

Kearney, Nebraska
January 27, 2009
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 January 27, 2009, 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 Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Walter Kamp, Richard Long, John Lash, Mary Kalb, James Mahalek, Jim Dubas, Chris Richardson, Bruce Grupe, Neal Lewis, 20 UNK students, KHAS TV, NTV, Sara Giboney from Kearney Hub, 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

There was no representation from the Kearney Ministerial Association, therefore, the Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

The Council members led the 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.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

None.

IV. CONSENT AGENDA

Moved by Kearney seconded by Lammers that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held January 13, 2009.

2. Approve the following Claims:

- PS Personnel Services
- SMCS Supplies, Materials & Contractual Services
- ER Equipment Rental
- CO Capital Outlay
- DS Debt Service

4Imprint \$379.33 ps; Ace Hardware \$251.36 smcs; Advance Auto Parts \$49.99 smcs; Agent Fee \$40.00 smcs; Agri Coop \$12,476.07 smcs; Air Delights \$312.30 smcs; Alamar Uniforms \$277.92 smcs; Alert Shirt \$875.84 smcs; Al-Jon Manufacturing \$76.76 smcs; Alltel \$61.19 smcs; Amazon \$706.92 ps; Amazon \$111.39 smcs,co; Amer Electric \$1,278.90 smcs; Andersen Wrecking \$115.00 smcs; Annie Kay & Co \$25.00 smcs; Apple Market \$10.47 smcs; Aurora Cooperative \$1,629.98 smcs; Baker & Taylor \$4,370.07 smcs; Baum Hydraulic \$51.16 smcs; BBC Audiobooks \$120.26 smcs; Beideck,J \$138.43 smcs; Berens-Tate Consulting \$2,750.00 smcs; Best Lock \$1,045.13 smcs,co; Bluecross Blueshield \$264,197.26 smcs; Bob's Super Store \$21.12 smcs; Bosselman \$4,918.31 smcs; Broadfoot's \$3,682.00 smcs; Buffalo Co Court \$58.02 ps; Buffalo Co Econ Dev \$128.75 smcs; Buffalo Co Treasurer \$18,849.40 smcs,co; Buffalo Outdoor Power \$96.02 smcs; Buggy Bath Car Wash \$8.50 smcs; Builders \$1,096.46 smcs; Cabela's \$350.89 smcs; Cardinal Health \$208.16 smcs; Carquest \$1,246.41 smcs; Cash-Wa \$267.20 smcs; Central Auto Electric \$244.57 smcs; Central Hydraulic \$889.76 smcs; Central NE Bobcat \$9,446.18 smcs,co; Charter \$406.59 smcs; Chief Supply \$298.85 smcs; City of Ky \$17,912.62 smcs,ps; Clark,N \$19.00 smcs; CMI \$188.65 smcs; Coffin Turbo Pump \$410.00 smcs; Cold Spring Granite \$1,036.80 smcs; College Savings Plan of NE \$100.00 ps; Colorado Chapter of INL \$195.00 smcs; Colorid Ribbons \$57.08 smcs; Compushade \$34.90 smcs; Computer Pros \$20.65 smcs; Construction Rental \$922.90 smcs,co; Copycat Printing \$203.53 smcs; Corp Exp Doc & Print \$357.03 smcs; Crossroads Ford \$153.30 smcs; Cummins Central Power \$232.54 smcs; D&M Security \$1,920.10 smcs,co; D&S Lighting \$26.96 smcs; Dawson Co PPD \$16,754.21 smcs; Deaton-Kennedy \$268.53 smcs; Diamond Vogel Paint \$46.54 smcs; Drummond \$175.44 smcs; Dutton-Lainson \$145.40 smcs; Eakes \$7,840.96 smcs,co; Ecolab \$30.00 smcs; EMC Insurance \$341,876.82 smcs; Entenmann-Rovin \$182.73 smcs; Eustis Body Shop \$150.00 smcs; Expression Wear \$195.00 ps; Fairbanks Int'l \$1,417.73 smcs; Farmers Union Coop \$934.16 smcs; Fastenal \$1,156.61 smcs; FBINAA-NE Chapter \$75.00 smcs; Fearnley,M \$138.43 smcs; Fiddelke Heating \$3,489.28 smcs; Fisher,L \$20.00 smcs; Fore!Reservations

\$1,500.00 smcs; Foundation Center \$471.50 smcs; Frontier \$7,800.35 smcs; Frontierair \$597.40 smcs; Full Tilt Management \$1,300.00 smcs; Gale \$96.61 smcs; Galls \$215.55 smcs; Garrett Tires & Treads \$6,052.33 smcs; GE Money Bank \$1,396.03 smcs; Gempler \$198.34 smcs; Graham Tire \$2,162.04 smcs; Grainger \$1,314.37 smcs; Great Amer Outdoor \$340.60 smcs; Great Plains One Call \$159.44 smcs; Great Plains Safety \$175.00 smcs; Great Prairie Development \$350.00 smcs; Guideposts \$17.24 smcs; H2O Distributors \$369.00 smcs; HD Supply \$4,801.32 smcs; Hobby Lobby \$31.92 smcs; Holmes Plumbing \$493.61 smcs; ICMA \$5,731.72 smcs,ps; ILEETA \$45.00 smcs; Infusionmedia Publishing \$55.47 smcs; Inland Truck Parts \$148.92 smcs; Intermountain Sales \$7,420.00 co; IRS \$106,820.49 ps; Int'l Assn \$760.00 smcs; Jack Lederman \$1,056.36 smcs; Jim Morgans Books \$51.57 smcs; Johnstone Supply \$635.06 smcs; JRM \$401.07 smcs; K&K Parts \$390.05 smcs; Kaspar Wire Works \$93.45 co; Ky Chamber Comm \$2,718.71 smcs; Ky Clinic \$493.00 ps; Ky Concrete \$4,841.82 smcs,co; Ky Crete & Block \$362.10 smcs,co; Ky Hub \$644.15 smcs; Ky Implement \$24,210.55 smcs,co; Ky Noon Rotary \$95.00 smcs; Ky Shoe Hospital \$22.36 smcs; Ky Warehouse \$459.74 smcs; Ky Winlectric \$97.80 smcs; KGFW \$864.00 smcs; KHAS \$1,440.00 smcs; Kirkwood,M \$18.18 smcs; Klaus,M \$88.00 smcs; Konica Minolta \$20.32 smcs; Labsafe \$666.70 smcs; Law Enforcement Training \$10.00 smcs; League of NE Municipalities \$350.00 smcs; LEVA \$55.00 smcs; Linda's Upholstery \$211.25 smcs; Linweld \$101.34 smcs; Lockmobile \$15.00 smcs; Magic Cleaning \$5,510.00 smcs; Mail Express \$112.52 smcs; Marketing Displays \$488.11 smcs; Marlatt Machine Shop \$1,551.91 smcs; Marshall Cavenish \$146.90 smcs; Mathew Bender \$39.80 smcs; McConnell,D \$20.00 smcs; Menards \$2,571.05 smcs; Metlife \$8.10 ps; Michael Burke \$3,300.00 smcs; Midwest Laboratories \$279.35 smcs; Midwest Radar \$575.00 co; Midwest Turf \$1,532.46 smcs; Miller & Associates \$5,316.06 smcs,co; MOCIC \$200.00 er,ds; Moonlight Embroidery \$1,044.50 smcs; Moore Wallace \$458.60 smcs; Morris Press \$435.75 smcs; Municipal Emergency \$93.73 smcs; NALEFI \$30.00 smcs; Napa All Makes Auto \$2,715.82 smcs; Nat'l League of Cities \$910.00 smcs; Nat'l Senior Games \$125.00 smcs; NE Assn of Airport Official \$200.00 smcs; NE Child Support \$2,837.74 ps; NE Code Officials Assn \$145.00 smcs; NE Dept of Environmental \$15,857.79 smcs; NE Dept of Aeronautics \$2,095.00 smcs; NE Library Commission \$1,500.00 smcs; NE Machinery \$296.31 smcs; NE State Library \$68.60 smcs; NE Supreme Court \$68.60 smcs; NE Truck Center \$81.06 smcs; NE Turf Products \$127.50 smcs; Newark \$278.08 smcs; Newegg \$96.98 smcs; Newman Signs \$869.59 smcs; Northwest Electric \$157.60 smcs; Northwestern Energy \$11,112.96 smcs; NRPA \$530.00 smcs; Officemax \$713.29 smcs; Officenet \$444.67 smcs; Olson,L \$88.00 smcs; O'Reilly Auto \$1,481.65 smcs; Orscheln \$657.62 smcs; Otis Air Service \$136.00 smcs; Overhead Door \$65.23 smcs; Paintball Online \$27.50 ps; Paramount Linen \$68.04 smcs; Patriot Supply \$333.51 smcs; Paypal \$192.39 co; PCAN \$50.00 smcs; Perkins \$134.39 smcs; Pitney Bowes \$2,094.00 smcs; Platte Valley Comm \$135.00 smcs,co; Pocketpctechs \$36.68 smcs; Polk Directories \$347.76 smcs; Powerplan \$732.20 smcs; Precision Training \$255.00 smcs; Presto-X \$250.00 smcs; Priority Management \$105.05 smcs; Provantage \$201.71 smcs; Quill \$162.44 smcs; R&R Products \$425.95 smcs; Radiant Heating \$352.24 smcs; Rainbow Book Co \$3,408.37 smcs; Random House \$400.00 smcs; Ready Mixed Concrete \$79.50 co; Reams \$205.80 co; Recognition Unlimited \$19.82 smcs; Recorded Books \$5.95 smcs; Redman Shoes \$190.48 smcs; Research Technology \$3,945.00 co; Resource Management \$4,882.77 smcs; RNDC-Eagle Division \$47.25 smcs; Roper's Radiator \$830.00 smcs; Royal Chemical \$412.20 smcs; Rubber Stamps Unlimited \$11.45 smcs;

Salina Blueprint \$124.97 smcs; Schloss Engineered \$1,168.85 smcs; Sears \$799.53 smcs; Sec of State \$20.00 smcs; Sheldon,S \$138.43 smcs; Sherman,B \$175.00 smcs; Sherwin Williams \$74.32 smcs; Sid Dillon \$18,660.00 co; Sirsi Dynix \$22,923.00 co; Snap-On Tools \$86.50 smcs; Solid Waste Agency \$45,500.95 smcs; Sunmart \$6.57 smcs; Swank Motion Pictures \$158.25 smcs; Target \$241.20 smcs; Teledyne \$379.00 smcs; Titan Machinery \$415.13 smcs; Tool Doctor \$42.00 smcs; Tractor-Supply \$2,075.76 smcs; Trade Associations \$390.00 smcs; Trans Iowa Equipment \$355.34 smcs; Trembly,M \$61.37 smcs; Tri City Outdoor Power \$418.36 smcs; Turner Body Shop \$1,275.00 smcs; Tye & Rademacher \$10,319.06 smcs; Unique Management \$393.80 smcs; United Air \$783.00 smcs; UNK-NE Student Union \$80.00 smcs; Upbeat \$1,200.00 co; UPS \$147.53 smcs; USA Blue Book \$73.01 smcs; USPS \$1,090.05 smcs; Walker,L \$90.00 smcs; Wal-mart \$2,582.97 smcs,co; West Payment Center \$1,303.02 smcs; Wiegand Security \$75.00 smcs; Wilke Donovans \$177.10 smcs; Wilkins Hinrichs Stober \$6,003.18 co; Williams,M \$73.20 smcs; WPCI \$157.00 ps; Yousenditcom \$9.99 smcs; Zimmerman Printers \$762.14 smcs; Payroll Ending 1-17-2009 -- \$292,589.89. 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 February 10, 2009 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve Application and Certificate for Payment No. 1 in the amount of \$158,148.00 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2009-2**.

RESOLUTION NO. 2009-2

WHEREAS, Hausmann Construction of Lincoln, Nebraska has performed services in connection with the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$158,148.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$2,879,000.00
Change Order No. 1 (11-25-2008)	- 21,081.00
Change Order No. 2 (11-25-2008)	- 40,000.00
Change Order No. 3 (11-25-2008)	- 25,000.00
Change Order No. 4 (11-25-2008)	<u>+ 4,900.00</u>
Contract Sum to Date	2,797,819.00
Total Completed and Stored to Date	175,720.00
Retainage	17,572.00
Amount Due to Date	158,148.00
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 158,148.00

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 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve Change Order No. 3 showing a decrease in the amount of \$491.00, Change Order No. 4 showing an increase in the amount of \$1,074.00, Change Order No. 5 showing an increase in the amount of \$2,053.00, Change Order No. 6 showing a decrease in the amount of \$390.00 submitted by Smeal Fire Apparatus Co. for the Fire Pumping Apparatus for the Kearney Volunteer Fire Department and approve **Resolution No. 2009-3.**

RESOLUTION NO. 2009-3

WHEREAS, Smeal Fire Apparatus Co. has performed services in connection with the fire pumping apparatus being purchased for the Kearney Volunteer Fire Department and has filed Change Order No. 3 showing a decrease in the amount of \$491.00, Change Order No. 4 showing an increase in the amount of \$1,074.00, Change Order No. 5 showing an increase in the amount of \$2,053.00, and Change Order No. 6 showing a decrease in the amount of \$390.00, as shown on Exhibits "A", "B", "C", and "D" respectively, attached hereto and made a part hereof by reference:

Original Contract Sum	<u>\$421,320.00</u>
Change Order No. 1 (3-11-2008)	+ 4,571.00
Change Order No. 2 (3-11-2008)	+ 5,648.00
Change Order No. 3 (1-27-2009)	- 491.00
Change Order No. 4 (1-27-2009)	+ 1,074.00
Change Order No. 5 (1-27-2009)	+ 2,053.00
Change Order No. 6 (1-27-2009)	<u>- 193.00</u>
Contract Sum To Date	\$ 433,786.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order Nos. 3, 4, 5, and 6 as shown on Exhibits "A", "B", "C", "D" respectively, be and are hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Jeff Benson, Matt Branch,

Travis Checketts, Daniel Follmer, Zach Oliverius, Joel Suggitt, Josh Thom and approve **Resolution No. 2009-4.**

RESOLUTION NO. 2009-4

WHEREAS, Jerry Thompson, Chief of the Kearney Volunteer Fire Department, has forwarded several names of individuals desiring to serve as volunteers in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Thompson, the City Council of the City of Kearney, Nebraska hereby finds and determines that said persons listed are fully capable and qualified to serve a membership in the Kearney Volunteer Fire Department; and

WHEREAS, in order to be qualified for benefits in accordance with Sections 48-115, et seq. of the Nebraska Revised Statutes, said volunteer firefighters acting outside the corporate limits of the City must be officially directed to do so in order to be eligible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that those persons recommended by the Chief of the Kearney Volunteer Fire Department for membership in the Kearney Volunteer Fire Department as set forth on the attached letter of recommendation, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby confirmed as members of the Kearney Volunteer Fire Department for the purposes of and in accordance with Section 48-115 of the Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

BE IT FURTHER RESOLVED that all of said volunteer firefighters named on Exhibit "A" are hereby specifically authorized and directed to serve outside the corporate limits of the municipality under the direction, orders and authority of the Chief of the Kearney Volunteer Fire Department in accordance with Section 4-204 of the Kearney City Code.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Repeal Resolution No. 2008-225 and accept a Permanent Hike and Bike Trail Easement of the following: TRACT A – The Evangelical Lutheran Good Samaritan Society for a tract of land being the north 20.0 feet of Lot 2, Prairie View Gardens, an addition to the City of Kearney, Buffalo County, Nebraska; TRACT B – Lighthouse Point Subdivision Homeowners Association for a tract of land being a 20.0 foot strip of land being part of Lot 5 of Block 1, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska and approve **Resolution No. 2009-5.**

RESOLUTION NO. 2009-5

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisitions by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council held a public hearing on December 23, 2008 upon

the proposed acquisitions for Permanent Hike and Bike Trail Easements and voted in favor to proceed with the acquisitions; and

WHEREAS, the Buffalo County Register of Deeds found an error in the legal description that will need to be corrected; therefore, necessitating the need to repeal Resolution No. 2008-225.

WHEREAS, the Lighthouse Point Subdivision Homeowners Association, Inc. has granted to the City of Kearney, Nebraska a Permanent Hike and Bike Trail Easement for a tract of land being a 20.0 foot strip of land being part of Lot 5 of Block 1, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska, with the centerline of said 20.0 foot strip of land more particularly described as follows: referring to the northeast corner of Lot 5 of Block 1 in said Lighthouse Point and assuming the north line of said Lot 5 of Block 1 as bearing S89°26'19"W and all bearings contained herein are relative thereto; thence S89°26'19"W and on said north line a distance of 449.77 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the centerline of said 20.0 foot strip of land; thence S15°32'07"E a distance of 30.21 feet; thence S71°15'29"E a distance of 162.29 feet; thence S66°19'29"E a distance of 134.28 feet; thence S59°34'16"E a distance of 108.92 feet to the point of curvature; thence on a 150.0 foot radius curve to the right, forming a central angle of 46°55'41" a distance of 122.86 feet to a point on the east line of said Lot 5 of Block 1 and the point of termination, said point of termination being 291.25 feet southerly of the northeast corner of said Lot 5 of Block 1, Lighthouse Point, an 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 Resolution No. 2008-225 passed and approved on the 23rd day of December, 2008 be and is hereby repealed.

BE IT FURTHER RESOLVED the Permanent Hike and Bike Trail Easement granted by the Lighthouse Point Subdivision Homeowners Association, Inc. to the City of Kearney, Nebraska for a tract of land being a 20.0 foot strip of land being part of Lot 5 of Block 1, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska, with the centerline of said 20.0 foot strip of land more particularly described as follows: referring to the northeast corner of Lot 5 of Block 1 in said Lighthouse Point and assuming the north line of said Lot 5 of Block 1 as bearing S89°26'19"W and all bearings contained herein are relative thereto; thence S89°26'19"W and on said north line a distance of 449.77 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the centerline of said 20.0 foot strip of land; thence S15°32'07"E a distance of 30.21 feet; thence S71°15'29"E a distance of 162.29 feet; thence S66°19'29"E a distance of 134.28 feet; thence S59°34'16"E a distance of 108.92 feet to the point of curvature; thence on a 150.0 foot radius curve to the right, forming a central angle of 46°55'41" a distance of 122.86 feet to a point on the east line of said Lot 5 of Block 1 and the point of termination, said point of termination being 291.25 feet southerly of the northeast corner of said Lot 5 of Block 1, Lighthouse Point, an addition to the City of Kearney, Buffalo County, Nebraska, be and is hereby accepted and approved.

BE IT FURTHER RESOLVED the Permanent Hike and Bike Trail Easement granted by The Evangelical Lutheran Good Samaritan Society to the City of Kearney, Nebraska for a tract of land being the north 20.0 feet of Lot 2, Prairie View Gardens, an addition to the City of Kearney, Buffalo County, Nebraska, be and is hereby accepted and approved.

BE IT FURTHER RESOLVED that a certified copy of this Resolution and the

Easements be filed on record in the Office of the Register of Deeds of Buffalo County, Nebraska.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve Application and Certificate for Payment No. 6 in the amount of \$39,229.20 submitted by Paulsen, Inc. and approved by Kirkham Michael for the construction of the Airport Road Relocation Project and approve **Resolution No. 2009-6**.

RESOLUTION NO. 2009-6

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the construction of the Airport Road Relocation Project, and the City's engineer, Kirkham Michael, have filed with the City Clerk Application and Certificate for Payment No. 6 in the amount of \$39,229.20 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$1,501,718.55</u>
Contract Sum to Date	1,501,718.55
Total Completed and Stored to Date	1,083,202.60
Retainage	108,320.26
Amount Due to Date	974,882.34
Less Previous Certificates for Payment	<u>935,653.14</u>
Current Payment Due	\$ 39,229.20

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. 6, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the recommendation from the Police Department on the purchase of five patrol vehicles from Tincher Ford and Mercury from Plattsmouth, Nebraska in the amount of \$124,730.00.

10. Approve the Certificate of Substantial Completion submitted by Starostka Group and approved by Miller & Associates for the Northwest Well Field Improvements; Phase II – Water Transmission Main and approve **Resolution No. 2009-7**.

RESOLUTION NO. 2009-7

WHEREAS, Starostka Group Unlimited of Grand Island, Nebraska has

performed services in connection with the Northwest Well Field Improvements; Phase II – Water Transmission Main, and the City's engineer, Miller & Associates, have filed with the City Clerk the Certificate of Substantial Completion certifying the work is completed as of December 19, 2008 as shown on Exhibit "A", attached hereto and made a part hereof by reference:

Original Contract Sum	\$4,098,297.20
No Change Orders	
Contract Sum To Date	\$4,098,297.20

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Accept the report from the City Clerk on the sufficiency of objection/protest filed in connection with Paving Improvement District No. 2008-934 for 18th Street from 8th Avenue to 9th Avenue.

12. Approve the Stipulation of Settlement Agreement between the City of Kearney and Bart and Darla Langenberg in connection with the 2007 Part II Improvements – 39th Street and 2nd Avenue Traffic Signalization and Turn Lane Improvements Project and approve **Resolution No. 2009-8**.

RESOLUTION NO. 2009-8

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Stipulation of Settlement Agreement in connection with the 2007 Part II Improvements – 39th Street and 2nd Avenue Traffic Signalization and Turn Lane Improvements Project be and is hereby accepted and that the City Manager be and is hereby authorized and directed to execute the said Agreement on behalf of the City of Kearney. The Stipulation of Settlement Agreement, marked as Exhibit "A" is attached hereto and made a part hereof.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7501 – REPEAL ORDINANCE NO. 7497 (PERTAINS TO CONSENT AGENDA ITEM NO. 11)

The City received a letter from a property owner requesting paving of 18th Street from 8th Avenue to 9th Avenue. On December 23, 2008 the City Council passed and approved Ordinance No. 7497 creating Paving Improvement District No. 2008-934 for said street.

Administration received written objections from the majority property owners within the proposed district. It appears there is approximately 600.8 feet of assessable footage with 450.6 feet in objection to the creation of the district which represents 75 percent. Section 16-620 of the Nebraska Revised Statutes states "If the owners of the record title representing more than fifty percent of the front footage of the property abutting or adjoining and continuous or extended street, cul-de-sac, or alley of the district, or portion thereof which is closed at one end, and who were such owners at the time the ordinance creating the district was published, shall file with the city clerk, within twenty days from the first publication of said notice, written objections to the improvements of a district, said work shall not be done in said district under said ordinance, but said ordinance shall be repealed." Since the objection for the district does represent more than fifty percent, the district will need to be repealed. Attached is an ordinance repealing the district.

Council Member Lammers introduced Ordinance No. 7501, being Subsection 1 of Agenda Item V to repeal Ordinance No. 7497 creating Paving Improvement District No. 2008-934 for 18th Street from 8th Avenue to 9th Avenue, 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 Lear 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, Kearney, Buschkoetter, Lear, Lammers. 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. 7501 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7501 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7501 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.

VI. REGULAR AGENDA

ANNUAL FINANCIAL REPORT

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller.

Mary Kalb from McDermott & Miller presented this matter to the Council. She provided the following overview and analysis of the financial activities of the City of Kearney for the fiscal year ended September 30, 2008:

- The assets of the City of Kearney exceeded its liabilities at the close of the most recent fiscal year by \$140,028,705 (net assets). Of this amount, \$21,858,001 (unrestricted net assets) may be used to meet the City's ongoing obligations to citizens and creditors in accordance with the City's fund designation and fiscal policies.
- The City of Kearney's total net assets increased by \$5,478,182 in comparison with the prior year.
- As of the close of the current fiscal year, the City of Kearney's governmental funds reported combined ending fund balances of \$14,301,655, an increase of \$2,079,750 in comparison with the prior year. Over 80 percent of this total amount, \$11,503,737 is available for use within the City's designations and policies.
- At the end of the current fiscal year, unreserved fund balance for the general fund was \$5,469,474 or 38.6 percent of total general fund expenditures.
- The City of Kearney's total debt increased by \$4,752,306 or 11.98 percent during the current fiscal year.

Moved by Buschkoetter seconded by Clouse to accept the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION OF INTENT TO ANNEX EAST HIGHWAY 30 PROPERTY

Mayor Clouse opened for discussion Resolution No. 2009-9 on the intent to annex the following tracts of land: a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the South 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of

the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (located north of East Highway 30 between Antelope Avenue and Cherry Avenue) and to set the public hearing date for February 10, 2009 at 7:00 p.m.

City Manager Michael Morgan presented this matter to the Council. The City of Kearney has received three agreements from property owners favoring the annexation of their properties adjacent to the Kearney city limits extending generally east of Antelope Avenue along Highway 30 to approximately Cherry Avenue. The Council accepted those agreements on December 23, 2008. City staff and representatives of Morris Press have exchanged information and the final negotiations are underway.

Section 16-117 of the Nebraska Revised Statutes provides for the process of annexation. This matter was first considered at a public hearing before the Planning Commission at their meeting held on January 16, 2009 and was unanimously approved (Minutes attached). The second action in this process is for the City Council to consider passing a resolution stating its intent to annex, approve an annexation plan, and to set a public hearing for comment on the proposed annexation before the City Council. The area in question is either served or can be served by city utilities. Accordingly, additional utility improvements will not be required. However, as conditions warrant, the City of Kearney will construct to city standards a new road between Morris Press and Kearney Implement. The estimated cost for the road is \$80,000.

Moved by Clouse seconded by Kearney to approve **Resolution No. 2009-9** on the intent to annex the following tracts of land: a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the South 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (located north of East Highway 30 between Antelope Avenue and Cherry Avenue) and to set the public hearing date for February 10, 2009 at 7:00 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-9

WHEREAS, the City of Kearney, Nebraska in accordance with Section 16-117 of the Nebraska Revised Statutes is considering the annexation of contiguous or adjacent lands, lots, tracts, streets or highway as are urban or suburban in character and a plan for extending city services to the following described tracts of land:

A tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the West Quarter corner of said Section 32; thence southerly on the west line of said Section 32 a distance of 133.9 feet to the place of beginning; thence continuing southerly on and along the west line of said Section 32 a distance of 953.3 feet to a point on the north right-of-way line of the Union Pacific Railroad; thence with a deflection angle to the left of $106^{\circ}43'30''$ and on and along the aforesaid north right-of-way line a distance of 1753.0 feet to a point; thence left $73^{\circ}27'$ a distance of 952.3 feet to a point; thence left $106^{\circ}33'$ a distance of 1749.6 feet to the place of beginning; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the West Quarter corner of said Section 32; thence southerly on the west line of said Section 32 a distance of 1087.2 feet to a point on the north right-of-way line of the Union Pacific Railroad; thence with a deflection angle to the left of $106^{\circ}43'30''$ and on and along the aforesaid north right-of-way line a distance of 1753.0 feet to the place of beginning; thence continuing on and along the aforesaid course a distance of 1012.1 feet to a point on the North-South Quarter Section line of said Section 32; thence left $73^{\circ}32'$ and on and along the aforesaid North-South Quarter Section line a distance of 952.0 feet to a point; thence left $106^{\circ}28'$ a distance of 1011.1 feet to a point; thence left $73^{\circ}27'$ a distance of 952.3 feet to the place of beginning, EXCEPT the part thereof deeded to the State of Nebraska for highway purposes on May 28, 1976 and described on Film Roll 76, Page 2628 of the real estate deed records of Buffalo County, Nebraska, in the office of the Register of Deeds thereof, AND EXCEPT all that part now known as Vantage Industrial Park (being Lots 1 and 2 and Box Butte Drive), AND EXCEPT all that part now known as Vantage Industrial Park Second (being Lot 1 and Box Butte Drive), AND EXCEPT a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northeast corner of the Southwest Quarter of said Section 32; thence southerly on the east line of said Southwest Quarter a distance of 221.5 feet to a point that intersects on the north right-of-way line of U.S. Highway No. 30; thence westerly and on the aforesaid north right-of-way line a distance of 590.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being the southwesterly corner of Vantage Industrial Park, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence continuing westerly on the aforesaid north right-of-way line of U.S. Highway No. 30 a

distance of 520.0 feet; thence northerly at right angles a distance of 844.65 feet; thence with a deflection angle to the right of $89^{\circ}47'42''$ and in an easterly direction a distance of 520.0 feet to a point, said point being the northwesterly corner of Vantage Industrial Park Second, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence southerly on the westerly line of Vantage Industrial Park Second and Vantage Industrial Park a distance of 846.03 feet to the place of beginning, containing 10.09 acres, more or less, all in Buffalo County, Nebraska.

AND

A tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northeast corner of the Southwest Quarter of said Section 32; thence southerly on the east line of said Southwest Quarter a distance of 221.5 feet to a point that intersects on the north right-of-way line of U.S. Highway No. 30; thence westerly and on the aforesaid north right-of-way line a distance of 590.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being the southwesterly corner of Vantage Industrial Park, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence continuing westerly on the aforesaid north right-of-way line of U.S. Highway No. 30 a distance of 520.0 feet; thence northerly at right angles a distance of 844.65 feet; thence with a deflection angle to the right of $89^{\circ}47'42''$ and in an easterly direction a distance of 520.0 feet to a point, said point being the northwesterly corner of Vantage Industrial Park Second, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; thence southerly on the westerly line of Vantage Industrial Park Second and Vantage Industrial Park a distance of 846.03 feet to the place of beginning, all in Buffalo County, Nebraska.

AND

Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P. M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, EXCEPTING THEREFROM that part of Lot 1, Vantage Industrial Park Addition, more particularly described as follows: Beginning at the southeast corner of said Lot 1 and assuming the east line of said lot as bearing north and all bearings contained herein are relative thereto; thence north on the east line of said Lot 1 a distance of 239.52 feet; thence $S73^{\circ}47'18''W$ a distance of 276.87 feet; thence $S16^{\circ}12'42''E$ a distance of 230.0 feet to a point on the south line of said Lot 1 in said subdivision; thence $N73^{\circ}47'18''E$ and on the aforesaid south line a distance of 210.0 feet to the place of beginning, all in Buffalo County, Nebraska.

AND

A tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska with that part of Lot 1 more particularly described as follows: beginning at the southeast corner of said Lot 1 and assuming the east line of said lot as bearing north and all bearings contained herein are relative thereto; thence north on the east line of said Lot 1 a distance of 239.52 feet; thence S73°47'18"W a distance of 276.87 feet; thence S16°12'42"E a distance of 230.0 feet to a point on the south line of said Lot 1 in said subdivision; thence N73°47'18"E and on the aforesaid south line a distance of 210.0 feet to the place of beginning, all in Buffalo County, Nebraska.

AND

The south 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter described as follows: Commencing at the northwest corner of said Southeast Quarter, and running thence south on the half section line, 288.6 feet to the north boundary of the Union Pacific Railroad right-of-way, thence running northeasterly along said Railroad right-of-way, 999.5 feet to the half section line; thence running west on said half section line 958.2 feet to the place of beginning, all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, EXCEPT the Union Pacific Railroad right-of-way AND EXCEPT that part deeded to the State of Nebraska, by Deed recorded on Roll 76, Page 4658.

WHEREAS, the City Council will conduct a public hearing on February 10, 2009 or as soon thereafter as the matter may be heard to receive testimony from all interested parties and/or individuals; and

WHEREAS, the plan outlining the City services, including but not limited to: (a) water, sanitary sewer, storm sewer, refuse collection, are currently being provided and maintained by the City of Kearney and no additional utility improvements will be required; and (b) a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City and the general land use pattern in the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that a plan outlining the City services available to the above-described properties, together with a map showing the current boundaries of the City, a map showing the proposed boundaries of the City after annexation, and a map showing the general land use pattern in the land proposed for annexation is hereby adopted and approved and shall be available for inspection during regular business hours in the office of the City Clerk.

BE IT FURTHER RESOLVED that a public hearing on the proposed annexation shall be held at 7:00 p.m. on February 10, 2009, or as soon thereafter as the matter may be heard, in the City Council Chambers located at City Hall, 18 East 22nd Street, Kearney, Nebraska to receive testimony from all interested parties and/or individuals.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to publish in the *Kearney Hub* at least once, not less than ten days preceding the date of the public hearing, a copy of this Resolution and a map drawn to scale delineating the land proposed for annexation.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to send by first-class mail, a copy of the resolution providing for the public hearing to the school board of the school district including the lands proposed for annexation.

PASSED AND APPROVED THIS 27TH DAY OF JANUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ONE & SIX YEAR STREET IMPROVEMENT PLAN

Mayor Clouse opened for discussion the One & Six Year Street Improvement Plan and set the public hearing for February 10, 2009 to adopt the One & Six Year Street Improvement Plan.

City Engineer Bruce Grupe presented this matter to the Council. The Nebraska Department of Roads (DOR) annually requires the City of Kearney to submit One and Six Year Plans for street improvements. City staff is preparing the plans and is now at the stage for soliciting input from the City Council and the community. The proposed plan is presented at one meeting to give the City Council and community time to review it and propose changes prior to adopting the Plan following the public hearing on February 10, 2009.

City Engineer stated on the One Year Plan, the Department of Roads will be starting to do some of the repairs on 25th Street as stated in the agreement between the City and the State. There are two projects that are within the City limits but are being done in conjunction with the County. The reason they appear on the One Year Plan is that the County will be paving 11th Street from Avenue M east to Cherry Avenue and starting on the grading this year and following up in 2010 with paving on 56th Street to Airport Road.

There is a developer requested project for paving on 4th Avenue and 4th Street. They have actually started the ground work for this district and the paving is scheduled to be completed around July 2009. There are four other developer requested districts to be completed. This work will basically extend 48th Street from 6th Avenue to 11th Avenue and three short half blocks associated off the side of that. There are three that are infrastructure work in the Stoneridge Subdivision started this year in the Avenue K and Avenue I area north of 56th Street. The 18th Street gravel district was just repealed and will be removed from the list due to protest from the majority of the property owners.

City Engineer highlighted some of the repairs to be done that do not show up on the One and Six Year Plans. The first is the 5th Avenue asphalt overlay from 13th Street to 25th Street which will begin this summer. The design plans for this project will be brought to the Council in late February. There are also plans to do some in-house concrete repairs on 29th Street and 9th Avenue and to some downtown alley repairs. The CRA has recently approved funds for an alley district between 25th Street and 26th Street from Avenue A to Avenue B which will soon be brought to the Council for approval. They will be applying for more CRA grant funds that can be expended in

2010, 2011 and 2012. The City will be spending \$3 million to \$4 million on new streets and street improvements this next year.

City Engineer also highlighted some of the big projects on the Six Year Plan. The Cherry Avenue Interchange is coming up and the 1st Street from Cherry Avenue west to pick up the Archway Road which is scheduled to start in 2010. The State still has a couple of hurdles to overcome with Federal Highway Department, but he believes they will be successful. The 39th Street from Pony Express to Avenue M project is a section that carries a lot of traffic and is degraded now and will continue to be with this amount of traffic. This will be a total resurfacing which is slated to be done in 2010.

Mayor Clouse stated he had talked to the City Manager about taking a look at the south Central Avenue which is also on this Six Year Plan. City Engineer stated they have been looking at this area and possibly to be able to use some CRA funding in that Old Towne area. City Manager stated what has been unusual for the past few years, the One and Six Year Street Plan is really tied to a fiscal plan that will come before the Council in a couple of weeks. In the past, there were items listed that were hopeful to be done, but not necessarily funded. They are trying to list projects that will be possible to be funded if approved. There are some large costs associated with Central Avenue improvements. This project's time has come and that will be the next significant project besides the 39th Street corridor that will be started in the next few years. City Engineer stated this project refers to the Central Avenue Project where the intent is to improve Central Avenue south of 11th Street which includes installing a larger storm sewer system and going across the railroad tracks to allow a better drainage system. There is also a leg of Central Avenue north of 25th Street which is in dire need of repairs. These projects are subject to priority and if funding is available.

Mayor Clouse asked if the gravel block that was petitioned out in southwest Kearney is the only block that is left. City Engineer stated that is not the only block, but the only one they received a request to pave. There are four or five blocks of graveled streets remaining.

Council member Lear asked about University Drive and 29th Street which he did not see on the list. City Engineer stated that on the One Year Plan, it is mentioned that the City would be doing some in-house repairs which would be the 29th Street from 9th Avenue to Lakeview Drive and that area.

Council member Lammers asked about possibly doing an overlay north of the Courthouse between Central Avenue and 2nd Avenue. City Engineer stated they had not considered an overlay, but City staff had talked about doing some repairs in the spring similar to what was done on 5th Avenue. Director of Public Works Rod Wiederspan stated that funds are tight as far as getting 5th Avenue lanes replaced and the one north of the Courthouse will probably be done the following year. If they have enough money left over this year, they will go ahead and do it.

City Manager Michael Morgan stated that once the Council sees the financing plan, they can start prioritizing projects based on what they see with the sales tax plan and other documents. It is a little confusing because the One and Six Year plan is really intended for new construction, large projects or major overhauls, not for maintenance project.

Even though a maintenance project may cost as much as some of these major projects, they do not make this list based on criteria.

The following are the proposed 2009 One and Six Year Plans. The proposed plans incorporate street improvements from the previous Six Year Plan, various new improvements related to community development needs, and other street/reconstruction needs.

SUMMARY OF ONE YEAR PLAN					
2009					
		As of	01/23/09		
Project Number	Location	Type	Est. State Cost	Est. City Cost	Est. Total Cost
143	25th Street (Highway 30) from Avenue B to Avenue E 1100'	Upgrade	\$875,000	\$175,000	\$1,050,000
170	39th Street and 17th Avenue Intersection (turn lanes)	Upgrade		\$305,000	\$305,000
446	11th Street from Avenue M east 1500'	Upgrade	\$1,250,000	\$0	\$1,250,000
447	25th Street from Avenue I to Avenue L 600'	Upgrade	\$500,000	\$100,000	\$600,000
474	56th Street from 100' east of Avenue Q east 1600'	Upgrade	\$1,250,000	\$0	\$1,250,000
496	4th Avenue from 306' north of 4th Street to 8th Street 933'	Development		\$203,000	\$203,000
497	4th Street from 6th Avenue west 786'	Development		\$209,000	\$209,000
498	48th Street from 6th Avenue to 11th Avenue 1570'	Development		\$550,000	\$550,000
499	10th Avenue Place from 48th Street south 200' cul-de-sac	Development		\$70,000	\$70,000
500	11th Avenue from 48th Street south 220'	Development		\$80,000	\$80,000
501	10th Avenue from 48th Street north 190'	Development		\$70,000	\$70,000
502	18th Street from 8th Avenue to 9th Avenue 304'	Upgrade		\$100,000	\$100,000
503	Avenue K from 56th Street to 160' north of Eastbrooke Drive 1885'	Development		\$660,000	\$660,000
504	Avenue I from Avenue K north 930' to Avenue K 930'	Development		\$330,000	\$330,000
505	Eastbrooke Drive from Avenue K east to 160' west of Avenue L 160'	Development		\$60,000	\$60,000
TOTAL			\$3,875,000	\$2,912,000	\$6,787,000

SUMMARY OF SIX YEAR PLAN					
2009-2015					
				As of	01/23/09
Project Number	Location	Type	Est. State Cost	Est. City Cost	Est. Total Cost
268	Cherry Avenue Interstate Interchange & Cherry Avenue to Glenwood	Development	\$40,000,000	\$7,300,000	\$47,300,000
407	17th Avenue from 49th Street north 600'	Development		\$784,000	\$784,000
410	39th Street from Avenue F to Avenue M 1700'	Reconstruction		\$1,843,000	\$1,843,000
411	39th Street from Pony Express to Avenue F 2100'	Reconstruction		\$2,236,000	\$2,236,000
426	56th Street from 2nd Avenue west to 4th Avenue	Upgrade		\$570,000	\$570,000
427	Central Avenue from 12th Street to 16th Street	Upgrade		\$2,608,000	\$2,608,000
428	30th Avenue from 39th Street north 2640'	Upgrade		\$1,710,000	\$1,710,000
431	Central Avenue from 26th Street to 31st Street	Upgrade		\$1,420,000	\$1,420,000
432	Central Avenue from 16th Street to 18th Street	Upgrade		\$1,394,000	\$1,394,000
433	18th Street from Central Avenue to 1st Avenue	Upgrade		\$627,000	\$627,000
434	1st Avenue from 18th Street to South Railroad Street	Upgrade		\$1,424,000	\$1,424,000
435	Avenue M from 11th Street south 500'	Upgrade		\$572,000	\$572,000
461	South Central Avenue curbs and sidewalks	Development		\$700,000	\$700,000
472	Country Club Lane from 520' north of 35th Street to 39th Street 800'	Development		\$976,000	\$976,000
495	1st Street from Cherry Avenue west 2700'	Development		Cost included in #268	
506	8th Street from 2nd Avenue to 3rd Avenue	Upgrade	0	\$493,000	\$493,000
507	2nd Avenue, 25th Street to 32nd Street	Upgrade	\$700,000	\$700,000	\$1,400,000
508	50th Street from 17th Avenue west 550'	Upgrade		\$489,000	\$489,000
509	39th Street from 30th Avenue west 5700'	Upgrade		\$1,634,000	\$1,634,000
510	56th Street from Cherry Avenue to Airport Terminal 4000'	Upgrade		\$1,990,000	\$1,990,000
TOTAL			\$40,700,000	\$29,470,000	\$70,170,000

Moved by Kearney seconded by Lammers to set the public hearing for February 10, 2009 to adopt the One & Six Year Street Improvement Plan. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

TRAFFIC CONCERNS AT 35TH STREET AND AVENUE A

Mayor Clouse opened for discussion the request to place 3 or 4-way stop sign located at 35th Street and Avenue A and parking concerns adjacent to the Kearney Catholic High School

Because of a conflict of interest, Council member Lear vacated his seat and abstained from discussions and voting.

City Engineer Bruce Grupe presented this matter. The intersection of 31st Street and Avenue A is currently controlled by stop signs controlling the east bound and west bound traffic. The City has done a study and spent a lot of time looking at it and took into consideration the warrants and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD). Traffic volumes on the major street (Avenue A) and the minor street (35th Street) were monitored. An average of how long each vehicle is delayed in trying to cross the intersection was calculated. In order to justify a stop sign based on delay time, they need an average delay time of about 30 seconds. They saw an average of about six seconds delay for an hour. They looked at the action in history which they look at very seriously. To justify the installation of the stop sign there must be at least eight traffic accidents that they believe the stop sign would prevent. They found history of one accident in the past three years that it would have prevented. That is an indication that the intersection is operating fairly well as it is. The study also looks for a sight distance problems. The sight distance is adequate for the current situation. In summary, the multiway stop control is not required.

Mayor Clouse commented that under sight considerations he read that City staff worked with Kearney Catholic approximately four years ago to improve sight at the intersection. City Engineer stated there was not adequate sight distance if a vehicle was waiting westbound to pull out and looking to the north there were some parking stalls there that were being utilized by the public which were blocking some of the vision. The City had talked to the high school which had no problem with removing three of the parking stalls to improve visibility. The City has looked at this intersection several times. They recently took a look at it after they opened 39th Street and the signal was put up on 39th Street and Avenue A, but it was good to look at it again.

City Engineer also stated there is a 20 mile speed zone from 7:00 a.m. to 4:00 p.m. so the speed is reduced through this intersection. They counted the actual traffic for a 3-day period with mechanical counters to see what the peak traffic times were. They followed up with the delay study, looking at the highest traffic hours. Mayor Clouse asked if he was satisfied with the sampling times they took over the three days, taking into consideration school times and hospital traffic. City Engineer stated that they watched the intersection in the 8:00 a.m. range and the 3:30–4:00 p.m. range which were the highest periods they could find and met the requirement by the MUTCD.

City Manager Michael Morgan said the Manual on Uniform Traffic Control Devices is used most anywhere you go in the United States to determine traffic control to insure uniformity. Another interesting point in the manual is that when traffic control devices are installed that are not warranted, the City assumes all liability that is associated with that device. If there is an incident involving a device that is not warranted, the City would be liable for failing to comply with the manual.

Don Frost, 3603 Avenue C, stated he wanted to present the concerns that he and his neighbors have regarding this intersection. A person cannot see anything coming from the north when you are sitting at the stop sign. He believed that every time someone pulls out from the stop sign, they are taking a chance and that one day someone is going to get seriously hurt. There are times when a Cash-Wa truck or SUVs are parked on the north making a delivery and you cannot see around it. He believed that putting a stop sign there would slow that traffic down even more because people do not slow down to the 20 mph in that speed limit zone. The police do not patrol it like they do the Kearney High and Horizon Middle School. He believed that without police to enforce the speed zone in the area that it is dangerous to cross the street or especially the elderly pulling out there.

Mr. Frost stated he was referred by the City Manager to the City Engineer who did a study in the summer when school was not in session. City Manager stated that Mr. Frost requested the study through an Access Kearney report this year and submitted a petition and then the traffic was studied during an appropriate time.

Mayor Clouse asked about the line of sight on the north. City Engineer stated that is the area that he looked at. In that case, they use a different manual, ASHTO, which is a design manual for geometrics which is produced by the Federal Highway Department. The manual makes two suggestions: one for braking distance and another for efficient operation of the intersection and the sight distance at the intersection meet both of those. Mayor Clouse stated that the speed might be more of a problem. Mr. Frost stated the speed and you cannot see past the cars. A vehicle creeps out into the intersection and hope that nobody is coming. His request is only for a 3-way stop sign so that they would have to stop coming from the north. He did not believe that widening the street helped at all.

Mayor Clouse stated he would be reluctant to add the stop sign because of the findings of the study process that the City goes through and the liability of adding a stop sign that does not meet warrant requirements. There were some things in that area they could take a look at doing. He suggested since the Cash-Wa vehicle is a concern perhaps that could be dealt with by talking with Kearney Catholic about it or by eliminating more parking spaces.

Council member Lammers stated it would make more sense to monitor that area with Police force during their peak hours and make sure that the speed is coming down to 20 mph. There has only been one accident over a long period of time. He has driven that street many times and understands Mr. Frost's concerns, but he did not believe that it is as hazardous as being presented.

Mr. Frost stated there is a 4-way stop sign by Northeast School, a stop light at 5th Avenue and 16th Street by Kenwood School, and 4-way stop signs at most every school in Kearney. He did not see the difference in those schools and Kearney Catholic. Vehicles are coming off 39th Street which is one of the busiest streets in Kearney past this school.

Council member Buschkoetter stated that his 16 year old daughter is a student at

Kearney Catholic and drives by this intersection everyday. He is very concerned about the safety in that area and has dropped her off in that area over the past four years. He does not perceive that intersection to be as dangerous as Mr. Frost presented. His biggest concern is if the City assumes that liability and then someone runs that stop sign which is not warranted, the City of Kearney gets sued for a few million dollars which would prevent the City from doing what we need to do with its budget.

City Manager stated that they could provide more police enforcement in the area, see what results come from the Police Department and, if necessary, they can do a speed study. The City needs to make sure what those numbers are and see if there is something unique about that area. The results would be reported back to the Council and Mr. Frost.

Moved by Clouse seconded by Kearney to table any action on this matter until further notice. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear abstained. Motion carried.

ORDINANCE NO. 7502 – REPEAL SECTION 8-1901 “CARRYING CONCEALED WEAPONS”

City Attorney Michael Tye presented this matter to the Council. He previously provided the Council members with a memo about the most recent developments regarding concealed weapons and a copy of the memo he provided in 2006 on concealed carry. The Nebraska Attorney General recently issued an Attorney General’s opinion on concealed carry. Senator Mark Christensen asked the Attorney General to issue an opinion on the question whether or not the State Statute as it was passed on concealed carry preempted local municipality governments from being able to have bans on the carrying of concealed weapons. The Attorney General’s opinion indicates that he believes that the State Statute does preempt that authority. Typically, for a state statute to preempt the local authority, that sort of language is placed in the law itself. The Unicameral would be indicating that it is their intent that statute would preempt. That sort of language is not contained in the concealed carry statute.

The Attorney General looked at the overall regulatory authority or what the Unicameral was intending to do. He is implying that it was the intention of the Legislature to essentially regulate within the entire field their references to this applying across the entire state. It is his opinion that implies preemption. The Attorney General’s opinion is advisory in nature, but does not have the force of law. In order for this issue to be clarified with the force of law, it would require an act of either the Legislature to clarify this issue or a determination by Court. Those are the only two options that would have the force of law.

The Attorney General’s opinion does raise questions. It brings up the question of whether or not municipalities, such as Kearney, have the authority to regulate the carrying of concealed weapons. Kearney has had an ordinance banning concealed weapons for a number of years (50+ years). This issue was discussed in 2006 when this statute was originally passed. There were a couple of public hearings and citizens requested that this issue be discussed. After a couple of public hearings and a lot of citizen input, the Council chose not to act and to leave the ordinance in place.

The primary concerns that staff has about concealed weapons deals primarily with additional risk to law enforcement. A big concern for the City is that law enforcement is safe in doing their job. There have been a lot of questions raised about people who want to comply with the law and would like to apply and have a permit to carry a concealed weapon. These citizens may be confused about what the affect of the Attorney General's opinion is on this area of the law. However, they want to comply both with the state law and the law of the various communities regulating that concealed carry.

The other concern that this issue raises is the issue of litigation. He expected there could be a situation when this issue is litigated. Due to the Attorney General issuing his opinion decides that is a basis to try to clarify it through the court process. That could subject the City of Kearney to that potential litigation. The state statute has been in place since January 2007. The State Patrol has been charged with the duty of setting up the training mechanism and issuing the permits. The State Patrol has been issuing permits pursuant to the statute. There are approximately 4,700 permits that have been issued to residents statewide to carry concealed weapons. There are limitations and certain facilities (courthouses, schools, jails, banks, etc.). Businesses do have the ability to post their business if they do not want people to carry a concealed weapon into their premises.

Council member Lammers stated that in the Attorney General's opinion, he cited a number of cases in support of his premise that state law takes precedence over city ordinances. He asked the City Attorney if he believed the Attorney General had a strong case. City Attorney replied the state attorney cited a lot of broad case law that stands for the proposition of the hierarchy of law that essentially indicates that state law would overrule a local ordinance if there is some sort of conflict. This is a pretty well settled law. There are some conflicting provisions out there as to what the Unicameral intended to do with the statute. There is legislative history in the debates of this statute on questions being raised about whether it would preempt or not. There was some suggestion that some Senators believed that it does not preempt local authority. Ultimately, this is the Attorney General's view of what he believes the law is and what the Unicameral's intent was by passing this statute. It would ultimately be up to a court or the Unicameral itself to clarify from there.

Council member Lammers asked about the restrictions and qualification for obtaining a permit. City Attorney explained that a person with a felony conviction cannot obtain a concealed carry permit. The State Patrol has a testing process that must be completed and passed to obtain the permit which is part of the state statute.

Mayor Clouse stated that the Council's course of action is to (1) contest the Attorney General's ruling by litigation, (2) moving that through the Legislature or (3) changing our ordinance and moving on. City Attorney believed that the option is to leave the City's ordinance as it is which opens the possibility for it to be challenged. The other option is to repeal the City's ordinance and the state statute would govern the issue of concealed carry. Another option is to table it and talk to citizens before going further. The ordinance could be modified in some way. There are some cities that do not have complete bans, but only restrictions as to locations. The City could post a sign saying

no concealed weapons allowed on City properties, such as a park and other City facilities.

City Manager Michael Morgan stated the opinion discusses that the act was intended for citizens to have the ability after meeting certain conditions to carry concealed guns throughout the state with certain exceptions. It did not list as an exception, cities that have ordinances that restrict it. This is the basis for the legal argument. As he understood it, the Attorney General has asked for a plaintiff to come forward to test this case. When he discussed this with the League of Municipalities, there were a lot of questions about what efforts should be made. Since that time, several cities have repealed their ordinances.

City Manager stated as we look back on the discussion two years ago, it was thought there would be an overwhelming number of requests for permits (approximately 25,000). We now have more information than we did two years ago and only have 4,700 permits issued in this time. He believed that if the Attorney General was fairly specific. If they wanted the cities to have that ability, they could have just said so and they did not. In talking with Chief Lynch, the City has not had an arrest or citation given for this. The question is if it were to happen, what legally can the City do with it and would it place us in litigation. He believed that someone in the Legislature will be following up on this item from what they have been told.

Mayor Clouse stated the tobacco laws, the seat belt laws, alcohol laws and concealed carry are all managed at the statewide level. He did not believe our community necessarily needs to have the type of ordinance on the books that does not really improve the safety of law enforcement, potentially creates situations where law abiding citizens are now in violation of the law. He also believed that it is just matter of time until the City would be involved in litigation. He suggested that the ordinance be repealed.

Council member Kearney stated the citizens elected the Attorney General for the State of Nebraska. After reading his opinion very carefully, he would hate to be the one going to court and spending the money to defend what we have been told is contrary to the intent of the Legislature. He would not encourage the City to go it alone at this time and would find it difficult to do that.

Council member Lammers stated he is not terribly in favor for removing the ban on concealed carry of weapons in Kearney. However, after reading the Attorney General's Opinion closely and looking at the cases he cited, he believed he presented a strong case. Based on that information, he would have to vote to repeal the City ordinance.

Council member Buschkoetter stated he believed there is a real lack of the preemption language with the law itself. He read the stories going back from the Associated Press on line, there were eight senators who were quoted as saying they were more comfortable with this because cities did have the right to preemption. He did not believe that we are more likely to have litigation than we were two years ago when we first addressed this issue. The only thing that has changed is the opinion of a man who would very much like to be our next governor, senator, etc. and is trying to make some political hay in making this decision. This issue was debated in the State Legislature and

the state legislators did not put that in their language and the lack of that language was intentional to help get it passed in the first place. State Senators did believe that cities did have the right to preempt. The vast majority of the laws that are passed by our State Legislature put standard paragraphs in it saying this will have the force over any city or county ordinance. After the discussion on the floor of preemption they did not put that paragraph in it, not because they forgot it, it was intentional. They left the door open for cities to make that decision and nothing has changed since it was discussed two years ago. The training has not improved, it has not gotten worse and there has not been a major issue with it. Kearney is one of the few places where the law is consistent about where concealed weapons can be carried. There are so many exceptions in other places about where a person can carry legally; they are going to be confused about where it is acceptable or not under the new law in Kearney after changing a law that has been on the books for 50 years.

Council member Lear stated that he wished that we had this Opinion two years ago, but the truth is our senior attorney for the State of Nebraska has issued his opinion. He thought until it is clearer or until we have direction to the contrary we should follow his advice. If there are changes in the law in the future, then we can change and respond accordingly.

Council Member Lammers introduced Ordinance No. 7502, being Subsection 5 of Agenda Item VI to repeal in its entirety Section 8-1901 "Carrying Concealed Weapons" of Article 19 "Offenses Against Public Health and Safety" of the Code of the City of Kearney, 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 Lear 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, Lear, Lammers, Kearney. Nay: Buschkoetter. 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. 7502 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney. Nay: Buschkoetter. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Clouse that Ordinance No. 7502 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: Buschkoetter. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7502 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.

ADULT SLOW PITCH SOFTBALL PROGRAM

Mayor Clouse opened for discussion the recommendation from the Park & Recreation

Advisory Board on the request submitted by the Kearney Slow Pitch Softball Association to transfer the administration and supervision of the adult slow pitch softball program.

Director of Park & Recreation Neal Lewis presented this matter to the Council. The City had a number of softball players approach the Park & Recreation office concerned with some issues with the adult slow pitch softball program. They had a petition and wanted to visit with the slow pitch board and were having some difficulties being able to meet with them. They approached the City because we basically control the fields. The City helped them get a meeting with the slow pitch board so they could resolve some of their issues. City staff approached the board and discussed some of the issues and how the City could help.

As time progressed, it took a different turn than was anticipated. The slow pitch board had a general meeting and formed a committee to look at their best recommendation as to how the program should be administered. The slow pitch board wrote a letter to the City asking the City to administer the program. This request was taken to the Park & Recreation Advisory Board and they believed that it would be an appropriate action and endorsed it unanimously.

Mayor Clouse asked if the KSPSA funds remaining after the scholarships for the softball association would transfer to the City have any legal issues as far as use by the City. Director of Park & Recreation stated he had visited with the City Attorney regarding the funds and it is opinion the board has the ability to transfer those funds if that is what they chose to do.

Mayor Clouse stated that when this first came out, he was against it because he believed that the softball association should be able to run itself. After talking with a few people, he is willing to go with this, but wanted to know if the City is going to incur any additional labor, staffing or expense for the Park & Rec to take this over. Director of Park & Recreation stated that the City will be adding staff, but it will fall within the revenues projected from the team entry fees. They are looking at a neutral or a slight positive and not using any of the \$27,000 projected to come in. This approach will be the same as the other adult programs; they want them to break even and he believed this is feasible in this case. He talked with the Finance Director to amend the Park & Rec budget because they will have expenditures but will have corresponding revenues. There is no guarantee that fees will not increase if expenditures exceed the revenue.

City Manager stated this was appropriate to bring before Council. There will be certain things that will have to be worked out over time, but there are willing participants who want to work with the City and he believed the time was right. Director of Park & Recreation stated there will be an advisory board comprised of both board members from the old association and people who are now playing and try to get it so that everyone knows what is going on before rules are changed. The fees will be more uniform; there was some confusion about team and player fees in the past. The recreation office does a great job with adult sports, volleyball and basketball with about the same number of teams as the softball has.

Moved by Buschkoetter seconded by Clouse to approve the recommendation from the

Park & Recreation Advisory Board on the request submitted by the Kearney Slow Pitch Softball Association to transfer the administration and supervision of the adult slow pitch softball program. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$60,815.22, PLATTE VALLEY STATE BANK - \$49,341.49, SCHOOL DISTRICT #7 - \$2,391.80

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$49,341.49 payable to Platte Valley State Bank, and in the amount of \$60,815.22 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$2,391.80 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 8:13 p.m. for the protection of the public interest to discuss a possible real estate purchase. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss a possible real estate purchase. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Council member Kearney left the meeting at 8:13 p.m.

Moved by Clouse seconded by Lear that Council reconvene in regular session at 9:22 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

VIII. ADJOURN

Moved by Buschkoetter seconded by Lear that Council adjourn at 9:22 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

ATTEST:

STANLEY A. CLOUSE

**PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR**

**MICHAELLE E. TREMBLY
CITY CLERK**