/100ths Dollars (\$35,358.00) to tuck point the Municipal Building and the Fire Hall.

BE IT FURTHER RESOLVED that Shari Lund, Municipal Building Advocate, shall have the authority to make in the field change orders not to exceed five percent (5%) of the contract price.

August 16, 2011

BE IT FURTHER RESOLVED that staff shall notify the successful bidder so that construction can commence.

Council requested staff request an estimate on the repair of the north steps of the Municipal Building for future consideration.

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Kusek, Benzel, Gonzalez.

Voting Nay: None.

Motion carried.

- The next item to be discussed by Council was Resolution No. 11-92 regarding the heating system in the Municipal Building. City Manager Cox provided the following background information:

[As has been previously reported the current municipal heater, a boiler system, has been having major issues for some time to the point where we had a system failure this year. Following the checking and review of the existing pipes and system, our consultants (Upper Deck), recommended that the system be replaced. Enclosed in your packets is a very well written summary of the three bids received, and I would refer back to that document.

Bids received:

Jack's Refrigeration:	Series of heat pumps – Zonal; Heat recovery, pure air, filtration system & lineset covers	\$ 90,618.45
Weber Heating:	Install 2 new steam boilers-use existing pipe and radiator; Convert all to hot water next year	\$267K (\$67K this year)
Weber Heating:	Rent a Boiler for this year; Design Boiler for next Year.	\$42K + \$232K

The low most responsible bid received is \$90,618.45 from Jack's Refrigeration. Staff is also concerned about the option from Weber Heating that entails renting a boiler for just one year, as staff believes that this would be of very little valuable especially in light of the fact that there are other options on the table to replace the system this year.

Further, the solution recommended by Jack's Refrigeration is consistent with discussion held with our building architects who verbally recommended that we explore "zonal heating and cooling" options.

For overall summary of Municipal Building Improvements, please see item "F" above.]

Motion by Councilman Kusek, seconded by Councilman Benzel to approve Resolution No. 11-92 which follows in its entirety:

August 16, 2011

RESOLUTION NO. 11-92

WHEREAS, The City of Alliance Municipal Building had the boiler fail and the boiler had to be removed from the building; and

WHEREAS, The City of Alliance contacted various heating ventilation and air conditioning vendors and requested proposals to heat and an option to cool the Municipal Building from each vendor; and

WHEREAS, The City of Alliance received recommendations to rent a boiler for the coming year, a recommendation to purchase two boilers which would operate as steam boilers for this year, then replacement of the pipes and radiators and conversion to hot water heat next year, and a recommendation to install seven heat pump units, two gas heaters, and electric wall board or alcove heaters to provide for heat and cooling for the Municipal Building; and

WHEREAS, The City of Alliance received a bid from Jack's Refrigeration, Inc., a copy of the proposal is included in the Council packets; and

WHEREAS, Staff believes the proposal from Jack's Refrigeration Inc., is the most reasonable method to heat the Municipal Building and to cool the parts of the building where heat pumps can be installed; and

WHEREAS, Staff is recommending that Council accept the proposal of Jack's Refrigeration Inc., as the lowest, responsive, responsible bidder; and

WHEREAS, The bid of Jack's Refrigeration, Inc., has options for more efficient heat pumps, air filtration options, Lineset covers, and an option for a split heat pump for the Finance Director's Office; staff recommends that Council choose the more efficient heat pumps, include the unit for the Finance Director's office and consider air purification system, as well as the Lineset covers for any unit that will be a distraction to the aesthetics of the Municipal Building; and

WHEREAS, The bid of Jack's Refrigeration, Inc., does not include electrical, high or low voltage, cutting of holes in masonry or concrete walls or any fire dampers that may be required.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor be and hereby is authorized to enter into a contract with Jack's Refrigeration Inc., for the purchase and installation of the proposed heating system in the amount of \$90,618.

BE IT FURTHER RESOLVED that Shari Lund, Municipal Building Advocate, shall have the authority to make in the field change orders not to exceed Five Percent (5%) of the contract price.

BE IT FURTHER RESOLVED that staff shall notify the successful bidder so that construction can commence.

MIS Director Lund reported to Council the process she used in securing a vendor for the project due to the time limitations in providing heat to the facility. She also outlined the three options which were considered for the project.

August 16, 2011

Greg Sanders, the owner of Jack's Refrigeration, 803 East 3rd Street, answered questions from the Council regarding the system which would be installed in the Municipal Building.

Motion by Councilman Benzel to add the optional indoor air quality Lennox PureAir air purification system to each heat pump. Mr. Sanders stated he believed this was not necessary because the filtration systems already proposed are adequate. Councilman Benzel withdrew his motion.

Mr. Joe Weber, owner of Weber Plumbing & Boiler Works, 2651 CR 58 questioned Council if his proposal had been given to them for consideration. Mayor Feldges acknowledged his proposal had been review. Mr. Weber then expressed his thoughts and concerns of the project.

Roll call vote with the following results:

Voting Aye: Feldges, Yeager, Kusek, Benzel, Gonzalez.

Voting Nay: None.

Motion carried.

- Resolution No. 11-93 regarding the bid to repair the steps at the Alliance Learning Center was the next item to be presented to Council. City Manager Cox provided the following background information:

[Following multiple attempts at repairing the steps at the library, proposed is a solution which will hopefully be enduring. Staff has conducted a number of consultations to prepare a recommendation that includes the option of heating the steps.

Two bids were received: one with heated steps and one without the steps being heated. Consideration was given to the long-term viability of the solutions presented versus the increased cost. Staff believes that having a solution which not only is a long-term solution, but will also minimize tripping/slipping hazard, but keeping the sidewalks free from ice and snow.

The bid that includes heated steps for \$49,675.08 by KL Woods is being recommended.]

Motion by Councilman Yeager, seconded by Councilman Kusek to approve Resolution No. 11-93 which follows in its entirety:

RESOLUTION NO. 11-93

WHEREAS, The City of Alliance requested a Bid Proposal from three firms for the replacement of the steps at the Alliance Municipal Library and requested that the proposals include an alternate to include the installation of a concrete heating system under the steps to aid in winter snow and ice removal; and

August 16, 2011

WHEREAS, Three (3) Requests were issued, and two (2) responses were received; and

WHEREAS, The bid of K.L. Wood and Company of Alliance, Nebraska appears to be the lowest, responsive, and responsible bid in the amount of Forty Nine Thousand Six Hundred Seventy Five and 08/100ths (\$49,675.08) which will replace the steps, selection of damaged decking (landing); replace damaged brick in pillars; replace part of the sidewalk at the bottom of the steps and includes a process to heat the steps; and

WHEREAS, Peltz Construction, Inc., submitted a lower bid which only included the replacement of the steps and did not include any additional work and did not include an option to heat the steps to help prevent premature decay of the steps; and

WHEREAS, Staff is concerned because the steps at the Alliance Municipal Library have deteriorated quickly in the past and therefore is recommending that Council accept the bid of K.L. Wood and Company.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, the contract is hereby awarded to K.L. Wood and Company of Alliance, Nebraska in the amount of Forty Nine Thousand Six Hundred Seventy Five and 08/100ths (\$49,675.08).

BE IT FURTHER RESOLVED, that the Mayor is authorized to sign the contract with K.L. Wood and Company of Alliance, Nebraska for the rehabilitation of the steps and sidewalks at the Alliance Municipal Library including heating the concrete as described in the bid.

BE IT FURTHER RESOLVED, that Eric Lenz, Public Facilities Director shall have the authority to make in the field change orders not to exceed five percent (5%) of the contract price.

BE IT FURTHER RESOLVED, that City staff shall notify the successful bidder so that work can proceed according to the bid specifications.

Council questioned staff regarding the bidding process and stated they would prefer that this project be bid independently without the heating option and be brought back for their consideration.

Roll call vote with the following results:

Voting Aye: None.

Voting Nay: Feldges, Yeager, Kusek, Benzel, Gonzalez.

Motion failed.

- The last matters before Council were Resolution Nos. 11-94 approving an Interlocal Agreement with Box Butte County for road improvements and 11-95 securing additional crushed concrete to go towards the project. City Manager Cox provided the following background information:

[On July 19, the City Council had a joint meeting with the Box Butte County Commission concerning joint action necessary to facilitate the West Plains Grain new

August 16, 2011

facility. At that meeting both City and County agreed to work together toward the best solution to handle the traffic necessary in and out of the new facility and for County Roads Supervisor Barb Keegan to work together with City Streets Superintendent Eric Lenz to put together a cost effective solution.

Barb and Eric have completed the proposed plan which calls for the City to provide 4000 tons of crushed concrete and 100,000 gallons of water, while the County will provide the labor, equipment, fuel, insurance and other expenses to perform the widening of County Road 61, as well as the addition of six (6) inches of depth to the road. Additionally, West Plains Grain has agreed to provide 200,000 cubic yards of earth from their construction site toward the road improvement. The estimated cost to the County is approximately \$25,000, while the City's estimated cost is approximately \$32,000.

The proposal was put together the previous week, and although it was too late for the Council agenda on 8/4, it was able to be considered by the County Commission at its 8/1 meeting. The County Commission unanimously adopted and approved the County's portion of the plan contingent upon the City approving its portion.

Before Council are two resolutions, the first being Resolution No. 11-94 which will authorize entering into an Interlocal Agreement with Box Butte County for joint participation in the construction and improvements of roads for the West Plains Grain Project.

The second resolution will authorize Public Facilities Director Eric Lenz to contract with Paul Reed Construction to crush 4000 tons of concrete for this project, payable from the Street fund – special contract services.]

Motion by Councilman Benzel, seconded by Councilman Yeager to approve Resolution No. 11-94 with the identified corrections to the Interlocal Agreement.

RESOLUTION NO. 11-94

WHEREAS, The City of Alliance and Box Butte County desire to cooperate together to promote and encourage economic development in Box Butte County and the City of Alliance; and

WHEREAS, The City has been requested to enter into an Interlocal Agreement with Box Butte County to provide materials, equipment and labor for the improvement and maintenance of the roads that will be used by the patrons of West Plains, Inc.; and

WHEREAS, The City has been requested to participate in the improvement and maintenance of County Road 61, a/k/a CR 61, from Madison to Nance, a/k/a 25th Street; and,

WHEREAS, The City will provide four thousand (4,000) tons of crushed concrete; up to one hundred thousand (100,000) gallons of water and the labor and equipment to load and weigh the crushed concrete; and

August 16, 2011

WHEREAS, The City of Alliance believes that it is beneficial to continue to promote economic development and that working cooperatively with other governmental and non governmental agencies is the most effective way to encourage economic development; and

WHEREAS, The City of Alliance believes that it is in the best interest of the citizens of Alliance to enter into the Interlocal Agreement which is included in the Council packets.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska, that the Mayor is authorized to sign the Interlocal Agreement with Box Butte County which will authorize the City of Alliance to cooperate together to promote and encourage economic development in Box Butte County and the City of Alliance.

BE IT FURTHER RESOLVED, that the City agrees that it will be responsible to provide four thousand (4,000) tons of crushed concrete; up to one hundred thousand (100,000) gallons of water and the labor and equipment to load and weigh the crushed concrete.

BE IT FURTHER RESOLVED, that the City of Alliance, by signing the Interlocal Agreement agrees to negotiate with Box Butte County concerning future capital improvements or major maintenance projects of CR 61 and Nance Road, a/k/a 25th Street.

Roll call vote with the following results:

Voting Aye: Feldges, Kusek, Benzel, Gonzalez.

Voting Nay: None.

Abstaining: Yeager.

Motion carried.

Motion by Councilman Benzel, seconded by Councilman Kusek to approve Resolution No. 11-95 which follows in its entirety:

RESOLUTION NO. 11-95

WHEREAS, The City of Alliance owns and operates a solid waste disposal facility which receives concrete; and

WHEREAS, Crushing of concrete can provide clean dirt for covering as is required in the landfill and concrete aggregate which can be used by the City of Alliance; and

WHEREAS, Paul Reed Construction was the lowest responsible and responsive bidder at Seven Dollars and No/100 (\$7.00) per ton for labor, material and equipment to crush and screen a sized product and One Dollar and No/100 (\$1.00) per ton for dirt separated from the concrete material and Four Thousand Nine Hundred Seventy-five Dollars and No/100 (\$4975.00) for mobilization cost; and

August 16, 2011

WHEREAS, The concrete crushing contract was awarded to Paul Reed Construction; and

WHEREAS, The City desires to enter into an Interlocal Agreement with Box Butte County to promote economic development in Box Butte County and the City of Alliance; and

WHEREAS, The City has offered to provide four thousand (4,000) tons of crushed concrete under the Interlocal Agreement with the crushed concrete being used to improve County Road 61; and

WHEREAS, The City has funds within the Street Fund under Special Contract Services which staff is requesting to use for additional concrete crushing; and

WHEREAS, The Council believes that it is in the best interest for the City to reduce the concrete at the landfill and to provide usable aggregate for the City's use.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Alliance, Nebraska that staff is authorized to use funds within the Street Fund under Special Contract Services for contracting the services of Paul Reed Construction and Supply Company.

Roll call vote with the following results:

Voting Aye: Feldges, Kusek, Benzel, Gonzalez.

Voting Nay: None.

Abstaining: Yeager.

Motion carried.

- Mayor Feldges stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 9:04 p.m."

Fred Feldges, Mayor

(SEAL)

Linda S. Jines, City Clerk