

*Kearney, Nebraska*  
*November 24, 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 November 24, 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, and Bob Lammers. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kirk Stocker, Director of Utilities; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: several UNK students, Kevin Hervert 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**

A representative from the Kearney Ministerial Association provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

Eight Cub Scouts from Troop 28 and one Boy Scout 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.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

### **WOOD RIVER TRAILER COURT ANNUALRENEWAL**

Postponed until November 30, 2009 any action on the annual manufactured home court license for Wood River Trailer Court, 865 West 78th Street.

### III. PUBLIC HEARINGS

None.

### IV. CONSENT AGENDA

Moved by Kearney seconded by Lammers that Subsections 1 through 19 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held November 10, 2009.

2. Approve the following Claims:

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

AT&T \$273.40 smcs; Advanced Restoration \$85.00 smcs; Agri Coop \$1,149.80 smcs; Alamar Uniforms \$142.30 ps; Amer Fence \$3,100.00 smcs; Amer First Aid \$159.99 smcs; AWWA \$1,615.00 smcs; Anderson Brothers \$8,043.50 smcs,co; Apple Books \$3,707.22 smcs; Ask Supply \$1,242.09 co; Aurora Coop \$404.84 smcs; Baker & Taylor Books \$5,678.10 smcs; BBC Audiobooks \$470.86 smcs; Becker,G \$93.75 smcs; Bennett,T \$44.40 smcs; Beren-Tate Consulting \$750.00 smcs; Bluecross Blueshield \$107,013.78 smcs; Bosselman \$906.75 smcs; Brilliance Audio \$66.29 smcs; Broadfoot's \$3,339.00 smcs,co; Buggy Bath \$500.00 smcs; Builders Warehouse \$338.17 smcs,co; Business Office System \$225.00 smcs; Buttress,S \$38.85 smcs; Camera Doctor \$220.00 smcs; Cash-Wa \$1,891.70 smcs; CDW Govt \$2,401.77 co; Central St Wire Products \$2,160.68 smcs; CH Diagnostic \$445.00 smcs; Charter \$179.97 smcs; Charter Media \$968.00 smcs; City of Ky \$12,309.17 smcs,ps; College Savings Plan of NE \$150.00 ps; Conseco Life Ins \$24.00 ps; Cook Construction \$962.50 smcs; Credit Management Services \$34.13 ps; Creigh,K \$26.67 smcs; Culligan \$107.00 smcs; D&M Security \$64.50 smcs; Dawson PPD \$18,943.46 smcs; Depository Trust \$35,876.25 ds; Development Council \$4,101.83 smcs; DHHS \$94.00 smcs; Dish Network \$48.52 smcs; DJ's Carpet \$239.36 smcs; DMAPS \$4,461.10 smcs; Dmilaco \$506.96 smcs; Dobberstein Roofing \$6,200.00 smcs; Domandle,B \$64.52 smcs; Dreyer,D \$97.60 smcs; Dutton-Lainson \$14,534.75 smcs,co; Eakes \$1,061.94 smcs,co; Elliott,J \$23.00 smcs; EMC Ins \$2,960.54 smcs; Entenmann-Rovin \$460.73 smcs; Eustis Body Shop \$75.00 smcs; Fiddelke Heating \$1,490.53 smcs; Footjoy \$78.12 smcs; Frontier \$147.34 smcs; Gale \$864.02 smcs; Galls \$500.33 smcs; Geiser,M \$53.79 smcs; General Traffic Controls \$9,742.10 smcs; Gifford,V \$27.17 smcs; Great Plains One Call \$298.71 smcs; Gross' Belgians \$650.00 smcs; Guideposts \$17.24 smcs; H.W. Wilson Co \$301.00 smcs; Halstead,T \$12.10 smcs; Harshbarger,K \$15.00 smcs; Hausmann Construction \$241,133.49 co; Holdrege Soft Water \$38.62 smcs; Holiday \$47.51 smcs; Huber,V \$28.75 smcs; Humphrey,A \$12.00 smcs; Hydrite Chemical \$1,779.08 smcs; ICMA RC \$4,724.32 ps; Info USA Marketing \$2,704.00 smcs; IRS \$100,246.30 ps; Jack Lederman \$300.59 smcs; Jack's Uniforms \$182.00

smcs; Ky Chamber Comm \$275.00 smcs; Ky Children's Museum \$320,000.00 co; Ky Clinic \$614.00 smcs,ps; Ky Concrete \$4,764.90 co; Ky Crete & Block \$60.10 co; Ky Housing Develop \$1,437.00 smcs; Ky Housing Society \$6,500.00 smcs; Ky Hub \$3,178.38 smcs; Ky Implement \$5,200.00 co; Ky Towing \$150.00 smcs; Ky Visitors Bureau \$71,779.81 smcs; Ky Yamaha \$10,762.10 co; KGFW \$96.00 smcs; Klein,J \$29.51 smcs; Klein,N \$30.00 smcs; Kowalek,G \$121.32 smcs; Kucera Painting \$1,784.00 co; Kuchera,F \$26.29 smcs; L&D Real Estate \$98.62 smcs; Lade,M \$14.24 smcs; LVNV Funding \$236.09 ps; Magic Cleaning \$3,810.00 smcs; Manchester,D \$32.72 smcs; Marlatt Machine Shop \$1,251.90 smcs; Maxwell Asphalt \$206,722.79 co; Mid Amer Signal \$1,257.90 smcs; Mid-NE Garage Door \$115.00 smcs; Mid-State Units \$120.00 smcs; Midwest Labs \$189.85 smcs; Miller & Associates \$131,336.84 co; Moorman,M \$32.34 smcs; Morgan,M \$176.10 smcs; Municipal Supply \$152.15 smcs; MX Logic \$2,088.84 smcs; Napa Auto Parts \$110.97 smcs; Nathan's Curb Grinding \$75.00 co; NE Child Support \$2,650.20 ps; NE Dept of Aeronautics \$995.00 smcs; NE Dept of Environmental \$459,684.91 smcs,co; NE Dept of Revenue \$35,673.71 smcs; NE Law Enforcement \$50.00 smcs; NE St Library \$41.00 smcs; NE Supreme Court \$41.00 smcs; NeFSMA \$35.00 smcs; NeRPA \$225.00 smcs; New World Systems \$51,430.00 smcs; Norm's Plumbing \$129.45 smcs; Northwestern Energy \$5,213.27 smcs; Nuttelman Fencing \$35.00 smcs; Nutter,R \$40.00 smcs; OMB's Express Police \$85.98 co; O'Rourke,G \$62.93 smcs; Otis Air Service \$2,600.00 co; Paramount Linen \$240.87 smcs; Pat's Plumbing \$75.00 smcs; Peisiger,D \$59.34 smcs; Pep Co \$102.20 smcs; Petersen,R \$38.50 smcs; Platte Valley Comm \$4,766.09 smcs; Police Officer's Assn of NE \$429.00 smcs; Presto-X \$213.00 smcs; Random House \$328.00 smcs; Ready Mixed Concrete \$6,074.30 smcs,co; Recorded Books \$758.10 smcs; Reinke,A \$39.12 smcs; Rivera,R \$45.62 smcs; RNDC-Eagle Division \$106.80 smcs; Russell's Appliance \$105.28 smcs; Sapp Brothers \$22,388.68 smcs; Schleusener,D \$31.98 smcs; Shotkoski,M \$22.95 smcs; Simmons Gun Specialties \$155.92 smcs; Sorensen Group \$17,374.50 co; Sorensen,B \$71.46 smcs; Sorenson,D \$51.11 smcs; Tailor Bill's Embroidery \$99.04 smcs; Tielke Enterprise \$69.16 smcs; Titleist \$554.83 smcs; Todd's Flooring \$591.96 smcs; Tokay Software \$690.00 smcs; Turner Body Shop \$195.00 smcs; Tye & Rademacher \$11,244.48 smcs; UPRR \$2,000.00 co; Unique Management \$205.85 smcs; Unisys \$181.44 smcs; Verizon \$1,442.22 smcs; Viaero Event Center \$179.25 smcs; Warren,B \$43.44 smcs; Weigl Publishers \$530.74 smcs; Weis Fire & Safety \$581.37 smcs; West Payment Center \$1,372.10 smcs; West Villa Animal Hospital \$37.87 co; Wiegand Security \$75.00 smcs; Wilkins Hinrichs Stober \$28,051.05 co; Williams,M \$136.51 smcs; World Theatre Foundation \$10,000.00 co; Worley Monument \$450.00 co; WPCI \$132.00 ps; Wright,J \$9.65 smcs; Yanda's Music \$1,000.00 smcs; Payroll Ending 11-7-2009 -- \$314,893.10. 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 December 8, 2009 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 JUAN LAZO, dba El Tropicico in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 5, 2009 from 6:00 p.m. until 1:00 a.m. for a Mexican dance.

5. Approve the application to extend Conditional Use Permit No. 2000-11 which was transferred to Shaila Hisey on September 11, 2007 to locate a Day Care facility at 1411 East 33rd Drive for a period of one year.

6. Approve Application and Certificate for Payment No. 4 in the amount of \$79,168.05 submitted by Midlands Contracting and approved by Miller & Associates for the 2009 Part 4 Improvements – Bid A consisting of Water District No. 2008-554 for 48th Street from the east lot line of Lot 7, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Water District No. 2009-557 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2009-497 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition and approve **Resolution No. 2009-200.**

#### **RESOLUTION NO. 2009-200**

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 4 Improvements – Bid A consisting of Water District No. 2008-554 for 48th Street from the east lot line of Lot 7, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Water District No. 2009-557 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2009-497 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$79,168.05, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$306,030.20</u>
Contract Sum To Date	306,030.20
Gross Amount Due	274,352.25
Retainage	27,435.23
Amount Due to Date	246,917.03

Less Previous Certificates for Payment	<u>167,748.98</u>
Current Payment Due	\$ 79,168.05

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

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve Application and Certificate for Payment No. 3 in the amount of \$112,526.98 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2009 Part 4 Improvements – Bid B consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition and approve **Resolution No. 2009-201**.

### RESOLUTION NO. 2009-201

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2009 Part 4 Improvements – Bid B consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$112,526.98, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$468,373.25</u>
Contract Sum To Date	468,373.25
Gross Amount Due	353,442.25
Retainage	35,344.25
Amount Due to Date	318,098.00
Less Previous Certificates for Payment	<u>205,571.02</u>
Current Payment Due	\$112,526.98

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

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

8. Approve Change Order No. 1 showing an increase in the amount of \$2,125.00, Application and Certificate for Payment No. 1-Final in the amount of \$184,442.50, and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2009 Part 10 Improvements; Lighthouse Point to 17th Avenue Hike/Bike Trail and approve **Resolution No. 2009-202**.

### RESOLUTION NO. 2009-202

WHEREAS, Blessing LLC has performed services in connection with the 2009 Part 10 Improvements; Lighthouse Point to 17th Avenue Hike/Bike Trail, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$2,125.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Sorensen Group Inc. and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$184,442.50 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$182,317.50
Change Order No. 1 (11-24-2009)	+ 2,125.00
Contract Sum to Date	\$184,442.50
Gross Amount Due	184,442.50
Retainage	.00
Amount Due to Date	184,442.50
Less Previous Certificates for Payment	.00
Current Payment Due	\$184,442.50

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 19, 2009, 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. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 1-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 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Approve the request submitted by the Downtown Improvement Board as follows: (1) place Santa's house in front of Nelson's Furniture, 2109 Central Avenue from November 25, 2009 until December 31, 2009; (2) Block off three parking stalls in front of KGF Radio, 2223 Central Avenue for Santa's reindeer and sleigh on December 3, 2009 from 8:00 a.m. until 9:00 p.m.; (3) Block off three parking stalls in front of Time for Baby, 2123 Central Avenue to sell popcorn on December 3, 2009 from 8:00 a.m. until 9:00 p.m.; (4) Block off four parking stalls in front of The Solid Rock, 2010 Central Avenue for a live nativity on December 3, 2009 from 8:00 a.m. until 9:00 p.m. and (5) Block off all parking stalls in front of the Kearney Hub, 13 East 22nd Street on December 3, 2009 from 8:00 a.m. until 9:00 p.m. for hayrack rides through downtown Kearney.

10. Approve the Agreement between the City of Kearney and Randy and Jennifer Volkmer setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-203**.

#### **RESOLUTION NO. 2009-203**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Randy and Jennifer Volkmer have executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Randy and Jennifer Volkmer be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

11. Approve the Agreement between the City of Kearney and Kevin and Letta Taylor setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-204**.

**RESOLUTION NO. 2009-204**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Kevin and Letta Taylor have executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Kevin and Letta Taylor be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

12. Approve the Agreement between the City of Kearney and Dee Hasselbalch-Artz

setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-205**.

**RESOLUTION NO. 2009-205**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Dee Hasselbalch-Artz has executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Dee Hasselbalch-Artz be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Approve the Agreement between the City of Kearney and Steven and Kelly Franks setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-206**.

**RESOLUTION NO. 2009-206**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Steven and Kelly Franks have executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Steven and Kelly Franks be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Approve the Agreement between the City of Kearney and Ronald and Diana Svacina setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-207**.

**RESOLUTION NO. 2009-207**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Ronald and Diana Svacina have executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Ronald and Diana Svacina be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**15.** Approve the Agreement between the City of Kearney and Betty Ann Snider, Joyce Sears, Marlene Dixon and Sharon Ott setting forth the conditions waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street and approve **Resolution No. 2009-208.**

**RESOLUTION NO. 2009-208**

WHEREAS, on September 9, 2008 the City Council passed and approved Ordinance No. 7462 creating Water District No. 2008-553 for the construction of a 16 inch diameter water main in 56th Street from the southwest corner of Lot 11, Block 6, Eastbrooke Addition, east including all of 56th Street to the southeast corner of Lot 1, Block 7, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, Water District No. 2008-553 benefits Eastbrooke Eighth Addition located on the north side of 56th Street, and six residential properties and one agricultural property which are located outside of the City Limits on the south side of 56th Street; and

WHEREAS, in order to not impose a hardship on the residential properties that are not required to connect to the water main, Administration has offered agreements to defer the assessments until the property connects to the water main; and

WHEREAS, Betty Ann Snider, Joyce Sears, Marlene Dixon and Sharon Ott have executed an Agreement with the City of Kearney setting forth the conditions on waiving the collection of assessments in connection with Water District No. 2008-553 or to the existing sanitary sewer main located in 56th Street and the payment of the total amount of assessments levied at the time the property owner decides to connect the property to the water main or to the existing sanitary sewer main located in 56th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement executed by Betty Ann Snider, Joyce Sears, Marlene Dixon and Sharon Ott be and is hereby accepted and approved. The Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

16. Approve setting December 8, 2009 at 7:00 p.m. as time and date for the Board of Equalization to assess costs in connection with Water District No. 2008-553 for 56th Street from the southwest corner of Lot 11 of Block 6, Eastbrooke Eighth Addition east to the southeast corner of Lot 1 of Block 7, Eastbrooke Eighth Addition; and for Sanitary Sewer District No. 2008-494 in a 20-foot sanitary sewer easement located along the south side of Block 3, Bel Air Third Addition.

17. Approve Change Order No. 1 showing an increase in the amount of \$3,214.75, Application and Certificate for Payment No. 4-Final in the amount of \$10,634.25, and accept the Certificate of Substantial Completion submitted by Sorensen Group, Inc. and approved by Miller & Associates for the Harmon Park Foundation Improvements and approve **Resolution No. 2009-209**.

**RESOLUTION NO. 2009-209**

WHEREAS, Sorensen Group Inc. has performed services in connection with the Harmon Park Foundation Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$3,214.75, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Sorensen Group Inc. and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$10,634.25 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$74,195.00
Change Order No. 1 (11-24-2009)	<u>+ 3,214.75</u>
Contract Sum to Date	\$77,409.75
Gross Amount Due	77,409.75
Retainage	.00
Amount Due to Date	77,409.75
Less Previous Certificates for Payment	<u>66,775.50</u>
Current Payment Due	\$10,634.25

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 1, 2009, 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. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 4-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 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**18.** Approve the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Rachael Carpenter and Matt Young and approve **Resolution No. 2009-210**.

#### **RESOLUTION NO. 2009-210**

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 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**19.** Approve the updated Local Emergency Operating Plan and approve **Resolution No. 2009-211.**

**RESOLUTION NO. 2009-211**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that in order to provide for a coordinated response to a disaster or emergency in Buffalo County, the City of Kearney and other cities and villages in Buffalo County, the Kearney City Council deems it advisable and in the best interests of the community and the county to approve the attached Buffalo County Local Emergency Operations Plan.

PASSED AND APPROVED THIS 24TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**V. CONSENT AGENDA ORDINANCES**

**ORDINANCE NO. 7557 – AMEND SECTION 8-502 “DETERMINATION” OF CHAPTER 8 OF THE CITY CODE**

Under current Code, a vehicle is considered abandoned for several reasons. One reason is Paragraph A of Section 8-502. If parked “With no numbered plates affixed thereto for more than six (6) hours on any public property.” In order to clarify a situation that continues to create issues, the Police Department is requesting that Paragraph A of Section 8-502 be amended to read: if parked “With no numbered plates, expired plates or expired in transit stickers affixed thereto for more than six (6) hours on any public property.” This would clarify the requirements for the public and allow the Police Department to issue citations and/or treat the vehicle as abandoned appropriately. This determination has been made and suggested after discussions with the City Attorney.

Council Member Lammers introduced Ordinance No. 7557, being Subsection 1 of Agenda Item V to amend Section 8-502 “Determination” of Article 5 “Abandoned Vehicles” of Chapter 8 “Police” to prohibit a parked vehicle with no numbered plates, expired plates or expired intransit stickers affixed thereto for more than six hours on any public property, 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, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. 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. 7557 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, Lammers. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7557 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7557 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**

### **ORDINANCE NO. 7558 – AMEND SECTION 8-916 “ANGLE PARKING” OF CHAPTER 8 OF THE CITY CODE**

Lynn Rauner, Buffalo County Board Administrator is requesting on behalf of the Buffalo County Board approval to modify the on-street parking configuration along the west side of Central Avenue from 14th Street to 15th Street. A parking improvement plan was presented showing the proposed diagonal parking layout. On-street diagonal parking is primarily allowed in the downtown area, where there are very few provisions for off-street parking. However, diagonal on-street parking can be useful in other areas to serve public or quasi-public uses that have a high parking concentration. In this case, the Buffalo County Courthouse is felt to meet those characteristics. The City previously approved a similar request on 4th Avenue along the east side of Mt. Carmel and on 4th Avenue from 15th Street to 16th Street for Kenwood School. In both cases it was a welcome addition to the neighborhood to get the existing employees and visitors that have to park throughout the neighborhood additional parking adjacent to the school, retirement home or in this cast Buffalo County Courthouse.

The main consideration for the Public Works Department when this type of parking is proposed would be the street's traffic flow volume. If the traffic flows are low, then the additional on-street parking concentration is more manageable. In this case, Central Avenue currently has diagonal parking allowed from 15th Street north into the central business district. The parking, if modified, will still remain available as public parking since it is located on the public right-of-way.

Council Member Clouse introduced Ordinance No. 7558, being Subsection 1 of Agenda Item VI to amend Section 8-916 “Angle Parking” of Article 9 “Stopping, Standing, Parking” of Chapter 8 “Police” to allow angle parking on the west side of Central Avenue

from 14th Street to 15th Street, 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 Kearney 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, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. 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. 7558 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7558 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7558 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: NPPD - \$57,973.46, PLATTE VALLEY STATE BANK - \$47,996.10**

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the amount of \$47,996.10 payable to Platte Valley State Bank and in the amount of \$57,973.46 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Kearney, Buschkoetter, Lammers. Nay: None. Clouse abstained and Lear absent. Motion carried.

**VII. REPORTS**

None.

**VIII. ADJOURN**

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