

*Kearney, Nebraska
December 22, 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 December 22, 2009 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Suzanne Brodine, Assistant to the City Manager; Matt Williams, Library Director; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Gary Roubicek, Ronnie O'Brien, Jacob Sertich, Scott Stober, Roger Jasnoch, Richard Stacy, Chelsey Kulhanek, Jeff Wirth, Eric Hellriegel, Roland Whitney, Brad Kernich, Doug Bierman, Ken Jensen, Drew Jensen, several members of the Kearney Volunteer Fire Department, several Police Officers, 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

Reverend Dave McDonald from Crossroads Church provided the Invocation.

PLEDGE OF ALLEGIANCE

The Council members led the audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

OATH OF OFFICE; POLICE OFFICE NEDKO ORESHKOV

City Clerk Michaelle Trembly administered the Oath of Office to Police Officer Nedko Oreshkov.

RECOGNITION – FIREFIGHTERS SERVICE AWARDS

Mayor Clouse and Council Members recognized the volunteer firefighters who have given many hours of their time in responding to fire/rescue emergencies, firefighter training, assisting with public fire prevention and safety education programs, serving as fire department officers, and serving on various types of committees. Each of the following volunteers is being recognized: Gene Rains 30 years, Tony Rich 15 years, Andrea Weed 15 years, Brian Wolfe 15 years, Dave Pfeiffer 15 years, John Sydow 15 years, Corey Rossell 10 years, Sonny O'Connor 5 years, Ric Pulliam 5 years, Dan Spellman 5 years, and Dan Thompson 5 years. Fire Chief Jerry Thompson presented the firefighters with the awards.

KVFD PRESENTATION

The Kearney Volunteer Fire Department wanted to show their appreciation for the support given by the City Council. Fire Chief Jerry Thompson presented the Council members and City Manager with a photo of the current members of the Kearney Volunteer Fire Department.

II. UNFINISHED BUSINESS

WOOD RIVER TRAILER COURT ANNUAL RENEWAL

Mayor Clouse stated the renewal of the manufactured Home Court License for Wood River Trailer Court can now be approved. The State has approved the court's new well and septic system and the trailer homes have been connected.

Moved by Kearney seconded by Lammers to approve the renewal of the manufactured home court license for Wood River Trailer Court located at 865 West 78th Street. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

III. PUBLIC HEARINGS

REZONING AT 115 EAST 21ST STREET

Mayor Clouse opened the public hearing on the Application submitted by Richard Stacy from Miller & Associates (Applicant) for Rod Rasmussen and Lenny Lovitt (Owner) to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District for property described as Lots 527 and 528, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (115 East 21st Street). Planning Commission recommended approval.

The applicant is requesting approval to rezone an existing building in the Central Business District located at 115 East 21st Street to CBD District. This building was formerly occupied by the Vitality Center. The owners would like to use the building for assembly use. This use type would allow the owners to rent the building for parties, banquets, dances, and other social gatherings.

The existing zoning is M-1, Limited Industrial District most likely because of the proximity to the Union Pacific Railroad tracks. Traditionally there was a strip of M-1 zoning extending a certain distance on either side of the tracks as they traverse the City. This property is actually located within the boundary of the Central Business District and therefore CBD zoning is more appropriate. There are no off-street parking or landscaping requirements in CBD zoning.

Richard Stacy from Miller & Associates presented this matter to the Council. The purpose of the rezoning is to change use of the facility from business occupancy and the new owners want to convert it to assembly occupancy. This would become an event center. The change of occupancy triggered a new look at the parking. It is currently zoned as an industrial district and parking is not available for assembly occupancy. If it is converted to the CBD zone, parking is still not required and would be the same as a downtown district. The intent is to allow a change of occupancy for that property and nothing more. This property has been nonconforming for years with no parking, but it was grandfathered because there was no change of occupancy classification.

Council member Lammers asked how many personnel will there be in the building. Mr. Stacy stated that they would probably have half a dozen employees, but an event center could have 100-150 people in the building. That is the reason the parking issue was triggered because the previous business, might not have more than a dozen people there at a time. The zoning ordinance was set up to require more parking for an assembly type which is logical.

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 Richard Stacy from Miller & Associates (Applicant) for Rod Rasmussen and Lenny Lovitt (Owner) to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District for property described as Lots 527 and 528, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (115 East 21st Street). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

COUNTRY INN & SUITES LIQUOR LICENSE

Mayor Clouse opened the public hearing on the Application for a Class I-86142 Liquor License submitted by PAIR-A-DICE PROPERTIES VII, INC., dba Country Inn & Suites, located at 105 Talmadge Road, consider the Manager Application for Chelsey Kulhanek, and to consider Resolution No. 2009-212.

Attorney Jeff Wirth presented this matter to the Council. The Country Inn & Suites would like to have the type of liquor license that allows what they refer to as "manager receptions" which would be held from 5:00-7:00 p.m., Monday through Thursday. This is for on-site only and would not involve the weekends.

Chelsey Kulhanek stated she and her staff has gone through the TIPS training including those working the front desk during the serving hours. Ms. Kulhanek stated these will be done only Monday through Thursday and someone will be in the room full time to

monitor and ensure that no minors are being served. The alcohol will be locked away and will be served by pitchers. Everyone's ID will be checked regardless of age.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and to recommend approval the Application for a Class I Liquor License submitted by PAIR-A-DICE PROPERTIES VII, INC., dba Country Inn & Suites, located at 105 Talmadge Road, consider the Manager Application for Chelsey Kulhanek, and approve **Resolution No. 2009-212**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2009-212

WHEREAS, Pair-A-Dice Properties VII, Inc., dba Country Inn & Suites has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-86142 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to do business at 105 Talmadge Road, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Pair-A-Dice Properties VII, Inc., dba Country Inn & Suites also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Chelsey Kulhanek; and

WHEREAS, a hearing was held relating to said application on December 22, 2009.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class I-86142 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to Pair-A-Dice Properties VII, Inc., dba Country Inn & Suites located at 105 Talmadge Road, Kearney, Nebraska, and to approve the application for Corporate Manager of Chelsey Kulhanek.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CDBG FOR GREAT PLATTE RIVER ROAD ARCHWAY MONUMENT

Mayor Clouse opened the public hearing on the Application to the Department of Economic Development for a Community Development Block Grant in the amount of \$200,000 to be sub-granted to the Great Platte River Road Memorial Foundation to construct a replica Pawnee earth lodge and to consider Resolution No. 2009-213.

The Great Platte River Road Memorial Foundation is interested in applying for a Community Development Block Grant from the Nebraska Department of Economic Development for the construction of a replica Pawnee Earthlodge and to provide for

staff for the facility. DED has funding available in their economic development pool for grant activities with awards in amounts up to \$200,000. These grants are not competitive but based on the merits of the application until all of the funding is obligated.

The Foundation would like to apply for a \$200,000 CDBG award. The grant award would be 100% matched by the Archway - half cash match, half in-kind match. The City would receive the CDBG funds and distribute them to the Foundation in the form of a forgivable loan based on job creation and retention, as required by the CDBG program.

The Foundation, not the City, is providing the required local match of \$200,000. This project will help a local attraction better position themselves in the tourism market. Enhanced local tourism opportunities benefit the entire Kearney area community.

Gary Roubicek, Executive Director of the Archway, stated they are very excited about this project because it fits right into the strategy that they have at the Archway. The State Firefighter's Museum is a part of this campus. Ms. O'Brien has pursued the Native American programs. The event they had with the "Pow Wow Celebration of the Pawnee" was a success this summer. The proposed construction of the mud hut that would be a 1,300 square foot structure will cost \$400,000 after adding the electricity and the restrooms. Ms. O'Brien was in Norfolk in October for recognition of some of the activities that she has been carrying on and found out that the Arch is eligible for a \$200,000 grant. Since that time, they have been scrambling to apply. He commended the City staff for their assistance in helping them with that application which has been a valuable learning process for the last six weeks for them.

Ronnie O'Brien, Director of Operations and Education at the Archway, stated she was speaking on behalf of the Archway and the Pawnee Nation about the earth lodge that they want to build. The earth lodge project total is \$400,000 for the earth lodge, restroom facility and electricity. Getting power to the north side of the lake, as well as water, is a big part of the cost. In talking to the Pawnees after they started the corn project with them, they expressed a desired to have their culture return here to Central Nebraska where they are from originally. An earth lodge is an ideal way to do this and would be a focal point for people to see. The request is for one that would be the same size that people actually lived in for the first 550 years that they were here. A 1,300 square foot structure would house 35-50 people. There are about six other earth lodges in Nebraska. The Pawnee are not interested in any of those because their culture was not included in any of them. Although those earth lodges teach about the Pawnee, they had no interest in working with any of those builders. They do have interest in working with Mark White whose father, John White, built the earth lodge (currently the largest of its type) at the Chicago Field Museum. That earth lodge is their number one attraction at the field museum for attendance. In 1976, John White built that one in conjunction with the Pawnee. Since John has since passed away, it is his son, Mark, who the Pawnee wish to work with to build the earth lodge in their home territory of Nebraska and Kearney.

Ms. O'Brien stated she cannot express how much the Pawnee appreciate what happened this year in Kearney with the homecoming celebration that was held for them. She is also aware how the other tribes of Nebraska viewed that celebration held in Kearney. They are looking at Kearney as a location where there can be some healing

for the Native Americans, especially the tribes that were expelled from Nebraska. The Otoe, the Ponca and the Pawnee were all earth lodge dwelling tribes and the proposed earth lodge could be a symbol for all of them. Half of the educational programs that are put on at the Archway for schools and the overnight programs for scouts are Native American, so the interest in education and learning about them is very popular.

Ms. O'Brien stated they have a unique and trusting relationship with the Pawnee that no one seems to have. She has found that a lot of people want to come here for educational programming about these Native Americans. The Archway is currently doing this with very little visual aides. An earth lodge could be used for those educational programs and for every day visitors to show how the Pawnee actually lived here on the planes.

Roger Jasnoch, Director of the Kearney Visitors Bureau, stated that he urged the approval of the Community Block Grant for the earth lodge. This will give the Visitors Bureau something new to sell for convention groups, special event groups, motor coach groups and especially for school groups through out the year. This will help keep each one of those groups in Kearney a little longer and that means they will spend a little more money while they are here. As Kearney continues to add more venues like this, the more successful Kearney will be.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application to the Department of Economic Development for a Community Development Block Grant in the amount of \$200,000 to be sub-granted to the Great Platte River Road Memorial Foundation to construct a replica Pawnee earth lodge and approve **Resolution No. 2009-213**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2009-213

WHEREAS, the City of Kearney, Nebraska is an eligible 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, the City of Kearney, Nebraska has obtained its citizen's comments on community development and housing needs; and has conducted public hearing upon the proposed application, and received favorable public comment respecting the application in the amount of \$200,000 to construct a replica Pawnee earth lodge at the Great Platte River Road Archway Monument and grant administration costs.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be authorized and directed to proceed with the formulation of any and all contracts, documents, or other memoranda between the City of Kearney, Nebraska, and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

BOARD OF EQUALIZATION

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to assess costs for 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 and to consider Resolution No. 2009-214.

On September 9, 2008 the City created Water District No. 2008-553 in 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 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.

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 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 (February 10, 2010) or will be able to pay the entire assessment without any interest prior to this date.

As a reminder, at the last Council meeting, the Council approved the Agreements with six of the property owners that are located outside of the City limits on the south side of 56th Street with regard to Water District No. 2008-553. With the signing of the Agreements, these residential properties are not required to connect to the water main until the property connects to the main. Once the property is connected to the water main, the payment of the total amount of assessments levied at the time will be due.

The City will recoup the costs associated with the construction of paving and improving the streets within such Water and Sewer Districts. The agreements will defer \$19,773.92 worth of assessments until the properties connect.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing meeting as the Board of Equalization and unanimously assessed costs for 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 and approve **Resolution No. 2009-214**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2009-214

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 water main heretofore ordered installed in Water District No. 2008-553 has been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 2. That the sewer main heretofore ordered installed in Sewer District No. 2008-494 has been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sewer main and the total amount of said special assessments does not exceed the costs of said improvements 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 each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District No. 2008-553 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four 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 "A" the amount set opposite each lot and parcel of ground. Said assessments for Sewer District No. 2008-494 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four 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 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SKEETER BARNES; CATERING LIQUOR LICENSE

Mayor Clouse opened the public hearing on the Application for a Catering License submitted by KEARNEY BBQ CO, dba Skeeter Barnes in conjunction with their Class I-55865 Liquor License located at 515 2nd Avenue and to consider Resolution No. 2009-219.

Eric Hellriegel, Managing Partner for Skeeter Barnes presented this matter to the Council. He stated that about a year and half ago, they were looking for ways to grow their business. As the economy started to slow down, they realized there was an opportunity in this market to get involved in the catering business and make it a viable interest within their business. In seeing the growth in the last six months, they have been approached during certain events to provide beverage service for these events. The events range from wedding type functions to business after hours which is usually done in conjunction with the Chamber. The State allows the holder of a Class "I" liquor license six special designated licenses a year. At this point this year, they are likely on par to do eight events. They are requesting a catering license so they can continue to provide those services to their customers to meet the demand of those events within the local community.

He has been asked by several different people within the community about Skeeter Barnes' recent failure during the sting operation. The staff at Skeeter Barnes must go through the responsible liquor training. They have been requiring that training for a little over two years and have had good success with that program. The downside with any policy that a business has in place regarding alcohol is that at some level the folks who they entrust when they are hired as part of the process have to make a judgment decision. He wished that he could say that every decision that his staff makes on a given night is a perfect one, but he cannot say that. This is a "black eye" as part of their concept and they are not happy about it. As a result, it would have been very easy for him to send a letter to the City stating that he was withdrawing his application. That would have been an easy out for him, but he is an entrepreneur and a small business owner. Part of the pride in this community is because business owners believe in their business and the people of this community who work for them to do the best job that can be done.

He stated that it was unfortunate that his staff member, who was a three year employee, made a bad judgment call. She will have to pay the ramifications of this and as a business owner he will also have to pay certain ramifications. He was not making excuses for what happened Saturday night because it was inexcusable. He will work with his staff on some creative ways to improve the policies they have in place. This is the second violation in the eight years they have been open.

Council member Buschkoetter stated that two citations in eight years are more than you want to have in this type of business. He asked if this would change the policies they have when catering an event. Mr. Hellriegel stated that he tries to view the "glass as

half full” and so looks at this as an opportunity to grow his business, not only in Kearney, but the other locations that they have in Nebraska. They look at these situations as a whole, as well as, individually. As a result of this, he has been interviewing his current staff members and asking them what their thoughts are to do a better in serving these events. They had a good dialog and although they have not solved all the problems, they have brought a few things to the table that have some merit. As a result, they will change their approach to some degree and try some different things which will hopefully enhance their ability to make better decisions and judgments.

In the case of his staff, the individual that served the minor had participated in several of the Special Designated License events they have done. This employee will likely lose her job. The ramifications for the employee on a legal basis are up to a year in jail and \$1,000.00 fine. The penalty is pretty stringent. This particular employee is an education major at UNK. There are some challenges being an education major with an alcohol related offense on your record. She is going to have some tough decisions to make over the next several weeks.

Police Chief Dan Lynch stated the employee is always held responsible and that is a big concern, as well as for the business. The best employee can make the mistake on any given day as can the worst employee. Two violations in eight years are not too bad when you consider the traffic that goes through their building. However, two violations are two people that could have potentially been harmed which is another way to look at it. He did not think that Skeeter Barnes, as a business, has created any issues for the community and certainly not for the Police Department. He appreciated that Mr. Hellriegel and his business take this seriously.

Moved by Kearney seconded by Lammers to close the hearing and to recommend approval the Application for a catering liquor license submitted by KEARNEY BBQ CO, dba Skeeter Barnes in conjunction with their Class I-55865 Liquor License located at 515 2nd Avenue and approve **Resolution No. 2009-219**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-219

WHEREAS, KEARNEY BBQ CO, dba Skeeter Barnes has filed with the City Clerk of the City of Kearney, Nebraska, an application for a Catering License in connection with their Class I-55865 Liquor License and doing business at 515 2nd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, a hearing was held relating to said application on December 22, 2009.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Catering License to KEARNEY BBQ CO, dba Skeeter Barnes in connection with their Class I-55865 Liquor License located at 515 2nd Avenue.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lammers seconded by Lear that Subsections 1 through 14 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Emergency Meeting held December 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 \$183.04 smcs; Alamar Uniforms \$5,116.84 smcs; All Makes Office Equip \$8,405.11 smcs,co; Amer First Aid \$289.00 co; Amer Red Cross \$225.25 smcs; Anderson Bros Electric \$10,374.64 co; Anderson,G \$56.23 smcs; Apple Books \$71.80 smcs; Aquarius \$2,285.45 smcs; Aurora Coop \$20.40 smcs; Babcock,T \$40.64 smcs; Baird Holm \$140.78 smcs; Baker & Taylor Books \$4,788.90 smcs; Barney Abstract \$75.00 co; Bayne,R \$16.01 smcs; BBC Audiobooks \$335.42 smcs; Beckenhauer Construction \$47.44 smcs; Becker,C \$47.50 smcs; Best Western \$589.52 smcs; Bluecross Blueshield \$84,817.47 smcs; Bob's Super Store \$4.20 smcs; Bosselman \$490.24 smcs; Broadfoot's \$928.50 smcs; Buffalo Co \$158.00 smcs; Buffalo Co Treasurer \$5,075.14 smcs; Business Media \$11,972.70 co; Carrot-Top Industries \$2,343.00 co; Casarino Christman Shalk \$2,796.25 smcs; Cash-Wa \$586.33 smcs; CDW Govt \$2,401.92 co; CH Diagnostic \$870.00 smcs; Charter \$784.89 smcs; Charter Media \$1,141.00 smcs; Chesterman \$1,494.39 smcs; CHS Agri Service \$2.00 smcs; City of Ky \$59,582.97 ps,smcs,co; Clipper Herald \$200.02 smcs; College Savings Plan of NE \$150.00 ps; Community Action \$750.00 smcs; Consec Life Ins \$24.00 ps; Copycat Printing \$229.25 smcs; Cummins Central Power \$202.38 smcs; Dawson Co PPD \$1,463.85 smcs; Dell \$2,101.12 smcs; Depository Trust \$558,452.50 ds; Dinsdale Chevrolet \$1,465.17 smcs; Dish Network \$53.52 smcs; DPC Industries \$4,546.62 smcs; Dreyer,D \$57.84 smcs; Eakes \$717.15 smcs,co; ESU #10 \$75.00 co; Eggert,L \$29,470.00 co; EMC Ins \$3,659.00 smcs; Engels Glass Design \$54.00 smcs; Eustis Body Shop \$225.00 smcs; Farmers Union Coop \$465.00 smcs; FBINAA-NE Chapter \$90.00 smcs; Felsburg Holt & Ullevig \$1,500.00 smcs; Fire Dept Training Network \$240.00 smcs; Fireguard \$238.04 smcs; Franklin Miller \$4,422.00 co; Frontier \$7,739.58 smcs; Gale \$307.23 smcs; Garrett Tires \$39.60 smcs; GE Money Bank \$600.75 smcs; Gilstrap,M \$3.63 smcs; Going Vertical \$100.00 smcs; Gomez,J \$11.64 smcs; Great Plains One Call \$286.95 smcs; Hand Machining Co \$981.40 smcs; Hawthorne Jewelry \$774.00 ps; Heiden Construction \$7,220.00 co; Hoff,S \$75.00 smcs;

Hollman \$300.00 smcs; Huber,V \$13.18 smcs; Hydrite Chemical \$1,780.02 smcs; IACP \$1,100.00 smcs; ICMA RC \$4,749.00 ps; IES Industrial \$782.00 smcs; IRS \$116,332.37 ps; Jameson Powerwashing \$8,250.00 co; Kalba,R \$50.28 smcs; Ky Chamber Comm \$288.00 smcs; Ky Clinic \$690.00 smcs,ps; Ky Glass \$94.50 smcs; Ky Hub \$6,658.85 smcs; Ky Towing \$280.00 smcs; Kehl Tree Service \$9,220.00 smcs; KHGI/KWNB \$761.00 smcs; Kiplinger Tax Letter \$67.00 smcs; K-Log \$10,644.84 co; Konica Minolta \$109.96 smcs; KQKY/KGFW \$522.00 smcs; KRVN \$175.50 smcs; Lauby,A \$2.53 smcs; Lieb,E \$10.87 smcs; LVNV Funding \$236.09 ps; Magic Cleaning \$4,510.00 smcs; Mail Express \$297.06 ps; Maple View Products \$92.00 ps; Marlatt Machine Shop \$231.48 smcs; Marshall Cavendish \$107.82 smcs; Medina,L \$22.43 smcs; Menards \$57.38 smcs; Metlife \$8.10 smcs; Michael Burke \$2,250.00 smcs; Mid-NE Garage \$3,100.00 co; Midwest Labs \$23.40 smcs; Midwest Turf \$6,144.00 co; Miller & Associates \$50,624.58 co; MSI System Integrators \$18,564.96 co; Mullen,L \$177.04 smcs; Municipal Supply \$1,341.18 smcs; Nason,J \$17.29 smcs; Nat'l Business Furniture \$5,179.60 co; NE Child Support \$2,650.20 ps; NE Dept of Aeronautics \$995.00 ds; NE Dept of Rev \$27,013.89 smcs; NE Health & Human Services \$454.38 co; NE Law Enforcement \$80.00 smcs; NE Press Advertising \$590.00 smcs; NE State Fire Marshal \$360.00 smcs; Nightengale,D \$45.56 smcs; Northern Plains States \$1,705.56 smcs; Northwestern Energy \$8,337.21 smcs; OfficeMax \$5,199.35 co; Officenet \$394.80 smcs; OMB's Express Police \$45.97 smcs; Ostroski,M \$38.27 smcs; Otto Environmental \$14,495.12 smcs; Paramount Linen \$144.35 smcs; Platte Valley Comm \$120.00 smcs; POAN \$540.00 smcs; Postmaster \$70.00 smcs; Presto-X \$213.00 smcs; Professional Collection \$1,333.28 smcs; Quatred \$13,860.00 co; Random House \$312.80 smcs; Recognition Unlimited \$75.90 ps; Recorded Books \$2,123.83 smcs; Reed,C \$13.36 smcs; Reichert,J \$175.00 smcs; Rheome-Wilcox,C \$112.34 smcs; Riverside Mfg \$211.76 ps; RNDC-Eagle Div \$566.47 smcs; RNDC-Falcon Div \$33.36 smcs; Sensus Metering \$1,289.00 smcs; Snap-On Tools \$347.73 smcs; Steele,K \$63.75 smcs; Steinbrink Landscaping \$43,885.00 smcs,co; Sterling Distributing \$291.16 smcs; Telephone Systems of NE \$4,492.72 co; Turner Body Shop \$150.00 smcs; Tye & Rademacher \$10,969.74 smcs; Unique Management \$331.15 smcs; Unisys \$181.44 smcs; Vavra,V \$74.50 smcs; Vermont Systems \$1,075.00 smcs; Video Service of America \$90.69 smcs; Village Uniform \$126.40 smcs; Waggoner Plumbing \$410.00 smcs; Walters Electric \$1,035.52 smcs; Wiegand Security \$75.00 smcs; Wilkins Hinrichs Stober \$60,053.18 co; World Book \$799.00 smcs; WPCI \$107.00 ps; Payroll Ending 12-5-2009 -- \$325,514.47. 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 January 12, 2010 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 Alley Rose, Inc., dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N on January 23, 2010 from 6:00 p.m. until 12:00 a.m. for a reception.
5. Approve the following Agricultural Leases at the Kearney Regional Airport from January 1, 2010 until December 31, 2010: B & B Bendfeldt Farms, L.L.C. and Brenda

Bendfeldt (229 irrigated acres); David R. Fleming (383 non-irrigated acres); David R. Fleming (272 irrigated acres); Gary Henderson (34 irrigated acres); Donald D. Hendrickson (347 irrigated acres and 11 non-irrigated acres); Ron Hendrickson (75 dryland hay acres); Lee Potter (62 irrigated acres); and approve **Resolution No. 2009-220**.

RESOLUTION NO. 2009-220

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the following Agriculture Lease Agreements on property located at the Kearney Regional Airport from January 1, 2010 until December 31, 2010:

- B & B Bendfeldt Farms, L.L.C. and Brenda Bendfeldt (229 irrigated acres) – annual cash rent is \$37,663.62;
- David R. Fleming (383 non-irrigated acres) – annual cash rent is \$26,810.00;
- David R. Fleming (272 irrigated acres) – annual cash rent is \$44,233.88;
- Gary Henderson (34 irrigated acres) – annual cash rent is \$5,389.00;
- Donald D. Hendrickson, dba “Agrident, Inc.” (347 irrigated acres and 11 non-irrigated acres) – annual cash rent is \$57,952.24;
- Ron Hendrickson, dba “Agrident, Inc.” (75 acres dry land hay) – annual cash rent is \$3,750.00;
- Lee Potter (62 irrigated acres) – annual cash rent is \$10,106.00;

A copy of the Agreements, marked Exhibits “1”, “2”, “3”, “4”, “5”, “6”, “7”, are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the application to extend Conditional Use Permit No. 2001-03 submitted by Carol Letcher of Beadle LLC and Ron Blessing of Blessing Construction to continue the Resource Extraction and Stockpiling Operation located $\frac{3}{4}$ mile north of 56th Street on the west side of Avenue N for a period of one year.

7. Approve the Plans and Specifications for the One-Million Gallon Reservoir Demolition Project located at Memorial Field and set the bid opening date for January 11, 2010 at 2:00 p.m.

8. Approve Change Order No. 2 showing a decrease in the amount of \$25,135.95, Application and Certificate for Payment No. 5-Final in the amount of \$33,977.22, and accept the Certificate of Substantial Completion 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. 2009-221**.

RESOLUTION NO. 2009-221

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 Change Order No. 2 showing a decrease to the contract sum in the amount of \$25,135.95, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting, Inc. and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$33,977.22, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$306,030.20
Change Order No. 1	.00
Change Order No. 2 (12-22-2009)	<u>- 25,135.95</u>
Contract Sum To Date	280,894.25
Gross Amount Due	280,894.25
Retainage	.00
Amount Due to Date	280,894.25
Less Previous Certificates for Payment	<u>246,917.03</u>
Current Payment Due	\$33,977.22

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 30, 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. 2, as shown on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

9. Approve Change Order No. 1 showing an increase in the amount of \$12,018.50, Application and Certificate for Payment No. 4-Final in the amount of \$162,293.75, and accept the Certificate of Substantial Completion 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. 2009-222**.

RESOLUTION NO. 2009-222

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 Change Order No. 1 showing an increase in the amount of \$12,018.50, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and the City's engineer, have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$162,293.75, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$468,373.25
Change Order No. 1 (12-22-2009)	<u>+ 12,018.50</u>
Contract Sum To Date	480,391.75
Gross Amount Due	480,391.75
Retainage	.00

Amount Due to Date	480,391.75
Less Previous Certificates for Payment	<u>318,098.00</u>
Current Payment Due	\$162,293.75

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 30, 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 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve Application and Certificate of Payment No. 1 in the amount of \$182,722.23 submitted by Midlands Contracting and approved by Miller & Associates for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and approve **Resolution No. 2009-223**.

RESOLUTION NO. 2009-223

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$182,722.23, 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	480,391.75
Gross Amount Due	480,391.75
Retainage	.00
Amount Due to Date	480,391.75
Less Previous Certificates for Payment	<u>318,098.00</u>
Current Payment Due	\$182,722.23

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

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Award the demolition of residential structures in accordance with the Neighborhood Stabilization Program and approve **Resolution No. 2009-224.**

RESOLUTION NO. 2009-224

WHEREAS, the City of Kearney was awarded Neighborhood Stabilization Program funds in the amount of \$210,000 from the Nebraska Department of Economic Development; and

WHEREAS, Request for Proposals were submitted to demolition contractors and was published in the Kearney Hub with a deadline submittal of December 15, 2009; and

WHEREAS, Grant Administrator, Candy Kuntz from Miller & Associates, and the City of Kearney have reviewed the Request for Proposals for the demolition of four residential structures; and

WHEREAS, the City’s Grant Administrator has recommended the following proposals be accepted:

- Blessing Construction for property located at 1811 2nd Avenue and 1706 2nd Avenue in the amount of \$5,150;
- Hill Construction for the property located at 1308 4th Avenue in the amount of \$2,650; and
- Skeen Construction for the property located at 1919 Avenue G in the amount of \$1,780.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Grant Administrator’s recommendation is hereby accepted and approved, that the following proposals be and are hereby accepted:

- Blessing Construction for property located at 1811 2nd Avenue and 1706 2nd Avenue in the amount of \$5,150;
- Hill Construction for the property located at 1308 4th Avenue in the amount of \$2,650; and
- Skeen Construction for the property located at 1919 Avenue G in the amount of \$1,780.

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 the contracts for such demolition in accordance with the general stipulations pertaining thereto contingent upon the approval of all proposed properties by the Nebraska Department of Economic Development and clearance given by an asbestos inspector.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve the Technical and Professional Services Contract between the City of Kearney and Miller & Associates for project planner assistance for community revitalization planning for 2009, 2010 and 2011 and approve **Resolution No. 2009-225.**

RESOLUTION NO. 2009-225

WHEREAS, the City of Kearney was awarded \$12,000.00 for Community Revitalization Planning for 2009, 2010, and 2011 from the Nebraska Department of Economic Development; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for project planner assistance for community revitalization planning for 2009, 2010 and 2011; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide project planner assistance services.

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, on behalf of the City of Kearney, the Technical and Professional Services Contract between the City of Kearney and Miller & Associates for project planner assistance for community revitalization planning for 2009, 2010 and 2011 as set forth in the Contract. The said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the Technical and Professional Services Contract between the City of Kearney and Miller & Associates for services with the CDBG Tourism Development Grant Administration in connection with the Great Platte River Road Memorial Foundation to construct a replica Pawnee earth lodge and approve **Resolution No. 2009-226.**

RESOLUTION NO. 2009-226

WHEREAS, the City of Kearney, sub-granting to the Great Platte River Road Memorial Foundation, is applying for a Community Development Block Grant from the Nebraska Department of Economic Development for Tourism Development for 2009-2010 in the amount of \$200,000; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for project administration services relating to this project; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide project administration services.

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, on behalf of the City of Kearney, the Technical and Professional Services Contract between the City of Kearney and Miller & Associates for project administration services as set forth in the Contract. The said Contract, marked Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve Change Order No. 14 showing an increase in the amount of \$621.00 and Change Order No. 15 showing an increase in the amount of \$1,711.00 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. 2009-227**.

RESOLUTION NO. 2009-227

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. 14 showing an increase to the contract sum in the amount of \$621.00, as shown on Exhibit "A", and Change Order No. 15 showing an increase in the amount of \$1,711.00, as shown on Exhibit "B", 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)	+ 1,660.00
Change Order No. 14 (12-22-2009)	+ 621.00
Change Order No. 15 (12-22-2009)	<u>+ 1,711.00</u>
Contract Sum to Date	<u>\$2,823,797.75</u>

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. 14 and 15, as shown on Exhibits "A" and "B" respectively, be and are hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7561 – REZONING 115 EAST 21ST STREET (PERTAINS TO PUBLIC HEARING 1)

Council Member Lear introduced Ordinance No. 7561, being Subsection 1 of Agenda Item VI to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District for property described as Lots 527 and 528, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (115 East 21st 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 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, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7561 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7561 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7561 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.

EAGLES CLUB – ADDITION TO LIQUOR LICENSE

Mayor Clouse opened for discussion the Application for Addition to Liquor License submitted by Eagles Fraternal Order 2722 located at 17 West 24th Street in connection with their Class C-11097 liquor license to include a 50' x 30' beer garden to the southeast of the current facility.

On November 23, 2009 an Application for Addition to Liquor License has been submitted by the Eagles Club in connection with their Class C-11097 (Beer, Wine, Distilled Spirits – One and Off Sale) liquor license located at 17 West 24th Street. The Eagles Club was issued a license in 1975. According to the records of the Nebraska Liquor Control Commission, this establishment was cited on July 14, 2009 for Open Container after Hours.

Due to the state-wide no smoking ban that was effective in June of 2009, any outdoor smoking areas where alcohol will be allowed, will need to be approved by the Liquor Commission and added to a current license. The Eagles Club is proposing to construct a "beer garden". A "beer garden" is defined as an outdoor area included in the licensed premises, which is used for the service and consumption of alcoholic liquors, and which is contained by a fence or wall preventing the uncontrolled entrance or exit of persons from the premises, and preventing the passing of alcoholic liquors to persons outside the premises.

According to Building Official, Max Richardson, a permit was issued to construct a fenced area on the outside of their existing building. According to Fire Administrator, Ken Tracy, the beer garden will have two appropriate exists to a public way.

Roland Whitney and Doug Bierman were present to answer any questions.

Moved by Clouse seconded by Kearney to approve the Application for Addition to Liquor License submitted by Eagles Fraternal Order 2722 located at 17 West 24th Street in connection with their Class C-11097 liquor license to include a 50' x 30' beer garden to the southeast of the current facility. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

AWARD BID; KEARNEY PUBLIC LIBRARY ADDITION/RENOVATION PROJECT

Mayor Clouse opened for discussion the bids received for the Kearney Public Library Addition & Renovation Project and to consider Resolution No. 2009-228 awarding the bid to JLC, Inc. of York, Nebraska in the amount of \$4,548,220.00 and approving Change Order No. 1 showing a decrease in the amount of \$75,500.00 to the base bid.

On October 27, 2009 the City Council approved the Plans and Specifications and set the bid opening date for November 17, 2009 for the Kearney Public Library Addition & Renovation Project. The City received the following bids:

Contractor	Base Bid	Alternate #1	Alternate #2 (Add)	Alternate #3 (Add)	Alternate #4 (Add)
JLC Inc. York, Nebraska	\$4,548,220	-0-	\$67,300	\$74,300	\$62,440
Paulsen, Inc. Cozad, Nebraska	\$4,596,000	-0-	\$158,000	\$64,300	\$77,500
Hall-Irwin Corp. Milliken, Colorado	\$4,720,115	-0-	\$158,070	\$66,510	\$34,490
Central Contracting Kearney, Nebraska	\$4,788,562	-0-	\$184,000	\$58,000	\$61,000
Hausmann Construction Lincoln, Nebraska	\$4,869,000	-0-	\$162,000	\$52,000	\$79,000
Sampson Construction Lincoln, Nebraska	\$5,138,000	-0-	\$153,000	\$67,000	\$92,000
Roche Constructors					

Greeley, Colorado	\$5,591,700	-0-	\$51,700	\$28,500	\$62,900
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JLC, Inc. from York, Nebraska submitted the low bid at \$4,548,220. City staff met with the City's architect, Wilkins Hinrichs Stober to discuss the project. After deliberations, it is the recommendation of City staff and the City's engineer to award the bid to JLC, Inc. for the base bid of \$4,548,220, as well as the following:

- Reject Alternate #2 providing Moisture Control System for new construction concrete slabs.
- Reject Alternate #3 removing and replacing all floor/ceiling finishes and repaint all walls at Rooms 141 and 148.
- Reject Alternate #4 adding exterior sunshade canopies outside and to the west of Children's 116, West Vestibule E100 and to the east of East Vestibule E101.
- Approve Change Order No. 1 that would eliminate the following from the base bid:
 - Eliminate the screen wall on the roof. Install only the portion of the screen wall structure that protrudes through the roof insulation and EPDM and eliminate everything above that (-\$57,470).
 - Eliminate wood cornice and replace with painted gypsum wallboard at bulkheads in Adult Fiction 124 (-\$4,920).
 - Eliminate fireplace and associated items in Adult Fiction 124 (-\$8,760).
 - At Bookmobile Garage 119, delete the overhead coiling door/associated opener and substitute a Raynor insulated steel, high lift, overhead sectional door with commercial opener (-\$4,350).

The City's engineer on the project submitted a letter recommending the award of the bid and approving Change Order No. 1 reducing the base bid \$75,500 bringing the bid to \$4,472,720.

Funds in the amount of \$4,000,000 have been set aside by the City of Kearney for the project. In addition, the Kearney Public Library Foundation has raised funds and pledges in the amount of \$1,509,948 to add to City's portion and will continue to perform additional fundraising.

Council member Buschkoetter asked if JLC, Inc. has done any work in the Kearney area. Jacob Sertich from Wilkins Hinrichs Stober Architects stated that JLC has done work in the Minden and Holdrege area and the architects did check their references which were very good. Although they have not done work for Wilkins Hinrichs Stober or the City of Kearney, Mr. Sertich did not have any reservations about the job that they will do on the Library project. Ken Jensen is the president of JLC and his son, Drew Jensen is the project manager. They were also present at the meeting.

Moved by Kearney seconded by Lammers to approve the bids received for the Kearney Public Library Addition & Renovation Project and approve **Resolution No. 2009-228** awarding the bid to JLC, Inc. of York, Nebraska in the amount of \$4,548,220.00 and approving Change Order No. 1 showing a decrease in the amount of \$75,500.00 to the base bid. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2009-228

WHEREAS, Wilkins Hinrichs Stober Architect and the City of Kearney have reviewed the sealed bids which were opened on November 17, 2009 at 2:00 p.m. for the Kearney Public Library Addition & Renovation Project; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost ranged between \$4.3 million and \$4.8 million; and

WHEREAS, the said engineers have recommended the base bid offered by JLC, Inc. of York, Nebraska in the sum of \$4,548,220.00 be accepted as the lowest responsible bid for said improvements; and

WHEREAS, Administration recommends accepting the bid submitted by JLC, Inc. of York, Nebraska and approving Change Order No. 1 showing a decrease to the base bid in the amount of \$75,500.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference.

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 JLC, Inc. of York, Nebraska be and is the lowest responsible bidder for the Kearney Public Library Addition & Renovation Project to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of JLC, Inc. of York, Nebraska in the sum of \$4,548,220.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that Change Order No. 1 showing a decrease to the base bid in the amount of \$75,500.00 be and is hereby accepted and approved.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount ranging from \$4.3 million and \$4.8 million 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 22ND DAY OF DECEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$933.05, PLATTE VALLEY STATE BANK - \$100,652.71, SCHOOL DISTRICT #7 - \$14,757.15, HORIZON MIDDLE SCHOOL - \$100.00, SUNRISE MIDDLE SCHOOL - \$100.00

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the amount of \$100,652.71 payable to Platte Valley State Bank and in the amount of \$933.05 payable to NPPD be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$14,757.15 payable to School District #7, in the amount of \$100.00 payable to Horizon Middle School, and in the amount of \$100.00 payable to Sunrise Middle School be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:53 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**