

*Kearney, Nebraska*  
*April 22, 2008*  
*7:00 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on April 22, 2008 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Rod Wiederspan, Director of Public Works; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Tom Workman, Marc Munford, Roger Jasnoch, Sara Giboney from Kearney Hub, and Steve Altmaier from KGFW Radio.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

## **I. ROUTINE BUSINESS**

### **INVOCATION**

Mayor Clouse and the Council members held a moment of silent prayer.

### **PLEDGE OF ALLEGIANCE**

Two Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

Mayor Clouse announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted towards the back of the Council Chambers.

### **RECOGNITION**

Mayor Clouse and Council Members welcomed Scott Jasnoch who was attending the meeting to learn about City government. Scott is a freshman at Kearney High School.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **REZONING SOUTH OF 52ND STREET AND WEST OF 3RD AVENUE**

Mayor Clouse stated the City received a letter from the applicant requesting the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) to rezone from "District AG, Agricultural District" to "District C-2/PD, Community Commercial District/Planned Development Overlay District" property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue) remain on the table until May 13, 2008.

#### **FINAL PLAT FOR SORENSEN PARK FIFTH ADDITION**

Mayor Clouse stated the City received a letter from the applicant requesting the public hearing on the Application submitted Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the Final Plat for "Sorensen Park Fifth Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue) remain on the table until May 13, 2008.

#### **ANNEXATION OF SORENSEN PARK FIFTH ADDITION**

Mayor Clouse stated the City received a letter from the applicant requesting the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the annexation of "Sorensen Park Fifth Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue) remain on the table until May 13, 2008.

#### **BETHESDA ADULT COMMUNITIES (CAMBRIDGE COURT) – VARIABLE RATE DEMAND REVENUE BONDS**

Mayor Clouse opened the public hearing on the issuance by the Colorado Health Facilities Authority of its Variable Rate Demand Revenue Bonds (Bethesda Adult Communities) Series 2008A in the amount of approximately \$22,400,000.00 and to consider approval of Resolution No. 2008-61.

Matthias Edrich of the law firm of Peck, Shaffer & Williams of Denver, Colorado, representing their client, Colorado Health Facilities Authority for the benefit of Bethesda Foundation, is requesting the Council to the approve the issuance of certain 501(c)(3)

private activity bonds. Under §147 of the Internal Revenue Code (I.R.C.), a 501(c)(3) non-profit organization can qualify the issuance of bonds as private activity bonds if they are subject to "public approval" of the issue. Cambridge Court provides certain assisted living services, including adult care to seniors, and is located at 4107 Central Avenue. A portion of the proceeds will be used for the construction of building upgrades and the acquisition of miscellaneous patient care equipment, miscellaneous operating equipment, computer hardware equipment and heating, ventilating and air conditioning equipment. They have secured a lender which has agreed to provide them with the money required for their building project at a very favorable interest rate if the obligations are tax exempt under I.R.C. §147.

This procedure being requested is not an uncommon one. In the past, the City Council has conducted public hearings and granted approval to similar bonding for First United Methodist Church, the Platte River Road Archway Monument project and Campus Lutheran, all under the same Internal Revenue Code sections. The procedure has no fiscal responsibility or involvement for the City as the bonds or obligations are clearly marked as not constituting an indebtedness of the City of Kearney within the meaning of any constitutional or statutory provision. The reason that Congress required "public approval" was to use local governments as a check to make sure that the applicant was a qualified 501(c)(3) organization.

The public approval procedure permitted by I.R.C. §147 allows non-profit corporations to gain a favored position with regard to issuing bonds for construction, etc. In this case, the bond issue has already been committed to a lender and the issue will assist Cambridge Court and its proposed project. The process of conducting a public hearing in order to gain the passage of a resolution approving the issue does not commit the City to any fiscal or financial responsibility or obligation with regard to the bonds.

Thomas Workman, general counsel for Bethesda Adult Communities was present to answer any questions from the Council.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing on the issuance by the Colorado Health Facilities Authority of its Variable Rate Demand Revenue Bonds (Bethesda Adult Communities) Series 2008A in the amount of approximately \$22,400,000.00 and approve **Resolution No. 2008-61**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2008-61**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, AUTHORIZING THE ISSUANCE OF TAX-EXEMPT VARIABLE RATE DEMAND BONDS BY THE COLORADO HEALTH FACILITIES AUTHORITY FOR THE BENEFIT OF BETHESDA FOUNDATION

WHEREAS, Bethesda Foundation, a Nebraska nonprofit corporation registered to do business in the State of Colorado as Bethesda Foundation of Nebraska and also d/b/a Bethesda Adult Communities (the "Corporation"), has requested the Colorado

Health Facilities Authority (the "Issuer") to issue its Variable Rate Demand Revenue Bonds (Bethesda Adult Communities) Series 2008A, in the aggregate principal amount of approximately \$22,400,000 (the "Bonds") for the benefit of the Corporation; and

WHEREAS, the proceeds of the Bonds will be used for the purpose of: (a) current refunding the Arizona Health Facilities Authority Revenue Bonds (Bethesda Foundation – Bethesda Gardens Project), Series 1997A, which were issued to acquire, construct, install and equip the Phoenix Facility (defined below) (b) financing the cost of acquiring, constructing, installing and equipping a new health facility adjacent to the Fort Worth Facility (defined below), (c) financing the cost of capital improvements to certain of the Corporation's existing assisted living and independent living facilities (collectively, the "Facilities," and each a "Facility") described in the following paragraph, (d) establishing a reserve fund for the Bonds, if any, and (e) paying certain costs of issuance of the Bonds including the costs of credit enhancement (collectively, the "Project"); and

WHEREAS, capital improvements, constituting a portion of the Project, include the construction of building upgrades and the acquisition of miscellaneous patient care equipment, miscellaneous operating equipment, computer hardware equipment and heating, ventilating and air conditioning equipment at the following Facilities: Bethesda Gardens (formerly known as Arkansas House), 1103 West Arkansas Lane, Arlington, TX 76013 (the "Arlington Facility"); Bethesda Gardens, 5417 Altamesa Boulevard, Fort Worth, TX 76123 (the "Fort Worth Facility"); Autumn View Gardens, 16219 Autumn View Terrace, Ellisville, MO 63011 (the "Ellisville Facility"); The Gardens at Barry Road, 8300 NW Barry Road, Kansas City, MO 64153; Autumn View Gardens Schuetz Road, 11210 Schuetz Road, St. Louis, MO 63146; The Gardens Assisted Living, 1302 West Sunset, Springfield, MO 65807 (the "Springfield ALU Facility"); The Gardens Independent Living, 2730 South Nettleton Avenue, Springfield, MO 65807 (the "Springfield ILU Facility"); Corporate Headquarters, 15475 Gleneagle Drive, Colorado Springs, CO 80921 (the "Corporate Headquarters"); Broadmoor Court, 2045 Roanoke Street, Colorado Springs, CO 80906 (the "Broadmoor Facility"); ViewPointe, 555 South Rockrimmon Boulevard, Colorado Springs, CO 80919 (the "ViewPointe Facility"); Collinwood, 5055 South Lemay Avenue, Fort Collins, CO 80525 (the "Fort Collins Facility"); Grand Villa, 1501 Patterson Road, Grand Junction, CO 81506 (the "Grand Junction Facility"); Cambridge Court, 4107 Central Avenue, Kearney, NE 68847; Hickory Villa, 7315 Hickory Street, Omaha, NE 68124 (the "Omaha Facility"); Bethesda Gardens, 13825 N. Cave Creek Road, Phoenix, AZ 85022 (the "Phoenix Facility"); and

WHEREAS, capital improvements, constituting a portion of the Project, also include (a) furniture upgrades at Arlington Facility, Ellisville Facility, Springfield ILU Facility, Broadmoor Facility, ViewPointe Facility, Fort Collins Facility, Omaha Facility and Phoenix Facility; (b) vehicle purchases at Ellisville Facility, Springfield ALU Facility, Fort Collins Facility, Grand Junction Facility and Omaha Facility; and (c) computer hardware and software upgrades at the Corporate Headquarters; and

WHEREAS, in connection with the issuance of the above tax-exempt Bonds, the Authority will also issue a taxable series of bonds designated the Series 2008B Bonds for the benefit of the Corporation; and

WHEREAS, in order to achieve interest savings, the Corporation desires that the Bonds be issued in compliance with the requirement of the Internal Revenue Code of 1986, as amended (the "Code") so that interest on the Bonds will be excludible from the gross income of the holders; and

WHEREAS, Section 147(f) of the Code requires, as a condition to receiving tax-exempt treatment of the interest on the Bonds, that an authorized, elected representative approve the Bonds and the City Council of the City of Kearney, Nebraska (the "City Council"), constitutes such an authorized, elected representative; and

WHEREAS, it is deemed necessary and advisable that this Resolution be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that

Section 1. The issuance of the Bonds by the Issuer in an aggregate amount not to exceed \$22,400,000 is hereby approved

Section 2. Such approval shall be solely for the purposes of Section 147(f) of the Code and the City of Kearney, Nebraska, shall have no liabilities for the payment of the Bonds nor shall any of its assets be pledged to the payment of the Bonds.

Section 3. This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**IV. CONSENT AGENDA**

Moved by Lammers seconded by Lear that Subsections 1 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of the Joint City/School Board Meeting held on April 7, 2008, the Minutes of the Special Meeting held April 8, 2008 and the Minutes of the Regular Meeting held April 8, 2008.
2. Approve the following Claims: AT&T \$176.18 smcs; Agri Coop \$9,507.43 smcs; Alamar Uniforms \$439.35 ps; Alltel \$36.87 smcs; Amer Red Cross \$24.00 smcs; Anderson Brothers \$265.23 smcs; Asay,A \$29.43 smcs; Ashworth \$595.66 smcs; Ask Supply \$214.60 smcs; Aurora Cooperative \$339.27 smcs; Baker & Taylor \$3,099.12 smcs; Bamford \$256.03 smcs; Barney Abstract \$250.00 smcs; Baye,S \$51.14 smcs; BBC Audiobooks \$120.26 smcs; Beckenhauer,T \$241.60 smcs; Bert Gurney & Associates \$2,342.70 smcs; Blessing,R \$23.76 smcs; Bluecross Blueshield \$136,696.65 smcs; Bosselman \$74,411.26 smcs; Broadfoot's \$1,112.50 smcs; Brodart Co \$209.66 smcs; Brodine,S \$341.25 smcs; Buffalo Co Court \$225.76 ps; Cash-Wa \$654.10 smcs; CDW Govt \$1,102.60 co; Central Fire & Safety \$647.50 smcs; Central Hydraulic Systems \$6,350.34 smcs; Charter \$385.62 smcs; Chesterman \$315.05 smcs; Chief Supply \$474.76 smcs; City of Hastings \$15.00 smcs; City of Ky \$81,644.84 smcs,ps; College Savings Plan of NE \$75.00 ps; Construction Rental \$43.90 smcs; Copycat Printing \$378.73 smcs; Crossroad Ford \$921.19 smcs; Culligan \$136.50 smcs; D&M Security \$380.45 smcs; DANKO Emergency \$3,600.00 smcs; Dawson Co PPD \$12,707.64 smcs; Depository Trust \$513,507.50 ds; Dept of the Treasury \$1.31 ps; Dobesh,J \$25.44 smcs; DPC Industries \$4,760.10 smcs; Dutton-Lainson \$85.63 smcs; Eakes \$1,672.73 smcs; Eickhoff,B \$58.25 ps; Electric Pump \$2,702.57 smcs; Elliott

Equipment \$426.43 smcs; EMC Insurance \$211.00 smcs; Eustis Body Shop \$15.00 smcs; Express Distributing \$88.50 smcs; Expression Wear \$30.00 smcs; Fedex \$83.82 smcs; Fiddelke Heating \$320.00 smcs; Finn,B \$28.46 smcs; Footjoy \$5,269.41 smcs; Foremost Promotions \$566.43 smcs; Fraber,S \$35.00 smcs; Freeze,M \$50.00 smcs; Frontier \$8,420.57 smcs; Gale \$397.31 smcs; Gary's Gutter Works \$77.00 smcs; Gaylord Brothers \$122.31 smcs; Great Plains One Call \$374.93 smcs; H&H Distributing \$445.30 smcs; Harley Davidson \$3,052.00 co; Harmony Martial Arts \$61.96 smcs; Hauff, Sally \$75.00 smcs; HD Supply \$1,375.85 smcs; Highsmith \$29.72 smcs; Hoffman,D \$5.51 smcs; Hydrite Chemical \$1,621.64 smcs; ICMA RC \$2,553.96 ps; IRS \$101,272.85 ps; ISDN \$188.25 smcs; Jack Lederman \$1,819.98 smcs,co; Johnson Appraisal \$2,000.00 co; Johnson Service \$1,310.00 smcs; Ky Clinic \$935.00 smcs,ps; Ky Concrete \$2,736.44 smcs,co; Ky Crete & Block \$247.75 smcs,co; Ky Hub \$4,773.78 smcs; Ky Humane Society \$2,400.00 smcs; Ky Noon Rotary \$95.00 smcs; Ky Towing \$75.00 smcs; KHAS-TV \$495.00 smcs; Kirkham Michael \$15,109.15 co; Konica Minolta \$209.27 smcs; Krepel,J \$57.37 smcs; KRVN \$807.20 smcs; League of NE Municipalities \$56.96 smcs; Lifeguard Store \$2,096.00 co; Linweld \$37.45 smcs; Lockmobile \$185.00 smcs; Logan Contractors \$19,124.60 co; Logicube \$1,994.60 co; Mac Tools \$129.99 smcs; Magic Cleaning \$910.00 smcs; Maines Electric \$1,435.00 smcs; Manary,M \$357.45 smcs; Marketing Displays \$8,721.00 co; Marlatt Machine Shop \$55.00 smcs; Masek Golf Car Co \$149,480.00 co; McCarty,D \$202.90 smcs; Midlands Contracting \$19,426.76 smcs; Moonlight Embroidery \$4,516.00 smcs,ps; Mosbarger,B \$480.50 smcs; Motorola \$23,896.00 smcs; Municipal Supply \$11,882.42 smcs; NASRO \$40.00 smcs; NE Child Support \$2,671.89 ps; NE Dept of Aeronautics \$2,095.00 er,ds; NE Dept of Revenue \$31,583.26 smcs; NE Library Assn \$25.60 smcs; NE Women's Amateur Golf \$35.00 smcs; NE Workforce Development \$1,571.78 smcs,ps; NEland Distributors \$395.70 smcs; Norm's Plumbing \$457.40 smcs; Northwestern Energy \$14,354.50 smcs; Novus \$35.00 smcs; Nuttelman Fencing \$6,900.00 co; O'Connor,R \$28.87 smcs; Office Depot \$217.28 smcs; O'Keefe Elevator \$697.64 smcs; Overhead Door \$575.14 smcs; Paramount Linen \$388.38 smcs; Payne,J \$355.75 smcs; Peerless Pump \$225.45 co; Pep Co \$51.10 smcs; Ping \$1,398.22 smcs; Platte Valley Comm \$8,676.95 smcs; Powerplan \$2,916.25 smcs; Presto-X \$114.00 smcs; Quill \$411.89 smcs; RC Booth Enterprises \$103.00 smcs; Ramallo,S \$26.35 smcs; Random House \$454.40 smcs; Ready Mixed Concrete \$1,212.75 smcs; Recorded Books \$290.69 smcs; Reinke's Heating \$69.72 smcs; Remington Arms \$393.00 smcs; Resource Management \$3,330.50 smcs; Rheome Tree Service \$300.00 smcs; Sanitation Products \$2,228.18 smcs; Sensus Metering \$355.70 smcs; S-F Analytical Laboratory \$702.00 smcs; Snap-On Tools \$66.95 smcs; Solid Waste Agency \$364.57 smcs; Starostka Group \$600.00 smcs; Sun Life Financial \$24,113.68 smcs; Supershine Auto Care \$16.00 smcs; Taylor Made \$1,972.79 smcs; Telephone Systems \$22.46 smcs; Theis,J \$30.00 smcs; Thompson,K \$14.00 smcs; Titleist \$794.21 smcs; Tool Doctor \$29.50 smcs; Turner Body Shop \$135.00 smcs; Tye & Rademacher \$10,752.97 smcs; Unique Management \$214.80 smcs; United Way of Ky \$2,900.00 smcs; USA Companies \$450.00 smcs; Village Uniform \$152.54 smcs; Walsh,C \$262.80 smcs; Water Products \$864.56 smcs; Wells Fargo \$300.00 smcs; West Payment Center \$1,208.99 smcs; Wiegand Security \$75.00 smcs; Wilkins Hirichs Stober \$20,715.30 co; WPCI \$107.00 ps; Zimmerman Printers \$199.70 smcs; Payroll Ending 4-12-2008 -- \$287,560.92. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

- 3. Receive recommendations of Planning Commission and set May 13, 2008 at 7:00 p.m. as date and time for hearing on those applications where applicable.
- 4. Approve the application for a Special Designated License submitted by NIGHT LIFE CONCEPTS, INC., dba "Cunningham's Journal" in connection with their Class CK-59311 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 17, 2008 from 4:00 p.m. until 1:00 a.m. for a wedding reception.
- 5. Approve the application for a Special Designated License submitted by JOYCE SEARS, dba "Cedar Hills Vineyard & Gardens" in connection with their Class CK-73472 liquor license to dispense beer and wine in Mitzi's Pavilion, 2020 West 11th Street, on June 7, 2008 from 4:00 p.m. until 11:00 p.m. for a wedding reception.
- 6. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and 56 Stoneridge LLC, by Wade Inc., a Managing Member, for the construction of water and sanitary sewer improvements to serve Lot 1, Stoneridge Fourth Addition to the City of Kearney, Buffalo County, Nebraska (east of the Pedcor Apartments on 56th Street) and approve **Resolution No. 2008-62**.

**RESOLUTION NO. 2008-62**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement" between the City of Kearney and 56 Stoneridge LLC, by Wade Inc., a Managing Member, for the construction of water and sanitary sewer improvements to serve Lot 1, Stoneridge Fourth Addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Brett Weis for 56 Stoneridge LLC by Wade Inc., to construct water and sanitary sewer improvements as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

- 7. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and NP Land Development and Nebraska National Bank for the construction of paving, water, storm sewer, and sanitary sewer improvements for Stoneridge Eighth Addition to the City of Kearney, Buffalo County, Nebraska (west of Avenue K from 56th Street to 64th Street and north of 56th Street along Avenue K to 62nd Street) and approve **Resolution No. 2008-63**.

**RESOLUTION NO. 2008-63**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement" between the City of Kearney and NP Land Development and Nebraska National Bank for the construction of paving, water, storm sewer, and sanitary sewer improvements to serve Stoneridge Eighth Addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Timothy Norwood Sr. for NP Land Development Inc., and Douglas King for Nebraska National Bank to construct paving, water, storm sewer, and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

8. Approve the application for a Special Designated License submitted by ALLEY ROSE, INC., dba "Alley Rose" in connection with their Class IK-21763 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 24, 2008 from 6:00 p.m. until 1:00 a.m. for a wedding reception.

9. Approve the application for a Special Designated License submitted by ALLEY ROSE, INC., dba "Alley Rose" in connection with their Class IK-21763 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 31, 2008 from 5:00 p.m. until 12:00 a.m. for a wedding reception.

10. Approve the request submitted by Good Samaritan Health Systems and Kearney Park & Recreation to conduct the Good Samaritan Olympiad 5K on June 28, 2008 beginning at 7:30 a.m. The route will begin at Good Samaritan Hospital, south on Avenue A to 27th Street, east on 27th Street to Avenue I, north on Avenue I to Tabor Street, west on Tabor Street to Avenue K, south on Avenue K to 34th Street, west on 34th Street to Avenue G, south on Avenue G to 33rd Street, east on 33rd Street to Avenue H, south on Avenue H to 27th Street, west on 27th Street to Avenue A, north on Avenue to Good Samaritan Hospital.

11. Approve the Agency Agreement for Project No. 3-31-0045-19 between the City of Kearney and the Nebraska Department of Aeronautics for administrative services in connection with the Kearney Regional Airport Master Plan and Layout Plan and approve **Resolution No. 2008-64.**

**RESOLUTION NO. 2008-64**

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. 3-31-0045-19 TO BE SUBMITTED BY

THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into an Agency Agreement with the Department of Aeronautics for Project No. 3-31-0045-19 for the purpose of obtaining federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Agency Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

3. The said Agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**12.** Approve Application and Certificate for Payment No. 12 in the amount of \$46,859.91 submitted by Blessing, LLC and approved by Miller & Associates for the 2007 Part II Improvements – 39th Street from 2<sup>nd</sup> Avenue to Pony Express Road consisting of Paving Improvement District No. 2006-908 for 39th Street from Pony Express Road west to the east lot line of Lot 1, Block 1, Windsor Estates Fifth Addition and approve **Resolution No. 2008-65.**

**RESOLUTION NO. 2008-65**

WHEREAS, Blessing LLC of Kearney, Nebraska has performed services in connection with the 2007 Part II Improvements – 39th Street from 2nd Avenue to Pony Express Road (Paving Improvement District No. 2006-908), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 12 in the amount of \$46,859.91 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,977,660.96
Change Order No. 1 (6-26-2007)	+ 61,459.75
Change Order No. 2 (7-24-2007)	+ 4,853.68
Change Order No. 3 (10-23-2007)	+ 6,451.99
Change Order No. 4 (11-27-2007)	+ 22,983.33
Change Order No. 5 (2-26-2008)	<u>+ 16,438.74</u>
Contract Sum to Date	\$2,089,848.45
Gross Amount Due	1,977,044.48
Retainage	98,852.22
Amount Due to Date	1,878,192.25
Less Previous Certificates for Payment	<u>1,831,332.34</u>
Current Payment Due	\$ 46,859.91

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 12, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**13.** Approve Application and Certificate for Payment No. 1 in the amount of \$195,882.30 submitted by Technical Maintenance & Service and approved by Miller & Associates for the Northwest Well Field, Phase III (Electrical Control System) and approve **Resolution No. 2008-66.**

**RESOLUTION NO. 2008-66**

WHEREAS, Technical Maintenance & Service Co. has performed services in connection with the Northwest Well Field, Phase III (Electrical Control System), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$195,882.30 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$231,000.00
Contract Sum to Date	\$231,000.00
Gross Amount Due	217,647.00
Retainage	21,764.70
Amount Due to Date	195,882.30
Less Previous Certificates for Payment	<u>0.00</u>
Current Payment Due	\$195,882.30

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**14.** Approve Change Order No. 3 showing a decrease in the amount of \$50,670.00, Application and Certificate for Payment No. 7-Final in the amount of \$9,009.00, and Certificate of Substantial Completion submitted by Blessing LLC and approved by Miller & Associates for the 2006 Part V Improvements consisting of Paving Improvement District No. 2006-911 for 60th Street from 4th Avenue to the west line of Block 3, Spruce Hollow Estates and approve **Resolution No. 2008-67.**

**RESOLUTION NO. 2008-67**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2006 Part V Improvements – Bid B consisting of Paving Improvement District No. 2006-911 for 60th Street from 4th Avenue to the west line of Block 3, Spruce Hollow Estates, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing a decrease to the contract sum in the amount of \$50,670.00 as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 7-Final in the amount of \$9,009.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$290,138.00
Change Order No. 1 (3-27-2007)	+ 10,884.84
Change Order No. 2 (6-26-2007)	+ 9,133.00
Change Order No. 3 (4-22-2008)	<u>- 50,670.00</u>
Contract Sum To Date	259,485.84
Gross Amount Due	259,485.84
Retainage	0.00
Amount Due to Date	259,485.84
Less Previous Certificates for Payment	<u>250,476.84</u>
Current Payment Due	\$ 9,009.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 30, 2007, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit "A", Application and Certificate for Payment No. 7-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

STANLEY A. CLOUSE  
 PRESIDENT OF THE COUNCIL  
 AND EX-OFFICIO MAYOR

**15.** Accept the Warranty Deed granted to the City of Kearney by Jonathan and Kathleen Rasmussen for Lots 87 and 88 and the east half of Lot 89, Keen's Park Addition to the City of Kearney, Buffalo County, Nebraska and approve **Resolution No. 2008-68.**

**RESOLUTION NO. 2008-68**

WHEREAS, City Council authorized the City Manager and City Attorney to acquire a tract of property described as Lots 87 and 88 and the east half of Lot 89, Keen's Park Addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Jonathan A. and Kathleen J. Rasmussen have granted to the City of Kearney a Warranty Deed for a tract of property described as Lots 87 and 88 and the

east half of Lot 89, Keen’s Park Addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Warranty Deed be and is hereby accepted.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**16.** Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and School District for the construction of paving, water, storm sewer, and sanitary sewer improvements for Lots 1 through 8, Grandview Estates Tenth Addition to the City of Kearney, Buffalo County, Nebraska (either side of 47th Street and ending in a cul-de-sac west of Avenue R) and approve **Resolution No. 2008-69.**

**RESOLUTION NO. 2008-69**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement” between the City of Kearney and Kearney Public Schools for the construction of paving, water, storm sewer, and sanitary sewer improvements to serve Lots 1 through 8, Grandview Estates Tenth Addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Tim Higgins, President of the Board of Education of the School District of the City of Kearney, Buffalo County, Nebraska to construct paving, water, storm sewer, and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

**17.** Approve the Agreement between the City of Kearney and Don and Sherry Purvis to connect property located at 57 Central Avenue to the sanitary sewer main owned by the City of Kearney and approve **Resolution No. 2008-70.**

**RESOLUTION NO. 2008-70**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement between the City of Kearney and Don L. Purvis and Sherry L. Purvis, husband and wife, to connect property described as a small tract of land which lies in Original Government Lot 5 in the Northwest Quarter of Section 13, Township 8 North, Range 16 West of the 6<sup>th</sup> P.M., more particularly described as follows: beginning at one inch iron pipe and angle iron, 1519 feet south of the north line of said Section 13, this point being the east boundary of Nebraska

Highway No. 10 or Central Avenue in Kearney, Nebraska, extended, this point also being on the south bank of a small channel of the Platte River known as Walker Channel; thence northeasterly 104.85 feet at an angle of 69°5' from the north to a 5/8 inch reinforcing rod; thence southeasterly 90.4 feet at an angle of 82°57' from the aforesaid line to a 5/8 inch reinforcing rod; thence southwesterly 123 feet at an angle of 89°10'30" from the aforesaid line to a 5/8 inch reinforcing rod on the east boundary of said Highway; thence north 78.4 feet along said Highway boundary to the place of beginning, all in Buffalo County, Nebraska and located at 57 Central Avenue to the sanitary sewer main owned by the City of Kearney be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Don L. Purvis and Sherry L. Purvis to connect to sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 22ND DAY OF APRIL, 2008.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 7428 – REZONE SOUTH OF 52ND STREET AND WEST OF 3RD AVENUE**

Mayor Clouse stated the City received a letter from the applicant requesting Ordinance No. 7428 proposing to rezone from "District AG, Agricultural District" to "District C-2/PD, Community Commercial District/Planned Development Overlay District" property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue) remain on the table until May 13, 2008.

### **ORDINANCE NO. 7429 – ISSUE HIGHWAY ALLOCATION FUND PLEDGE BONDS**

Marc Munford from Ameritas presented this matter to the Council.

On March 25, 2008, the City Council awarded a contract to Paulsen, Inc. for the Airport Road Relocation Project. Additionally, on January 8, 2008, an Interlocal Agreement between Buffalo County and the City of Kearney was approved by both governing bodies setting forth the specifics of the County's agreement to reimburse the City for costs not to exceed \$1,275,000.00 for this project. The Interlocal Agreement requires the City to issue Highway Allocation Fund Pledge Bonds with the understanding that

Buffalo County will reimburse the City each year as the principal and interest payments become due.

The total principal amount of the bonds will be \$1,750,000.00. The bonds will have a twenty-year maturity schedule with an interest rate of 2.15% on the one-year bonds to 4.65% on the twenty-year bonds. The annual payment on the bonds will be approximately \$96,000.00 each year for the twenty years that the bonds are outstanding. The City will be required to include funding in its annual budget to pay the principal and interest on the Bonds during the twenty-year life of the bonds. Funding to pay the principal and interest on the bonds will come from payments received by Buffalo County pursuant to the Interlocal Agreement.

Council Member Lear introduced Ordinance No. 7429, being Subsection 2 of Agenda Item VI to authorize the issuance of Highway Allocation Fund Pledge Bonds of the City of Kearney, Nebraska, in the principal amount of \$1,275,000 for the purpose of paying the costs of constructing street improvements for the City; prescribing the form of said bonds; pledging funds to be received by the City from the State of Nebraska Highway Allocation Fund for the payment of said bonds; providing for the levy and collection of taxes to pay the same if necessary; authorizing the delivery of the bonds to the purchaser; providing for the disposition of bond proceeds; and ordering the Ordinance published in pamphlet form, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7429 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7429 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7429 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**OPEN ACCOUNT CLAIMS: PLATTE VALLEY STATE BANK - \$45,896.41, NPPD - \$54,401.48**

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$45,896.41 payable to Platte Valley State Bank, and in the amount of \$54,401.48

payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

## **VII. REPORTS**

None.

## **VIII. ADJOURN**

Moved by Clouse seconded by Kearney that Council adjourn at 7:07 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

**ATTEST:**

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**STANLEY A. CLOUSE  
PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR**

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**MICHAELLE E. TREMBLY  
CITY CLERK**