

**Kearney, Nebraska**  
**November 10, 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 10, 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, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Suzanne Brodine, Assistant to the City Manager; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: David Case, Richard Verbeck, Maranna Verbeck, Sherri Harms, Greg Brown, Kent Cordes, Mitch Humphrey, Marc Loescher, Jon Bokenkamp, Roger Jasnoch, 7 students for UNK, Steve Altmaier from KGFV Radio, Kevin Hervert from Kearney Hub.

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**

Brother Greg Brown from Church of Jesus Christ Later Day Saints provided the Invocation.

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

### **WOOD RIVER TRAILER COURT ANNUAL RENEWAL**

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**

### **REZONING 3210 COTTONWOOD LANE**

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ralph and Sue Wise (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential (Rural Standards) District for property described as a tract of land located in the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska together with a 60-foot ingress and egress road as located in the Northeast Quarter of said Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3210 Cottonwood Lane). Planning Commission recommended approval.

The applicant is requesting approval to rezone and subdivide property that has never been zoned or subdivided. The property is located at 3210 Cottonwood Lane on the east shore of Cottonmill Lake. The south property line abuts Cottonmill Park. State law requires parcels less than 10 acres be placed in a subdivision. The subject property is 5.79 acres. City Code requires 20 acres for residential use in an Agricultural zone. Since the property is only 5.79 acres it must be rezoned.

The requested rezoning is RR-1, Rural Residential (Rural Standards) which is an appropriate choice for the rural character of development in the area. The Preliminary and Final Plat consist of a one lot subdivision to be known as Wise Subdivision. The Preliminary Plat was approved by Planning Commission on October 16, 2009. Staff has waived the requirement for contours, Public Works Plan and Subdivision Agreement.

There was no address for the owner listed on the Final Plat. Staff requested that the address for the owner be shown on the Final Plat prior to the City Council hearing.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This is a fairly simple project. The Wise family wants to add on to their structure that is located in the middle of the tract of land. In order to get a proper building permit, they are creating a one-lot subdivision.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ralph and Sue

Wise (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential (Rural Standards) District for property described as a tract of land located in the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska together with a 60-foot ingress and egress road as located in the Northeast Quarter of said Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3210 Cottonwood Lane). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

### **FINAL PLAT FOR WISE SUBDIVISION, 3210 COTTONWOOD LANE**

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ralph and Sue Wise (Owner) for the Final Plat for Wise Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska together with a 60-foot ingress and egress road as located in the Northeast Quarter of said Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3210 Cottonwood Lane) and to consider Resolution No. 2009-192. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Ralph and Sue Wise (Owner) for the Final Plat for Wise Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska together with a 60-foot ingress and egress road as located in the Northeast Quarter of said Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3210 Cottonwood Lane) and approve **Resolution No. 2009-192**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2009-192**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Wise Subdivision" of Buffalo County, Nebraska for a tract of land located in the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, as described as follows, to-wit: Beginning at a point on the south line of said Northeast Quarter, which is 1145 feet west of the southeast corner thereof; thence with a deflection angle to the right of  $92^{\circ}58'$  a distance of 244.86 feet; thence right  $21^{\circ}55'30''$  a distance of 283.5 feet; thence left  $110^{\circ}43'30''$  a distance of 583.0 feet; thence left  $94^{\circ}30'$  a distance of 246.45 feet; thence left  $05^{\circ}45'$  a distance of 299.26 feet to a point on the south line of said Northeast Quarter; thence left  $83^{\circ}55'$  on said south line a distance of 416.36 feet to the place of beginning, containing 5.79 acres, more or less, together with a road for ingress and egress described as follows: the centerline of said 60 feet ingress and egress road as located in the Northeast Quarter of said Section 32 above described being more particularly described as follows: Referring to the northeast corner of the tract of land above described, thence running left  $110^{\circ}43'30''$  a distance of

32.08 feet to the Actual Place of Beginning of the centerline of said 60 feet ingress and egress road; thence right  $110^{\circ}43'30''$  a distance of 80.29 feet; thence right  $01^{\circ}24'41''$  a distance of 446.7 feet; and thence left  $95^{\circ}51'19''$  a distance of 62.66 feet; thence right  $15^{\circ}12'$  a distance of 390.1 feet; thence left  $20^{\circ}49'$  a distance of 208.0 feet; thence right  $08^{\circ}04'$  a distance of 220.45 feet; thence right  $53^{\circ}37'$  a distance of 350.55 feet; thence left  $14^{\circ}36'$  a distance of 292.35 feet; thence left  $02^{\circ}40'$  a distance of 182.5 feet to a point on the easterly line of Lot 4 in Block 1, Cottonmill Lake Subdivision; thence continuing on the last described course, a distance of 265.65 feet to a point on the centerline of Cottonmill Road, said point being 67.0 feet westerly from the easterly line of Cottonmill Lake Subdivision, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**FINAL PLAT FOR WESTLAKE ACRES THIRD ADDITION; 3215 19TH AVENUE**

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Thomas and Bethany Clinch and Kearney Country Club, Inc. (Owner) for the Final Plat for Westlake Acres Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 of Block 1 (to be vacated), Westlake Acres Subdivision to the City of Kearney, Buffalo County, Nebraska with said Lot 1 of Block 1, Westlake Acres Subdivision being part of the Southeast Quarter of the Northeast Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3215 19th Avenue) and to consider Resolution No. 2009-193. Planning Commission recommended approval.

The applicant is requesting approval to vacate and replat property bordering the Kearney Country Club golf course. The property is located at 3215 19th Avenue. The south property line has two right-angle jogs in it and the owner would like to straighten it out to improve views to the golf course and Kearney Lake. This platting is essentially a land swap between the owner and the Country Club for respective triangle shaped pieces of property. The triangle that the owner will vacate to the Country Club is approximately 0.17 acres. The owner will gain a similar sized property.

In order to replat this property as Westlake Acres Third Addition, Lot 1 of Block 1 of Westlake Acres Subdivision must be vacated. The preliminary and final plats consist of a one-lot subdivision. The Preliminary Plat was approved by Planning Commission on October 16, 2009. Staff has waived the requirement for a Public Works Plan and Subdivision Agreement.

There was no address for the owner listed on the Final Plat. Staff requested that the address for the owner be shown on the Final Plat prior to the City Council hearing.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. There is a lot at the end of a cul-de-sac on 19th Avenue that is an unusually shaped lot. In order to accommodate the desires of each of the parties, the two parties are essentially trading .17 acre of ground for .17 acre of ground and then create a subdivision plat that will basically be the same acreage as before. This is just simply the trading of ground between two parties to straighten up the southerly lot line.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Thomas and Bethany Clinch and Kearney Country Club, Inc. (Owner) for the Final Plat for Westlake Acres Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 of Block 1 (to be vacated), Westlake Acres Subdivision to the City of Kearney, Buffalo County, Nebraska with said Lot 1 of Block 1, Westlake Acres Subdivision being part of the Southeast Quarter of the Northeast Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3215 19th Avenue) and approve **Resolution No. 2009-193**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2009-193**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Westlake Acres Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Lot 1 (now vacated) of Block 1, Westlake Acres Subdivision to the City of Kearney, Buffalo County, Nebraska, with said Lot 1, Block 1, Westlake Acres Subdivision being part of the Southeast Quarter of the Northeast Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and a tract of land being part of the Southeast Quarter of the Northeast Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the southwest corner of the Northeast Quarter of Section 34 and assuming the south line of the Northeast Quarter of Section 34 as bearing N 89°36'00" E and all bearings contained herein are relative thereto; thence N 89°36'00" E and on the south line of the Northeast Quarter of said Section 34 a distance of 1321.13 feet to the southwest corner of the Southeast Quarter of the Northeast Quarter of said Section 34; thence continuing N 89°36'00" E and on the south line of the Northeast Quarter of said Section 34 a distance of 938.13 feet to a point being the southwesterly corner of Lot 1, Block 1, Westlake Acres Subdivision; thence continuing N 89°36'00" E and on the south line of the Northeast Quarter of said Section 34 and on the southerly line of said Lot 1, Block 1, Westlake Acres Subdivision a distance of 138.16 feet to the southeasterly corner of said Lot 1, Block 1, Westlake Acres Subdivision, said point also being on the high bank of the shore of Kearney Lake; thence N 42°45'56" E and on the easterly line of said Lot 1 (now vacated) Block 1, Westlake Acres Subdivision a distance

of 14.50 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the easterly line of said Lot 1, Block 1, Westlake Acres Subdivision, N 42°45'56" E and on the high bank of the shore of Kearney Lake a distance of 100.03 feet; thence continuing on the easterly line of said Lot 1, Block 1, Westlake Acres Subdivision and on the high bank of the shore of Kearney Lake the following courses and distances respectively: N 15°04'13" W, a distance of 31.70 feet; thence N 38°03'36" W, a distance of 123.20 feet; thence N 25°34'21" W, a distance of 86.34 feet; thence N 19°52'30" W, a distance of 75.09 feet to the southeast corner of Lot 5, Westlake Acres Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N 73°29'35" W and on the southerly line of said Lot 5, Westlake Acres Second Addition, a distance of 413.36 feet to the southwesterly corner of said Lot 5, Westlake Acres Second Addition, said point also being on a non-tangent 40.0 foot radius curve, concave northwesterly; thence southwesterly on said non-tangent curve forming a central angle of 85°49'40" an arc distance of 60.0 feet to a point of non-tangency, said point of non-tangency being the northeasterly corner of Lot 20 of said Block 1, Westlake Acres Subdivision, and said point of non-tangency being S 41°52'12" W a chord distance of 54.53 feet from the southwesterly corner of said Lot 5, Westlake Acres Second Addition; thence leaving said non-tangent curve, S 05°13'58" E and on the east line of said Lot 20, Block 1, Westlake Acres Subdivision a distance of 253.90 feet to the southeasterly corner of said Lot 20, Block 1, Westlake Acres Subdivision; thence S 89°03'47" E and on the south line of said Lot 1, Block 1, Westlake Acres Subdivision a distance of 169.63 feet; thence leaving the southerly line of said Lot 1, Block 1, Westlake Acres Subdivision, S 61°49'52" E a distance of 361.83 feet to the place of beginning, containing 3.24 acres, more or less, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**BOARD OF EQUALIZATION FOR PAVING DISTRICT NOS. 2005-906 AND 2007-916**

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to assess costs for Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; and to assess costs for the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2005-906 for 4th Avenue from 44th Street to 48th Street and to consider Resolution No. 2009-194.

The City, on August 23, 2005 created Paving Improvement District No. 2005-906 for 4th Avenue from 44th Street north to 48th Street. On September 8, 2009 the Council met as the Board of Equalization to levy assessments on properties so benefited. During the meeting, the owner/developer of the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2005-906 for 4th Avenue from 44th Street to 48th Street requested the City to hold in abeyance for a period of 90 days the assessment for this piece of property.

The owner/developer had questions pertaining to a detention basin on this property and wanted the opportunity to meet with City staff to discuss. Therefore, the Council did not levy the assessments pertaining to this property. The property owner has met with City staff and the City Attorney to discuss their concerns about the detention cell and dam as well as the paving assessment. The owner has proposed to develop an association with the remaining lots that are adjacent to the detention cell that would be responsible for the long term maintenance once the area is completely developed. The owner would continue to maintain the cell until then. The City Attorney has confirmed the understanding of the parties after this meeting through a letter to the owner and has indicated that the paving assessment would be placed back on the Council agenda for consider and to contact the City if there are other concerns.

Since discussions have taken place and there is a better understanding of the issues raised, the Council will move forward in assessing that portion of 4th Avenue as it abuts the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition.

On January 23, 2007 the City created Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street. This particular street being improved is a graveled street wherein 50 percent by special sales tax funds and the other 50 percent would be assessed against the property in the district. At the last Council meeting, one of the property owners questioned the amount of the assessment against his property. The Council did not levy assessments in this district and directed City staff to take a look at the assessments to see if an error occurred. An error in the calculations was found on two pieces of property. The property owners have been notified of the correct amount and the Council needs to move forward and levy those assessments.

After completion of the construction projects, the City hired a title company to complete property abstracts so that assessments could be levied. These districts have been completed and, in order to satisfy state law, when paving, water and sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (December 30) or will be able to pay the entire assessment without any interest prior to this date.

Sherri Harms, 1303 9th Avenue, asked why these property owners had to pay half the costs for this street. Director of Public Works Rod Wiederspan stated this was a graveled street and instead of assessing 100 percent against the properties, the City is assessing 50 percent of the cost and the City is paying 50 percent.

Ms. Harms stated that no notice was given to these property owners that this was going to happen. This was just a bill given to them with one lump sum, there was no discussion on whether they have any say in this matter.

City Clerk stated that when a district is created, notice is sent to all property owners with a copy of the ordinance creating the district along with the Notice that sets forth the procedure for objections. The ordinance creating the district is filed at the courthouse so when a person buys the property it should be noted when a title search is done.

Ms. Harms asked about the payment schedule. City Clerk stated that notification will be sent out after the meeting setting forth the process. The property owners can make their first payment or can pay it off within fifty days, or they have the option to pay over a period of ten years. The City will send notification annually that their payment is due.

City Manager Michael Morgan clarified that the City did not initiate this paving district. An abutting property owner requested the City create a district for the street. The City creates the district and the property owners are given the option to petition it out. In this case, there were only one or two people that protested. It takes more than fifty percent to stop a district from going forward.

Council member Buschkoetter asked if notification of the creation of a district is sent by certified mail. City Clerk stated that by law only those citizens living outside of Buffalo County would receive certified notification. State law also requires we only have to publish the notice in the paper. The City's policy is to notify everybody and to send the ordinance and notice of creation to them.

Moved by Clouse seconded by Lammers to close the hearing meeting as the Board of Equalization and unanimously assessed costs for Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; and to assess costs for the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2005-906 for 4th Avenue from 44th Street to 48th Street and approve **Resolution No. 2009-194**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2009-194**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the street in Paving Improvement District No. 2005-906 abutting the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska, has been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of

the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. The President and Council find and determine that the street in Paving Improvement District No. 2007-916 has been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "B" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 3. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 4. That there be and there is hereby levied against the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2005-906 as shown in Exhibit "A" the amount set for each said lot. Said assessment for the east 250 feet of Lot 1 of Block 3, Windsor Estates Seventh Addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2005-906 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "B" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District No. 2007-916 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **IV. CONSENT AGENDA**

Mayor Clouse stated the Agenda was amended on Monday to include Subsection 11 to approve the Veterans Day Parade for November 11, 2009.

Mayor Clouse commented on the application for a Special Designated License submitted by The Garage. There have been some parking issues in the past and he wanted to know if those issues have been resolved. Police Chief Dan Lynch stated this SDL will be held at the Fairgrounds and there will be no parking issue. However, there have been some issues for parking for certain events that took place at The Garage location itself. Future requests for parking by The Garage for their downtown location can be addressed at that time. There have been problems and the Police Department is working on those issues and there has been some compliance.

Moved by Lammers seconded by Lear that Subsections 1 through 11 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held October 27, 2009.
2. Approve the following Claims:
  - PS Personnel Services
  - SMCS Supplies, Materials & Contractual Services
  - ER Equipment Rental
  - CO Capital Outlay
  - DS Debt Service

Advanced Floor Care \$650.00 smcs; Aflac \$2,721.66 ps; Amax Contracting \$4,495.00 co; Amy, Harly \$16.23 smcs; Anderson Brothers \$1,450.00 co; Ask Supply \$399.77 smcs; Aurora Cooperative \$1,382.05 smcs; Baker & Taylor \$1,399.35 smcs; Bamford \$250.00 smcs; BD Construction \$1,230.60 smcs; Bennett,T \$742.50 smcs; Berke,N \$100.03 smcs; Berry,N \$38.23 smcs; Bigelow,K \$201.00 smcs; Blessing \$147,646.45 co; Bluecross Blueshield \$207,444.57 smcs; Bogard,M \$733.50 smcs; Boswell,G \$39.19 smcs; Buffalo Co Dist Court \$175.81 ps; Buffalo Co Treasurer \$20.00 co; Builders Warehouse \$346.81 smcs,co; Central Hydraulic Systems \$265.09 smcs; Central NE Bobcat \$30,550.33 co; Chad \$12.00 ps; Charter \$289.96 smcs; Christian,S \$43.65 smcs; City of Ky \$343,397.64 smcs,ps; College Savings Plan of NE \$100.00 ps; Conner,S \$11.08 smcs; Copycat Printing \$7.00 smcs; Credit Management Services \$29.02 ps; Crosby,R \$8.72 smcs; Dan Roeder Concrete \$125,600.57 co; Demco \$23.76 smcs; Development Council \$32,500.00 smcs; DHHS Div Public Health \$94.00

smcs; Dutton-Lainson \$3,890.15 smcs; Eakes \$2,072.77 smcs; Ecolab \$31.00 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$1,304.25 smcs; Eschen,H \$13.00 smcs; Farmers Union \$28.50 smcs; Felsburg Holt & Ullevig \$3,000.00 smcs; Fireguard \$455.96 smcs; Fore Reservations \$1,300.00 co; Frontier \$7,681.02 smcs; Gale \$208.95 smcs; Garrett Tires \$2,730.43 smcs; Gates,K \$17.09 smcs; GE Money Bank \$1,791.97 smcs; Grainger \$1,179.89 smcs; Gray Mfg \$8,596.00 co; Hausmann Construction \$226,442.70 co; Hendrickson,D \$124.01 smcs; Highsmith \$146.61 smcs; Hometown Leasing \$3,250.81 smcs; Honeywell First Responder \$595.00 smcs; Horst,R \$100.14 smcs; ICMA RC \$4,625.48 ps; IRS \$101,334.70 ps; Johnsen Corrosion \$2,070.00 smcs; Ky Glass \$576.55 smcs; Ky United Way \$856.50 ps; Ky Winlectric \$62.26 smcs; Kirkham Michael \$5,315.12 co; Klein,K \$31.98 smcs; Kolar,J \$269.50 smcs; Konica Minolta \$296.15 smcs; Laser Art Design \$113.02 smcs; Lasertec of NE \$244.98 smcs; LCL Truck Equipment \$2,045.00 smcs; Library Store \$34.09 smcs; Linweld \$45.93 smcs; Loper Athletic Club \$40,000.00 co; Magic Cleaning \$350.00 smcs; Mail Express \$222.42 smcs; Maines Electric \$585.00 smcs; Marlatt Machine \$119.84 smcs; Maverick Books \$9.00 smcs; Metlife \$9,190.15 ps; Middleton Electric \$5,500.00 co; Midlands Contracting \$69,426.86 co; Mid-State Engineering \$3,176.00 co; Miller,D \$88.27 smcs; Morgan,M \$70.68 smcs; Muller,J \$88.00 smcs; Municipal Supply \$485.35 smcs; NE Child Support \$2,650.20 ps; NE Dept of Econ Dev \$170.00 smcs; NE Dept of Revenue \$47,812.72 ps; NE Public Health \$1,926.00 smcs; NEland Distributors \$340.00 smcs; Neopost \$7,656.17 smcs; Newman Traffic Signs \$24,920.00 smcs; Northwestern Energy \$504.04 smcs; Office Depot \$35.03 smcs; Paramount Linen \$470.06 smcs; Paulsen \$123,060.48 co; Payflex Systems \$501.50 smcs,ps; Pramac \$3,756.51 co; Presto-X \$78.00 smcs; Pulliam,R \$40.00 smcs; Quill \$220.89 smcs; Random House \$276.00 smcs; Recorded Books \$42.07 smcs; Reinke's \$629.87 smcs; Reins,J \$37.22 smcs; Research Technology \$299.95 smcs; Richter,H \$24.00 smcs; Rick' Sod Farm \$871.79 smcs; Rivershore Reading Store \$382.00 smcs; Rodehorst,R \$26.75 smcs; Runge,S \$1.52 smcs; Sapp Brothers \$22,614.00 smcs; Schindler Elevator \$780.00 smcs; Skiles,J \$75.71 smcs; Snap-On Tools \$10,793.98 smcs,co; Snow,T \$50.00 smcs; St of NE/AS Central \$4,475.81 smcs,co; Steinbrink Landscaping \$745.00 co; Sun Life Financial \$29,241.61 smcs; Sydow,J \$40.00 smcs; Thomas,P \$111.30 smcs; Titleist \$973.92 smcs; TruGreen ChemLawn \$159.60 smcs; Ultimate Jumpers \$3,130.79 co; United Industries \$28.93 smcs; Upstart \$27.95 smcs; Verizon \$61.55 smcs; Village Uniform \$439.20 smcs; Wagner's Irrigation \$250.00 smcs; Walsh,C \$137.65 smcs; Walters Electric \$135.87 smcs; Weiler,D \$129.50 smcs; White,A \$123.25 smcs; Williams,M \$251.88 smcs; WPCI \$250.00 ps; Payroll Ending 10-24-2009 -- \$319,901.97. 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.** Approve Change Order No. 12 showing an increase in the amount of \$10,746.75 and Change Order No. 13 showing an increase in the amount of \$1,606.00 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2009-195.**

**RESOLUTION NO. 2009-195**

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 Change Order No. 12 showing an increase to the contract sum in the amount of \$10,746.75, as shown on Exhibit "A", and Change Order No. 13 showing an increase in the amount of \$1,660.00, as shown on Exhibit "B", attached hereto and made a part hereof by reference; and

WHEREAS, Hausmann Construction and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Application and Certificate for Payment No. 11 in the amount of \$241,133.49 as shown on Exhibit "C" attached hereto and made a part hereof by reference 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)	+ 4,900.00
Change Order No. 5 (2-24-2009)	- 1,959.00
Change Order No. 6 (3-10-2009)	- 7,226.00
Change Order No. 7 (4-14-2009)	+ 3,667.00
Change Order No. 8 (5-12-2009)	+ 3,072.00
Change Order Nos. 9 and 10 (9-8-2009)	+ 3,466.00
Change Order No. 11 (10-27-2009)	+ 10,220.00
Change Order No. 12 (11-10-2009)	+ 10,746.75
Change Order No. 13 (11-10-2009)	+ <u>1,660.00</u>
Contract Sum to Date	\$2,821,465.75
Total Completed and Stored to Date	2,549,902.00
Retainage	140,244.61
Amount Due to Date	2,409,657.39
Less Previous Certificates for Payment	<u>2,168,523.90</u>
Current Payment Due	\$ 241,133.49

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. 12 and 13, as shown on Exhibits "A" and "B" respectively, and Application and Certificate for Payment No. 11, as shown on Exhibit "C", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

4. Approve the Request for Proposal submitted by Ameritas Investment Corp. of Omaha, Nebraska and approve **Resolution No. 2009-196** designating them as the City's Fiscal Agent.

**RESOLUTION NO. 2009-196**

WHEREAS, Requests for Proposals were received and opened on September 30, 2009 for fiscal agent services for the City of Kearney, Nebraska; and

WHEREAS, on October 14, 2009 the Fiscal Agent Services Selection Committee, consisting of Michael Morgan, Don Kearney and Wendell Wessels reviewed the proposals and have recommended the proposal offered by the Ameritas Investment Corp. of Omaha, Nebraska, be accepted.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Committee's recommendation is hereby accepted and approved, that the Ameritas Investment Corp. of Omaha, Nebraska, be accepted for fiscal agent services for the City of Kearney, Nebraska, to be performed in accordance with the "Request for Qualifications for Fiscal Agent Services", a copy of which marked "Exhibit A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Approve the Pipeline Crossing Agreement between the City of Kearney and the Union Pacific Railroad Company to bore under the railroad tracks at 30th Avenue and to install a 16-inch ductile iron water main for transporting and conveying water only and approve **Resolution No. 2009-197**.

**RESOLUTION NO. 2009-197**

WHEREAS, Union Pacific Railroad Company has tendered to the City of Kearney, Nebraska an agreement covering a pipeline crossing at Kearney, Buffalo County, Nebraska; and

WHEREAS, it is determined to be in the best interests of the City of Kearney that the City will be subserved by the acceptance of said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Pipeline Crossing Agreement on behalf of the City. A copy of the said Agreement is marked as Exhibit "A" and is attached hereto and made a part hereof.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Approve the application for a Special Designated License submitted by THE GARAGE PRODUCTION COMPANY, dba The Garage in connection with their Class CK-83704 catering liquor license to dispense beer and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 20, 2009 from 12:00 p.m. until 1:00 a.m. for a cage fighting event.

7. Approve the application for a Special Designated License submitted by KEARNEY BBQ CO., dba Skeeter Barnes in connection with their Class I-55865 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 5, 2009 from 5:00 p.m. until 12:00 a.m. for a reception.
8. Approve the application for a Special Designated License submitted by APPLE FUN CENTER, dba Big Apple Fun Center in connection with their Class C-24505 liquor license to dispense beer, wine and distilled spirits in the Great Platte River Archway Monument, 3060 1st Street, on December 5, 2009 from 5:00 p.m. until 1:00 a.m. for a Christmas Party.
9. Approve the Plans and Specifications for the 2009 Part 14 Improvements consisting of Water Connection District No. 2009-3 and Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M, paving of 17th Street from Avenue K to Avenue M, and paving of Avenue K from 17th Street to 18th Street and set the bid opening date for December 1, 2009 at 2:00 p.m.
10. Approve the application for a Special Designated License submitted by KEARNEY STEAK COMPANY, dba Whiskey Creek in connection with their Class IK-35628 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 28, 2009 from 5:00 p.m. until 1:00 a.m. for a reception.
11. Approve the application submitted by Delmar Nelson on behalf of the American Legion Post 52 to conduct the Veterans Day Parade on November 11, 2009 beginning at 4:00 p.m. with the parade starting at Railroad Street, north on Central Avenue and ending at the parking lot located north of the Museum of Nebraska Art.

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 7555 – REZONING 3210 COTTONWOOD LANE (PERTAINS TO PUBLILC HEARING 1)**

Council Member Lear introduced Ordinance No. 7555, being Subsection 1 of Agenda Item VI to rezone from District AG, Agricultural District to District RR-1, Rural Residential (Rural Standards) District for property described as a tract of land located in the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska together with a 60-foot ingress and egress road as located in the Northeast Quarter of said Section 32, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3210 Cottonwood Lane), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the

City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney 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. 7555 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7555 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7555 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.

**ORDINANCE NO. 7556 – VACATING PORTION OF WESTLAKE ACRES SUBDIVISION (PERTAINS TO PUBLIC HEARING 3)**

Council Member Clouse introduced Ordinance No. 7556, being Subsection 2 of Agenda Item VI to vacate Lot 1 of Block 1, Westlake Acres Subdivision to the City of Kearney, Buffalo County, Nebraska (3215 19th 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 Lammers 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, Buschkoetter. Nay: None. Kearney 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. 7556 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, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7556 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7556 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.

## **THE WORLD THEATRE REQUEST FOR FUNDING**

Mayor Clouse opened for discussion the request to partially fund renovations in the amount of \$25,000.00 for The World Theatre project.

Assistant to the City Manager Suzanne Brodine presented this matter to the Council. The World Theatre Foundation, a not for profit organization operating under the umbrella of the Kearney Community Foundation, made an open request to the Kearney Community Redevelopment Authority for funding on October 22, 2009 to finance the renovation of the interior of the theatre. Estimates to bring the theatre up to code and take down the wall in the auditorium amount to \$42,000. The CRA was supportive of the project requested that City Manager Michael Morgan consider joint funding with CRA and sales tax funds.

Projects that will be undertaken in the initial renovation include:

- Furnace Repairs                      \$5,996
- ADA Bathroom Upgrades          \$6,000
- Ceiling Repair                        \$2,000
- Electrical                                \$17,000
- Center Wall Removal                \$11,642

The renovation project may be funded jointly by \$25,000 from ½ cent sales tax funds and \$17,000 from the CRA.

Jon Bokenkamp stated he is currently in the middle of their capital campaign. They are attempting to raise \$400,000 within the next 90 days. There are basically five issues that need to be addressed:

- Furnace Repairs - \$5,996; two 20-year old furnaces with cracked heat exchanges; both systems leak carbon monoxide.
- ADA Bathrooms - \$6,000 cash and \$6,000 donated "in kind" services qualifies for a 50 percent match through the Community Block Grant funds (\$24,000 total).
- Remove Failing Ceiling - \$2,000; safety issue.
- Electrical Upgrades - \$17,000; emergency lighting, smoke alarms, safety upgrades.
- Remove and Patch Center Wall - \$11,642; 30-foot wall on sloped floor is labor intensive, working around electrical and existing seats, and essential to redefine theatre.

The funds are leveraged three ways: Community Development and Assistance Act incentive that offers additional forty percent tax credit for donors; Community Block Grant Funds from the State; and increases potential for funding from pending grants including Ted Baldwin Foundation, Hirschfield Foundation, Clarcor Foundation, Eaton Charitable Trust, Ron and Carol Cope Foundation, Union Pacific Railroad, Peter Kewit Foundation, Pete Peterson Foundation.

Mr. Bokenkamp stated the World Theatre is not going to be in competition with the other theaters in town. He is planning to do different things that do not typically come out on the weekend; they come out of main street movies. They would not survive if they tried

to compete. They will only be open three nights a week.

Moved by Lear seconded by Buschkoetter to approve the request to partially fund renovations in the amount of \$25,000.00 for The World Theatre project. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

**AMEND CDBG GRANT TO PLAN AND DEVELOP A POWER PARK SITE TO ATTRACT DATA CENTER FACILITIES**

Mayor Clouse opened for discussion amending the application to the Nebraska Department of Economic Development for a Community Development Block Grant to plan and develop a power park site to attract data center facilities and to consider Resolution No. 2009-198.

Assistant to the City Manager Suzanne Brodine presented this matter to the Council. On September 22, 2009 the Council authorized and directed City staff to submit a grant request for \$52,500 (\$50,000 for planning and \$2,500 for general administration) in grant funds to the Nebraska Department of Economic Development (NDED) to assist in assessing, planning and marketing a site for technology and data center business. The negotiated fee for the plan from Gensler Architects was above the original grant amount; therefore, NDED approved an increase in the grant and local matching amounts. Rather than NDED amending the Community Development Block Grant (CDBG) contract, NDED will amend the original application which was submitted by the City of Kearney.

The original grant amount was submitted for the following:

	CDBG Funds	Local Match	Total
Planning Activities	\$50,000	\$50,000	\$100,000
General Administration	\$ 2,500	\$ 0	\$ 2,500
<b>TOTAL</b>	<b>\$52,500</b>	<b>\$50,000</b>	<b>\$102,500</b>

The revised grant amount will be as follows:

	CDBG Funds	Local Match	Total
Planning Activities	\$75,000	\$75,000	\$150,000
General Administration	\$ 2,500	\$ 0	\$ 2,500
<b>TOTAL</b>	<b>\$77,500</b>	<b>\$75,000</b>	<b>\$152,500</b>

Mayor Clouse stated this caught the State off guard as well because this is a new process for them as well. The value of the cost of this process was a little more than they anticipated. This was a good agreement with the State.

Moved by Buschkoetter seconded by Clouse to amend the application to the Nebraska Department of Economic Development for a Community Development Block Grant to plan and develop a power park site to attract data center facilities and approve **Resolution No. 2009-198**. Roll call resulted as follows: Aye: Clouse, Buschkoetter,

Lear, Lammers. Nay: None. Kearney absent. Motion carried.

**RESOLUTION NO. 2009-198**

WHEREAS, the City of Kearney, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program; and

WHEREAS, on September 22, 2009 the City of Kearney, Nebraska, obtained its citizens' comments on community development and housing needs; and conducted a public hearing on the proposed application and received public comment respecting the application which for an amount of \$52,500 for economic development planning to develop a power park site to attract data center facilities; and

WHEREAS, the plan submitted by Gensler Architects was above the original amount and the Nebraska Department of Economic Development will be amending the application submitted by the City of Kearney to revise the grant amount from \$52,500 to \$77,500.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Kearney and the Nebraska Department of Economic Development so as to effect acceptance of the grant application being amended to reflect the revised grant amount of \$77,500.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIMS: NPPD - \$6,636.64, PLATTE VALLEY STATE BANK - \$48,072.64, SCHOOL DISTRICT #7 - \$9,595.25, STANLEY CLOUSE - \$23.10**

Mayor Clouse stated that with the absence of Council member Kearney and the abstention of Council members Buschkoetter and Lammers, the Open Account Claim for School District #7 will be placed on the Council Agenda for November 24, 2009 for approval.

Moved by Lammers seconded by Lear that Open Account Claims in the amount of \$6,636.64 payable to Nebraska Public Power District and in the amount of \$23.10 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Lear, Lammers, Buschkoetter. Nay: None. Clouse abstained and Kearney absent. Motion carried.

Moved by Clouse seconded by Buschkoetter that Open Account Claim in the amount of \$48,072.64 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: None. Lear abstained and Kearney absent. Motion carried.

**AWARD BID FOR 2ND AVENUE PEDESTRIAN BRIDGE**

Mayor Clouse stated the Agenda was amended on Monday to include Subsection 6 to consider the bids received for the 2009 Part 9 Improvements – 2nd Avenue Pedestrian Bridge and to consider Resolution No. 2009-199 awarding the bid to Wilke Contracting from Kearney, Nebraska in the amount of \$170,700.50.

Kent Cordes from Miller & Associates presented this matter to the Council. On September 17, 2009 the Park & Recreation Advisory Board reviewed the Plans and Specifications for the construction of the 2nd Avenue Pedestrian Bridge and the City Council approved the Plans and Specifications for the construction of the bridge which will be an 85 foot prefabricated steel bridge and adjacent concrete trail on October 13, 2009 and set the bid opening date for November 3, 2009.

The project will entail the construction of the pedestrian bridge connecting the existing hike-bike trail on the south side of the North Channel of the Platte River; also construction of some new trail along 3rd Avenue up to 4th Street.

The City received the following bids:

- Wilke Contracting, Kearney, Nebraska in the amount of \$170,700.50
- Simon Contractors, North Platte, Nebraska in the amount of \$179,500.09
- Stephens & Smith Construction, Lincoln, Nebraska in the amount of \$188,584.75
- Sampson Construction, Kearney, Nebraska in the amount of \$266,125.18

The Engineer's Estimate for the project is \$211,128.00. The work involved is scheduled to be completed by May 15, 2010 but anticipate work to be done before that date. The City's engineer on the project has recommended the award of the bid to Wilke Contracting.

City Manager Michael Morgan stated approximately \$20,000 will go toward the relocation of the gas line which is adjacent to the structure. He met with the gas company today and they have agreed to move forward on finalizing those costs and proceeding. Funds will be set aside for appropriate lighting for the structure. Funds necessary to pay for the construction of these improvements have been included in the budget.

- \$175,000 – Special Sales Tax
- \$25,000 – Kearney Visitors Bureau
- \$50,000 – CRA

Moved by Lammers seconded by Lear to accept the bids received for the 2009 Part 9 Improvements – 2nd Avenue Pedestrian Bridge and approve **Resolution No. 2009-199** awarding the bid to Wilke Contracting from Kearney, Nebraska in the amount of \$170,700.50. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

### **RESOLUTION NO. 2009-199**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on November 3, 2009 at 2:00 p.m. for the 2009 Part 9

Improvements; 2nd Avenue Pedestrian Bridge; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$211,128.00; and

WHEREAS, the said engineers have recommended the bid offered by Wilke Contracting of Kearney, Nebraska in the sum of \$170,700.50 be accepted as the lowest responsible bid for said improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Wilke Contracting of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 9 Improvements; 2nd Avenue Pedestrian Bridge to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Wilke Contracting of Kearney, Nebraska in the sum of \$170,700.50 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$211,128.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 10TH DAY OF NOVEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

## **VII. REPORTS**

### **PETERSON SENIOR ACTIVITY CENTER**

City Manager Michael Morgan updated the Council on the Peterson Senior Activity Center. The contractor is right on schedule. Some changes have been made to the front of the building with the loading zone which makes it closer to the building. Once the building is constructed, staff will evaluate some additional accessibility improvements along the walkway. The anticipated date for the public to attend the facility is January 4, 2010.

### **VETERANS DAY**

Council members gave recognition to all the Veterans for the freedoms they have given. People need to thank the Veterans for the sacrifices that they and their families have made; without them we would not enjoy the freedoms we have today. There is a Veterans Day parade on Wednesday, November 11 beginning at 4:00 p.m. in downtown Kearney.

### **LOPER FOOTBALL**

Council member Buschkoetter reminded the public of the Loper football that is taking place on Saturday. Kearney does not get NCAA tournament football games very often.

**UPDATE ON SPECIAL SALES TAX – CAPITAL IMPROVEMENTS**

Director of Finance Wendell Wessels presented the Council with an annual report showing the progress of the ½ cent special sales tax since its inception in 2005. Since the inception, the City has received \$10,448,733. The City has funded 43 projects and the top five projects are: Harmon Park Activity Center, Peterson Senior Activity Center, Yanney Park North Parking Lot, the debt service for 39th Street from 6th Avenue to Pony Express Road, and miscellaneous street repairs. By the end of this fiscal year, the City will have an additional eight projects. In summary, the City will have fifty projects that have been funded with these funds.

**VIII. ADJOURN**

Moved by Buschkoetter seconded by Clouse that Council adjourn at 7:40 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney 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**