

# ALLIANCE CITY COUNCIL

REGULAR MEETING, THURSDAY, SEPTEMBER 4, 2008

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

The Alliance City Council met in a Regular Meeting, September 4, 2008 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 28, 2008. 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 Kusek opened the September 4, 2008 Regular Meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Mayor Kusek, Council Members Dickenson, Benzel, Rowley, and Yeager. Also present were City Manager Caskie, City Attorney Miller and City Clerk Jines.

- Mayor Kusek read the Open Meetings Act Announcement.
- The first item to come before Council was the Consent Calendar.

Motion by Councilman Dickenson, seconded by Councilwoman Rowley to approve the Consent Calendar which follows in its entirety:

**CONSENT CALENDAR - SEPTEMBER 4, 2008**

1.    Approval:     Minutes of the Regular Meeting, August 21, 2008.
2.    Approval:     Payroll and Employer Taxes for the period August 9, 2008 through August 22, 2008, inclusive; \$158,685.70 and \$11,665.08 respectively.
3.    Approval:     Claims against the following funds for August 18, 2008 through September 2, 2008; 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: \$865,815.12.

4. Approval: Resolution No. 08-88 authorizing the transfer \$5,000.00 from the Airport Capital Outlay-Machine and Equipment and \$8,405.00 from Airport System Contingency and reallocate \$11,200.00 to Airport Building Structure for improvements to the Airport Lobby and Restrooms and \$2,200.00 to Airport Other Machine and Equipment for a 240 volt air compressor for the maintenance building.
5. Approval: Resolution No. 08-89 authorizing the transfer of \$20,000.00 from the Streets Capital Outlay-Vehicles and \$3,205.00 from the Street System Contingency and reallocate \$2,550.00 to asphalt for millings on West 6<sup>th</sup> Street; \$3,655.00 to Downtown Alley Replace for the damaged section of alley in the 100 block between Box Butte and Niobrara Avenues; and \$17,000.00 for additional work on the 9<sup>th</sup> Street Parking project.

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.

Mayor Kusek questioned the transfer of Airport Funds. City Manager Caskie explained money was budgeted for equipment that is no longer needed and a proposal has been made to expend the funds for upgrades in the Terminal Building lobby and restroom as well as an air compressor for the maintenance building. Public Facilities Director Eric Lenz described the Airport improvements and Street improvements. Councilman Yeager asked to see engineering costs of the 9<sup>th</sup> Street Parking project prior to expending additional funds for the project. City Manager Caskie advised Council that she would obtain cost estimates and plans for the parking project from Peltz Construction.

Motion by Mayor Kusek, seconded by Councilwoman Rowley to delete the expenditure of \$17,000.00 for additional work on the 9<sup>th</sup> Street Parking project.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Councilman Yeager questioned a charge to M.C. Schaff for engineering fees for the Chip Seal project in Lakefield. Mr. Lenz advised Council that M.C. Schaff provided the Construction Management of both the Chip Seal and the Crack Repair projects. Mayor Kusek questioned a refund of Permit Fees in the amount of \$4,306.40 and was advised that the party is in the process of revamping his building design. Councilwoman Rowley questioned a charge on City Manager Caskie's credit card for meals. The charge was to provide a working dinner for Olsson Associates.

Roll call vote on the amended Consent Calendar with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item on Council's agenda was the presentation of two proclamations.

Mayor Kusek read the proclamation for STEPtember month which follows in its entirety:

### **PROCLAMATION**

Whereas, Nearly two out of three Americans are now overweight or obese; and

Whereas, The percentage of young people who are overweight has more than tripled since 1980; and

Whereas, Obesity significantly increases the risk of serious chronic diseases such as diabetes, heart disease and some cancers; and

Whereas, In 2000, the estimated annual cost of obesity in the United States about \$117 billion; and

Whereas, Despite the proven benefits of physical activity, more than 50% of American adults do not get enough physical activity to provide health benefits; and .

Whereas, According to the Institute of Medicine, in 1969, an average of 48 percent of all students and 90 percent living no more than a mile away walked to bicycled to school. In 1999, only 19 percent of children walked to or from school and 6 percent rode bicycles to school; and

Whereas, According to the US Surgeon General, as policy makers and health professionals, we must embrace small steps toward coordinated policy and environmental changes that will help American live longer, better, healthier lives; and

Whereas, Achieving energy balance; balancing amount calories eaten with calories burned through physical activity each day is the best way to prevent weight gain; and

Whereas, Community commitment toward creating policies and environments that provide opportunities for people to enjoy physical activity and make healthy eating choices on a regular basis is essential for effective, lasting change; and

Whereas, Teachers, parents, business leaders, and others across the nation are joining together with America on the Move and YMCAs nationwide and here in our state of Nebraska to make these positive changes in their communities; and

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

**SEPTEMBER**

And ask everyone to make two simple changes; move a little more by taking an extra 2000 steps and eat wisely by consuming 100 fewer calories.

IN WITNESS THEREOF, I have hereunto set my hand this 4<sup>th</sup> day of September in the year of the Lord Two Thousand and Eight.

The proclamation was presented to YMCA Executive Director Brenda McDonald, Tony Amil and Tammy Royce.

Councilwoman Rowley read the proclamation for Resource Conservation and Development Week which follows in its entirety:

**RESOURCE CONSERVATION & DEVELOPMENT WEEK**

WHEREAS, Resource Conservation & Development Councils have contributed countless hours of community service to help people care for and protect their natural resources in a way that has improved the area's economy, environment, and living standards since 1970; and

WHEREAS, The Panhandle RC&D Council, through its providing a way for people to work together to plan and carry out activities that have made our area a better place to live;

NOW, THEREFORE, on behalf of the Alliance City Council I hereby proclaim the week of September 21, 2008 to be

**“RESOURCE CONSERVATION & DEVELOPMENT WEEK”**

In Alliance to recognize the fact that during this week, across the nation, Resource Conservation & Development Councils are performing community service projects to improve their communities.

AND FURTHER, I congratulate the Resource Conservation & Development Councils for its continued success in brightening the future of our communities by bringing together diverse groups of local volunteers to strengthen the spirit of community service in our area, not only this week, but throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Great Seal of the City of Alliance to be affixed this 4<sup>th</sup> day of September in the year of our Lord, two thousand and eight.

The proclamation will be sent to the Panhandle Resource Conservation & Development

office in Scottsbluff, NE.

- The next item for Council’s consideration was Ordinance No. 2624 which will establish an Occupation Tax for Hotel Companies.

Motion by Councilman Dickenson, seconded by Councilman Yeager to approve Ordinance No. 2624 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

**ORDINANCE NO. 2624**

AN ORDINANCE OF THE CITY OF ALLIANCE, NEBRASKA, CREATING CHAPTER 2 ARTICLE 12 AND ESTABLISHING THE METHOD FOR CALCULATING THE OCCUPATION TAX FOR COMPANIES WHO OPERATE A HOTEL, AND CREATING AN ENFORCEMENT AND REPORTING SYSTEM FOR HOTEL COMPANY OCCUPATION TAXES AND RATES; PROVIDES FOR AN EFFECTIVE DATE; REPEALS ORDINANCE IN CONFLICT.

SECTION 1. Hotel companies provide lodging services to people within the City of Alliance.

SECTION 2. The City of Alliance has decided to impose an occupation tax on the hotel companies, without regard to the type of business entity that operates the hotel services in the City of Alliance.

SECTION 3. The Alliance Municipal Code at Chapter 2 shall be amended to include the addition of Article 12, as follows:

CHAPTER 2  
ARTICLE 12

HOTEL COMPANIES OCCUPATION TAX

2-1201. OCCUPATION TAX; REQUIREMENT TO PAY.

An occupation tax is hereby levied and imposed on every person or business entity who engages in the business of operating a hotel for revenue in the City of Alliance. All hotel companies doing business in the City are required to pay an occupation tax as set forth herein.

2-1202. HOTEL ACCOMMODATIONS.

Each person engaged in the business of operating a hotel in the City shall pay an occupation tax in the amount of two percent (2%) of the basic rental rates charged per occupied room per night.

2-1203. HOTEL DEFINED.

Hotel shall mean any facility in which the public may, for a consideration, obtain sleeping accommodations in any space ordinarily used for accommodations. The term shall include hotels, motels, bed and breakfast accommodations, tourist hotels, campgrounds, courts, lodging houses, inns and nonprofit hotels; but "hotel" shall not be defined so as to include hospitals, sanitariums, nursing homes, chronic care centers, dormitories, or facilities operated by an educational institution and regularly used to house students.

2-1204. OCCUPIED ROOM, DEFINED; EXCEPTIONS.

- A. Occupied room shall mean any space ordinarily used for sleeping accommodations and for which any occupant has, for consideration, obtained the use or possession, or the right to use or possess, for a period not to exceed thirty (30) continuous days. The term shall include camping space, trailer space or recreational vehicle space. The term does not include a function room such as a ballroom, banquet room, reception room, or meeting room, provided it is not used as temporary sleeping accommodations.
- B. The term "occupied room" shall not mean, and no tax imposed by this article shall be measured by or collected for:
1. Complimentary or other sleeping accommodations for which no consideration is charged;
  2. Sleeping accommodations for which the consideration is paid by a person not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; or
  3. Sleeping accommodations leased by an employer for use by its employees when a specific room is the subject of the lease, the lease extends for more than thirty (30) consecutive days, and consideration is actually paid for use during at least thirty (30) consecutive days.

2-1205. COLLECTION.

The tax imposed by this article shall be collected by the hotel operator from the occupant of each room to which the tax applies. The tax may be shown as an add-on to the charge for occupancy of the rooms and shall be collectible at the time the lodging is furnished, regardless of when the charge for the occupancy is paid. The operator shall remain responsible for payment of all taxes imposed whether or not the taxes are actually collected from the guests.

2-1206. RECORDS.

It shall be unlawful for any hotel operator subject to this article to fail to maintain or fail to make available to the City, upon seventy-two (72) hours notice, written records accurately and completely evidencing the number of rooms occupied, the dates the rooms are occupied, the

amount of occupation tax due or paid under this article, and such other information as is required by the Director of Finance and Administration. Such records shall be maintained for a period of three (3) years after the occupation tax is due.

2-1207. DUE DATE.

Notwithstanding any contrary provision of this chapter, the tax imposed by this article shall be due and payable on the first day of each calendar month next succeeding the month during which the room was occupied. All taxes not paid by the twenty-fifth day of the month in which they are due and payable shall be deemed to be delinquent. The operator shall be assessed a penalty of ten percent (10%) on all delinquent amounts as well as interest of one percent (1%) per month or fraction thereof from the first of the month in which such tax becomes due and payable until the date of payment.

2-1208. REVENUE MEASURE.

The provisions of this Section are enacted solely as a revenue measure of the City.

2-1209. INTENT.

It is the intent of the City Council that a portion of the revenue generated by the occupation tax imposed by this Article shall be appropriated annually to fund the purposes set forth at Neb. Rev. Stat. §13-315 and to fund the operation of the Knight Museum and Sandhills Center.

2-1210. PENALTY.

Any person, partnership, firm or corporation violating any of the provisions of Sections 2-1201 through 2-1207 shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished in accordance with Section 12-101 of this Code. Each distinct act or violation of the terms of Sections 2-1201 through 2-1207 shall constitute a separate offense.

SECTION 4. The calculation of the amount of occupation tax due under Sections 2-1201 and 2-1202 of this ordinance as amended shall commence \_\_\_\_\_, 2008.

SECTION 5. That any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with the provisions is herewith repealed.

SECTION 6. This ordinance shall take effect and be in full force from and after its passage, approval and publication or posting as required by law.

Councilwoman Rowley inquired as to the amount the Occupation Tax is projected to generate. City Manager Caskie advised Council that it is estimated to generate \$50,000.00 in revenue which will be used in part for advertising local amenities that will attract tourists. The remainder of the tax could be used to offset the operating expense of the Knight Museum and

Sandhills Center.

Marge Turek, 941 CR 70, Hemingford, addressed Council as the Holiday Inn Express General Manager. She asked if this is a tax on the hotels. Mayor Kusek advised her that it is a tax on the rooms. She indicated that Alliance already has a higher lodging tax than surrounding communities and that an additional charge will drive tourists to stay elsewhere.

Jean Ferguson, 2111 Edith Court, representative of the Sunset Motel addressed Council and indicated that the current tax rate is 12 percent.

Liz Taylor-Herd, Box Butte County Tourism Director advised Council that the Box Butte County Commissioners are allowed to impose up to a four percent lodging tax which is collected by the hotels and sent to the State of Nebraska. The state takes one percent for Nebraska promotions and returns three percent to Box Butte County. The county utilizes the funds for community-wide grants, Tourism Office personnel, and advertising. She asked Council how the tax would be administered. City Manager Caskie advised her that the Occupation Tax allows the hotel to absorb it into the base rate or separate it out of the base rate which is her recommendation.

Marv Toedtli, Box Butte County Commissioner advised Council that the initial lodging tax was two percent and was raised by Senator LeRoy Loudon to four percent.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was the second reading of Ordinance No. 2623 clarifying All-Terrain Vehicle use regarding passengers.

Motion by Councilman Benzel, seconded by Councilman Yeager to approve Ordinance No. 2623 on second reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### **ORDINANCE NO. 2623**

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING SECTION 321 ARTICLE 3 AT CHAPTER 3, RELATING TO ALL-TERRAIN VEHICLES; TO LIMIT THE AGE OF ANY PASSENGERS ON AN ATV; 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.

SECTION 2. The City of Alliance has authorized All Terrain Vehicles (ATV) to be operated in the City of Alliance upon authorized streets and subject to certain rules and regulations.

SECTION 3. The Alliance Municipal Code at Chapter 3, shall be amended to include the addition to Article 3, Section 3-321 as follows:

3-321 ALL-TERRAIN VEHICLE PERSONS AUTHORIZED

Any person operating an all-terrain 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.

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 from and after its approval, passage, and publication according to law.

Councilman Benzel expressed the desire to allow under age passengers to ride on ATV's that are equipped with a passenger seat. Mayor Kusek asked City Attorney Miller about the passenger restrictions on a motorcycle. City Attorney Miller advised Council that he is unaware of any passenger restrictions. Councilwoman Rowley asked Police Chief John Kiss if there have been any problems regarding passengers. He advised Council there have been no problems, however there has been an increase in complaints predominately involving younger drivers.

Roll call vote with the following results:

Voting Aye: Dickenson, Rowley, Yeager.

Voting Nay: Benzel, Kusek.

Motion carried.

- The third reading of Ordinance No. 2621 concerning water rates was the next item on Council's agenda.

Motion by Councilman Yeager, seconded by Councilwoman Rowley to approve Ordinance No. 2621 on third reading. City Clerk Jines read the ordinance by title which follows in its entirety:

**ORDINANCE NO. 2621**

AN ORDINANCE AMENDING THE ALLIANCE MUNICIPAL CODE BY AMENDING SECTION 347 ARTICLE 3 AT CHAPTER 4, RELATING TO WATER RATES CHARGED BY THE CITY OF ALLIANCE; 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 City of Alliance operates the Alliance Municipal Water System (A.M.W.S.)

SECTION 2. The United States Government have implemented new rules on the allowable amount of arsenic in the municipal water systems which change results in the City of Alliance being required to mitigate the arsenic level in the A.M.W.S.

SECTION 3. The cost of mitigation requires that the water rates be increased to pay for the costs of the mitigation of the arsenic levels in the A.M.W.S.

SECTION 4. Alliance Municipal Code at Chapter 4, shall be amended at Article 3, Section 347 to read as follows:

As a tariff or water rates based on monthly consumption of each customer from the water distribution system of the City of Alliance, Nebraska and for services rendered, the following schedules are hereby established.

For the use of A.M.W.S. each residential and rural residential user shall pay the current base rate on the amount of water in the residential consumer's monthly base usage calculation which shall be known as Block 1 rate. The base usage or the amount of water in the Block 1 shall be equal to the average monthly water consumption during a three month winter base beginning with the first complete cycle which uses meter readings taken after December 10. If a residential consumer has not established a winter base period, the base usage or Block 1 amount shall be the average charge of all other residential consumers. The billing process shall commence when water service is established. Each residential customer shall pay the appropriate rate for each 100 cubic feet of water used in each of the applicable blocks. Once a user has used the allotment of water from one block the water will be billed at the next higher block rate.

The customer's monthly bill shall consist of the monthly meter charge and the amount of water used based upon the number of cubic feet used and the fee assessed under this ordinance.

**Residential, Commercial, Industrial Park, Manufacturing, Urban and Rural Rate**

Each residential, commercial, industrial park, manufacturing, urban and rural consumer connected to the water distribution system of the City of Alliance, Nebraska, shall be liable and pay for the service charge for the meter for all water used and consumed at a rate of:

- A. Residential** – the residential rate will apply to any building which is used as the primary residence and any associated or peripheral use of that primary residence.

**Within the City limits - Urban Residential**

Block 1	\$1.15 per 100 cubic feet
Block 2	\$1.30 per 100 cubic feet for the next 3500 cubic feet after the Block 1 amount.
Block 3	\$1.60 per 100 cubic feet for the next 2500 cubic feet after base usage and Blocks 1 and 2
Block 4	\$2.00 per 100 cubic feet for any amount over Blocks 1, 2, and 3

**Outside the City limits - Rural Residential**

Block 1	\$1.27 per 100 cubic feet
Block 2	\$1.43 per 100 cubic feet for the next 3500 cubic feet after the Block 1 amount.
Block 3	\$1.76 per 100 cubic feet for the next 2500 cubic feet after base usage and Blocks 1 and 2
Block 4	\$2.20 per 100 cubic feet for any amount over Blocks 1, 2, and 3

**B. Manufacturing Rate.**

Manufacturing rate will apply when more than 50 percent of the water purchased is used or directly consumed in processing or manufacturing. Processing or manufacturing is defined as an action or series of actions performed on tangible personal property, either by hand or machine, which results in that tangible personal property being reduced or transformed into a different state, quality, form, property or thing. Processing does not include repairing property, building erection, cold storage of food products, or preparation of food for immediate consumption.

Manufacturing, Commercial and Rural Rate is \$1.10 per 100 cubic feet.

**C. Commercial Rate.**

Commercial rate will apply to any for profit use that does not qualify as manufacturing and is not within the industrial park.

Commercial Rate is \$1.15 per 100 cubic feet.

**D. Industrial Park Rate**

Industrial Park rate will apply to those customers that are located within an Industrial Tract like the Industrial Park to the City of Alliance, Box Butte County, Nebraska. The Industrial Park Rate is \$1.25 per 100 cubic feet

**E. Excessive Summer Use – Manufacturing, Commercial, Industrial Park and Rural**

(reserved for later use)

**F. Commercial Irrigation Rates**

(reserved for later use)

**G. Municipal Rate**

Municipal rate will apply to all the accounts owned by the City of Alliance.

The Municipal Rate is \$.90 per 100 cubic feet.

**H. Service Charge**

There shall be a monthly service charge for each account serviced by A.M.W.S. of.

Meter Size	Service Charge	Meter Size	Service Charge
5/8" thru 1"	\$7.00	4"	\$65.00
1-1/2"	\$15.00	6"	\$95.00
2"	\$30.00	8"	\$135.00
3"	\$50.00		

**I. Truck fill charge**

The truck fill charges for filling from the Utility Facility tank filler shall be \$5.00 per 1,000 gallons or any part thereof.

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 go into effect on the meter billings rendered October 1, 2008 and thereafter.

Motion by Mayor Kusek, seconded by Councilman Dickenson to delete “Commercial” from Section B Manufacturing.

Roll call vote on the amendment with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Roll call vote on the final reading of Ordinance No. 2621 as amended with the following results:

Voting Aye: Kusek, Dickenson, Rowley, Yeager.

Voting Nay: Benzel.

Motion carried.

Mayor Kusek stated, “the passage and adoption of Ordinance No. 2621 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 on Council’s agenda was Resolution No. 08-94 approving the 2008 property tax request. Mayor Kusek declared, “Now is the date, time, and place to conduct a Public Hearing on the 2008 property tax request.” Mayor Kusek opened the public hearing at 8:09 p.m. Hearing no testimony, the public hearing was closed at 8:10 p.m.

Motion by Mayor Kusek, seconded by Councilman Dickenson to approve Resolution No. 08-94 which follows in its entirety:

**RESOLUTION NO. 08-94**

WHEREAS, Nebraska Revised Statute 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the City of Alliance passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

*WHEREAS*, A special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

*WHEREAS*, It is in the best interests of the City of Alliance that the property tax request for the current year be a different amount than the property tax request for the prior year.

*NOW, THEREFORE BE IT RESOLVED*, By the Mayor and Council of the City of Alliance, Nebraska, that the Council, by a majority vote, set the 2008 tax year request at \$1,173,331.78 and the City Clerk is hereby authorized and directed forthwith to forward a certified copy of this resolution to the County Clerk of Box Butte County, to allow Box Butte County Board of Equalization to levy the necessary taxes on or before October 15, 2008 and set the appropriate levy.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The first reading of Ordinance No. 2625 allowing the City to exceed the Allowable Growth and the Basic Allowable Growth for the 2008-2009 Fiscal Year Budget by 1% was the next item for Council's consideration.

Motion by Mayor Kusek, seconded by Councilman Yeager to approve Ordinance No. 2625 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

#### **ORDINANCE NO. 2625**

AN ORDINANCE ALLOWING FOR EXCEEDING THE ALLOWABLE GROWTH AND BASIC ALLOWABLE GROWTH LIMITS FOR THE 2008-2009 FISCAL YEAR BY ONE PERCENT OF BUDGETED RESTRICTED FUNDS, AND CORRECTING THE ADOPTED BUDGET STATEMENT AND ACCOMPANYING FORMS.

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

SECTION 1. Governmental units are authorized pursuant to State law at Chapter 13, Section 519, to exceed the Allowable Growth (§13-518(1)) and the Basic Allowable Growth (§77-3446) for budgeted restricted funds up to an additional one percent, by affirmative vote of the City Council of at least 75%.

SECTION 2. The City Council finds that such limit as provided by Section 13-519 (a) and (b) should be exceeded by one percent.

SECTION 3. An affirmative vote of at least 75% in favor of this increase is hereby cast.

SECTION 4. Section 13-511 allows correction of an adopted budget statement for clerical, mathematical, and accounting errors, which correction does not affect the total amount budgeted by more than one percent or increase the amount required from property taxes. The

one percent limit increase is calculated into the current budget statement, however the unused budget authority amount is in need of modification.

SECTION 5. The “unused budget authority” in the adopted budget ordinance, is hereby amended to the amount of \$276,547.91.

SECTION 6. Those portions of the existing budget ordinance for 2008-2009 are amended accordingly.

SECTION 7. The City Treasurer is authorized to make appropriate changes in the submitted forms for computation of the limit for fiscal year 2008-2009, and transmit those changes to the State Auditors office.

SECTION 8. This ordinance shall be in full force and effect from and after its approval, passage, and publication according to law.

Motion by Mayor Kusek, seconded by Councilman Dickenson to suspend the statutory rule requiring three separate readings of Ordinance No. 2625.

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

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2625 on final reading with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Mayor Kusek stated, “the passage and adoption of Ordinance No. 2625 has been concurred by a majority of all members elected to the Council, I declare it passed, adopted and order it published.”

- The third reading of Ordinance No. 2619 adopting the City’s budget for Fiscal Year 2008-2009 was the next item on Council’s agenda.

Motion by Mayor Kusek, seconded by Councilman Dickenson to approve Ordinance No. 2619 on third reading. City Clerk Jines read the ordinance by title.

Administrative staff prepared three amendments to Ordinance No. 2619 for Council's consideration which include (1) balancing the RSVP Fund by increasing the contribution from Community Betterment to \$26,000.00; (2) increase City Council budget by \$4,000.00 in a new line item for the Mayor's Youth Program and (3) increase the Electric Department Sub-Station Maintenance line by \$250,000.00.

Motion by Councilman Dickenson, seconded by Councilman Benzel to approve Amendments 1 - 3.

Roll call vote to approve the amendments to Ordinance No. 2619 with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

#### **ORDINANCE NO. 2619**

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, 2008, AND ENDING SEPTEMBER 30, 2009, 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 July 17, 2008, upon which a workshop was held on July 28, 2008 and a proposed budget was produced. A public hearing was held on said proposed budget on August 7, 2008, 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, 2008, 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	Airport Sinking
Personal & Real Property Tax	855,617.00	105,159.00	106,000.00	37,500.00
Delinquent Allowance	8,556.40	1,051.59	1,060.00	375.00
1% County Treasurer's Commission	42,780.85	5,257.96	5,300.00	1,875.00
<b>Total Property Tax Request</b>	<u>906,954.25</u>	<u>111,468.55</u>	<u>112,360.00</u>	<u>39,750.00</u>

Using the following tax levies:

	City	MFO	Airport	Airport Sinking	Total
Proposed 2009:	0.27708	0.03395	0.03422	0.01211	0.35736

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 2009.

General Fund	4,845,834
General - Debt Service	276,225
Special Revenue - Streets	1,365,907
Electric	8,344,175
Refuse	1,346,781
Sewer	429,403
Water	5,876,747
Golf Course Fund	268,959
Special Use - BID #1	15,300
Special Use - BID #2	11,600
HUD	200,000
RSVP	73,797
Community Betterment (KENO)	102,000
Capital Projects	0
LB 840 Fund	250,000
Redevelopment	4,600
Airport Fund	1,001,849
Internal Service	1,719,760
Abatement	10,000
Capital Equipment	213,700
Economic Development	70,000
Museum Improvement Fund	896,000
<i>Gross Expenditures</i>	<u>27,322,637</u>

There is hereby included \$75,000 within the General Fund Budget [City Council Activity], \$100,000 within the Electric Fund, \$65,000 within the Water Fund, \$26,800 within the Sewer Fund, \$10,000 within the Refuse Fund, \$0 within the Community Betterment Fund, \$14,000.00 within the Golf Fund and \$25,000 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 \$276,547.91 for Fiscal Year 2009.

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, 2008.

Roll call vote to approve amended Ordinance No. 2619 on final reading with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Mayor Kusek stated, "the passage and adoption of Ordinance No. 2619 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 Ordinance 2626 adopting the Classification and Compensation Plans which will be incorporated in the FY2009 budget.

Motion by Mayor Kusek, seconded by Councilman Yeager to approve Ordinance No. 2626 on first reading. City Clerk Jines read the ordinance by title which follows in its entirety:

### **ORDINANCE NO. 2626**

**AN ORDINANCE ADOPTING A REVISED CLASSIFICATION AND COMPENSATION PLANS FOR THE CITY OF ALLIANCE, NEBRASKA.**

WHEREAS, Section 16-310 of R.R.S. 1943 authorizes the mayor and council to establish

the compensation for employees and officers by stating that "The officers and employees in cities of the first class shall receive such compensation as the mayor and council shall fix by ordinance;" and,

WHEREAS, The Alliance City Council adopted the Fiscal Year 2009 Budget which included funds for a revised Classification/Compensation Plans.

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

SECTION 1. That the attached Classification Schedule for the City of Alliance dated to be effective October 4, 2008 and the attached Compensation Schedules for Exempt, Non-Exempt, Police Bargaining Unit, Communications Bargaining Unit, and Fire employees dated to be effective October 4, 2008 are hereby adopted by this reference.

SECTION 2. This Ordinance shall become effective October 4, 2008.

Motion by Councilman Dickenson, seconded by Councilman Benzel to suspend the statutory rule requiring three separate readings of Ordinance No. 2626.

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

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Roll call vote to approve Ordinance No. 2626 on final reading with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

Mayor Kusek stated, "the passage and adoption of Ordinance No. 2626 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 on Council's agenda was Resolution No. 08-95 which provides direction to the City Manager for the hiring of City employees by adopting the Total Authorized Strength document.

Motion by Mayor Kusek, seconded by Councilman Dickenson to approve Resolution No.

08-95 which follows in its entirety:

**RESOLUTION NO. 08-95**

*WHEREAS*, The City of Alliance utilizes the Council-Manager form of government, in which the City Manager acts as the Chief Executive Officer for the City; and

*WHEREAS*, The City Manager, appointed by the City Council and serving at their pleasure, is responsible for planning, organizing, staffing, directing, coordinating, researching, and budgeting the operations of the City in order to implement Council policies in an efficient and effective manner; and

*WHEREAS*, To implement the policies of the City Council the City Manager has to be able to hire the necessary employees to fulfill the obligations of the City of Alliance to the citizens of Alliance; and

*WHEREAS*, The City of Alliance Budget needs to account for, track, and budget the expenditures for employees; and

*WHEREAS*, The budget is directly related to the number of employees that are authorized to be hired by the City of Alliance; and

*WHEREAS*, The City of Alliance staff has researched and drafted a document detailing the staff's opinion of the number of employees that are needed to provide the services to the citizens of the City of Alliance and that document is entitled "Total Authorized Strength."

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that the City approve and adopt the "Total Authorized Strength" as recommended.

*BE IT FURTHER RESOLVED* that the City Manager is authorized to hire employees for the City of Alliance as set forth in the "Total Authorized Strength."

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item for Council's consideration was Resolution No. 08-91 authorizing Change Order No. 2 with Nelson Wells, Inc. for the Test Hole Drilling, Well Installation and Pump Test Project.

Motion by Councilman Dickenson, seconded by Councilman Yeager to approve Resolution No. 08-91 which follows in its entirety:

**RESOLUTION NO. 08-91**

*WHEREAS*, The City of Alliance has authorized competitive quotes to obtain bids for Test and Observation Well for the Water System Improvements pursuant to bid number 006-2176; and

*WHEREAS*, The bid of Nelson Wells, Inc., a Nebraska Corporation, of Alliance, Nebraska was determined to be the lowest, responsive, and responsible bid; and

*WHEREAS*, Olsson and Associates has recommended the City conduct a Test and Observation Well Program at First and Cody and Eleventh and Robin; and

*WHEREAS*, Olsson and Associates has recommended that the City adopt Change Order #2 because the Laramie and Agate site doesn't appear to be acceptable for a production well; and

*WHEREAS*, Olsson and Associates has provided documentation stating that the amount for Change Order #2 is \$56,334.00 to hire Nelson Wells, Inc., a Nebraska Corporation of Alliance Nebraska to perform the work in Change Order #2.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, the Test Well Drilling Change Order #2 is hereby approved to conduct a Test and Observation Well Program at First and Cody and Eleventh and Robin.

*BE IT FURTHER RESOLVED*, that City the Mayor is authorized to sign Test Well Drilling Change Order #2 for and on behalf of the City of Alliance and any other documents necessary to contract with Nelson Wells, Inc., to perform the work required in Change Order #2 in the amount of \$56,334.00.

Mayor Kusek asked staff to provide Council with a current well listing including sites already tested and not viable.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- Resolution No. 08-92 approving Amendment No. 5 with Olsson Associates for engineering services for Test and Observation Well for the Water System Improvements was the next item for Council's review.

Motion by Councilman Benzel, seconded by Councilman Dickenson to approve Resolution No. 08-92 which follows in its entirety:

**RESOLUTION NO. 08-92**

*WHEREAS*, The City of Alliance has entered into a contract with Olsson & Associates to provide engineering services for Test and Observation Well for the Water System Improvements; and

*WHEREAS*, The Test and Observation Well for the Water System Improvements have been proceeding; and

*WHEREAS*, Olsson and Associates has recommended the City conduct a Test and Observation Well Program at First and Cody and Eleventh and Robin because the Laramie and Agate site doesn't appear to be acceptable for a production well; and

*WHEREAS*, Olsson and Associates has agreed to provide the engineering services for this change order pursuant to Amendment No. 5 For Professional Services in the estimated amount of \$32,871.00.

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and City Council of Alliance, Nebraska, the contract for Amendment No. 5 for Professional Services with Olsson & Associates is hereby approved.

*BE IT FURTHER RESOLVED*, that City the Mayor is authorized to sign Amendment No. 5 for Professional Services with Olsson & Associates for and on behalf of the City of Alliance.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- Resolution No. 08-93 authorizing staff to resume and complete the concept design phase of the Knight Museum and Sandhills Center with Design Minds, Inc. was the next item for Council's discussion.

Motion by Mayor Kusek, seconded by Councilwoman Rowley to approve Resolution No. 08-93 which follows in its entirety:

**RESOLUTION NO. 08-93**

*WHEREAS*, The City of Alliance has received a generous contribution from the Eldred

Foundation in the amount of \$800,000 for the planning, construction and installation of the introductory video, displays, interpretive material and interior furnishings of the museum; and

*WHEREAS*, The Eldred Foundation had an agreement with Design Minds, Inc., for the exhibit design of the new Knight Museum exhibits and a traveling educational exhibit; and

*WHEREAS*, The City of Alliance desires to continue the contract with Design Minds, Inc., because Design Minds, Inc., has spent time in planning and preparation; have the information and are in a position to resume and complete the concept design phase of the museum; and

*WHEREAS*, Design Minds, Inc., has offered to continue to provide professional services to the City of Alliance to resume and complete the concept design phase of the museum.

*NOW, THEREFORE, BE IT RESOLVED* by the Mayor and City Council of the City of Alliance, Nebraska, that the City will enter into an agreement with Design Minds, Inc., to resume and complete the concept design phase of the museum.

*BE IT FURTHER RESOLVED* that the Mayor is authorized to sign all documents necessary to contract with Design Minds, Inc., to resume and complete the concept design phase of the museum.

*BE IT FURTHER RESOLVED* that all expenditures for this contract shall come from the "Museum Exhibit Fund".

Mayor Kusek asked about the timeline for the project. Museum Director Becci Thomas advised Council that Design Minds could complete the exhibit designs by May 1, 2009 which does not include the time needed for the fabricators. Mike Lesperance of Design Minds indicated that a realistic completion date would be November, 2009. Mayor Kusek voiced concern regarding Section 8 (d) which states that Design Minds shall retain ownership of all copyrights and original artwork. City Attorney Larry Miller advised Council if the contract is terminated with Design Minds, they will retain ownership of the copyrights. If the contract is fulfilled and paid for, the City of Alliance will own the copyrights. He questioned Attachment B, Phase 1A which states that the client will provide outline of new "Rogues" themes and topics. Museum Director Thomas advised Council that Design Minds asked for a central theme and during a conference call, the theme became "Rogues, Rascals and Visionaries." The theme enables a story to be woven relating to the variety of people who have lived in this area in a chronological fashion.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The next item to be presented to Council was the Third Quarter Financial Report by Finance Director Leah King.

Motion by Councilman Yeager, seconded by Councilwoman Rowley to accept the Third Quarter Financial Report as presented by Finance Director Leah King.

Mayor Kusek questioned 148% of Risk Management Budget. City Manager Caskie explained that the expenses of the pool were not budgeted but were paid out this year. He also questioned Comprehensive Plan in the Street Fund. City Manager Caskie explained that the money was encumbered but not carried over in the budget. Mayor Kusek asked about the fencing in Refuse Disposal. City Manager Caskie indicated that she would investigate the matter and report back to Council.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- The final item on Council's agenda was a board appointment.

Motion by Councilwoman Rowley, seconded by Councilman Benzel to appoint Brenda McDonald to a term on the Economic Development Plan Application Review Board expiring on June 16, 2012.

Roll call vote with the following results:

Voting Aye: Kusek, Dickenson, Benzel, Rowley, Yeager.

Voting Nay: None.

Motion carried.

- Mayor Kusek stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 9:05 p.m."

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Dan Kusek, Mayor

(SEAL)

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Linda S. Jines, City Clerk