

Kearney, Nebraska
February 23, 2010
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 February 23, 2010, 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; Suzanne Brodine, Assistant to the City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Bruce Grupe, City Engineer; Andy Harter, Engineering Assistant; and Max Richardson, Chief Building Official were also present. Some of the citizens present in the audience included: Roberta Loescher, Marc Loescher, Jessica Loescher, John Daake, Mary Daake, Adam Daake, Rhoda Brown, Marv Reichert, Jeremiah Quintin, Brian Farrar, Tom Tye, Eric Karre, Pat McLaughlin, 50 boy scouts, 8 boy scout leaders, 6 UNK students, Kevin Hervert from Kearney Hub, Steve Altmaier from KGFW Radio, Jessica Phinney from NTV.

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

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silent prayer.

PRESENTATION OF THE FLAGS

Mayor Clouse stated the Boy Scouts are celebrating their 100th Anniversary. At the end of the meeting they will be making a presentation with cookies and punch following in the Conference Room. The Boy Scouts presented the flags.

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

LEASE AGREEMENT WITH OTIS AIR SERVICE

Mayor Clouse opened for discussion Non-Owned Corporate Hangar T-925 Lease between the City of Kearney and Otis Air Service and to consider Resolution No. 2010-9.

Marshall Aviation is selling its aircraft and hangar, T-925 to Otis Air Service. This hangar is not owned by the Airport so it leases the ground it sits on at the Kearney Regional Airport. This lease will coincide with the current leases that Otis Air Service has with the City. The permitted uses of the hangar include storage of aircraft and aircraft parts as well as repair and maintenance under his control. The monthly rental fee has been set by the City's Comprehensive Fee Schedule at \$.50 per square foot for non-airport owned hangars. Otis Air Service's Non-Corporate Hangar Lease will generate additional revenue for the Airport, which will be used to improve and maintain airside facilities. The amount of monthly rental fee is \$187.00.

Moved by Kearney seconded by Lammers to approve the Non-Owned Corporate Hangar T-925 Lease between the City of Kearney and Otis Air Service and approve **Resolution No. 2010-9**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2010-9

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Non-Owned Corporate Hangar T-925 Lease on behalf of the City of Kearney, Nebraska, with Otis Air Service, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AWARD BID FOR 2009 PART 12 IMPROVEMENTS

Mayor Clouse stated that any action on the bids received for the construction of the 2009 Part 12 Improvements will be postponed.

III. PUBLIC HEARINGS

LIQUOR LICENSE FOR TRU CAFÉ, 2100 CENTRAL AVENUE

Mayor Clouse opened the public hearing on the application for a Class I-87967 liquor license submitted by BRICK STREET ENTERPRISES INC., dba Tru Café located at

2100 Central Avenue, consider the manager application for Roberta Loescher, and consider Resolution No. 2010-35.

Roberta Loescher presented this matter to the Council. She stated in October 2009, they purchased the building that was previously called "Elements". They have renamed their business Tru Café. They serve a daily light lunch. The hours are Monday, Tuesday, Wednesday and Friday from 9:00 a.m. to 5:00 p.m. Thursday hours are 9:00 a.m. to 7:00 p.m. and 9:00 a.m. to 4:00 p.m. on Saturdays. In the front café area will be an art gallery where local artists can have a venue to show their artwork which will be changed out monthly. The second gallery is located in the skylight area and also has a meeting room that can be rented by artists to show their artwork for a month at a time. They also will provide adults in the Kearney area a venue to play music on Thursday and Friday evenings which could possibly be expanded to include Saturdays. On those days, the hours would be open from 9:00 a.m. to approximately 10:00 p.m. They want to be able to offer wine and select specialty beers to the adults that come in to listen to the music. They have no intentions of becoming a full bar. They plan to have live music on Thursday and Friday evenings with Jazz or Blues ensembles not larger than three people. Ms. Loescher and her husband, Marc, have completed the TIPS training. The other employees will go through the training next month when it is offered again.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the application for a Class I-87967 liquor license submitted by BRICK STREET ENTERPRISES INC., dba Tru Café located at 2100 Central Avenue, approve the manager application for Roberta Loescher, and approve **Resolution No. 2010-35**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2010-35

WHEREAS, BRICK STREET ENTERPRISES INC., dba Tru Café has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-87967 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to do business at 2100 Central 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, BRICK STREET ENTERPRISES INC., dba Tru Café also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Roberta Loescher; and

WHEREAS, a hearing was held relating to said application on February 23, 2010.

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-87967 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to BRICK STREET ENTERPRISES INC., dba Tru Café located at 2100 Central Avenue, Kearney, Nebraska, and to approve the application for Corporate Manager of Roberta Loescher.

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 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LIQUOR LICENSE FOR PLATTE VALLEY BREWERY, 14 EAST RAILROAD STREET

Mayor Clouse opened the public hearing on the application for a Class C-87969 liquor license submitted by DAAKE JAM INC dba Platte Valley Brewery located at 14 East Railroad Street which includes the beer garden on the east side of the building, consider the manager application for Adam Daake, and consider Resolution No. 2010-36.

Adam Daake presented this matter to the Council. They have incorporated their current business so they need to change the license to the corporation name. He and all his employees have had the TIPS training. Anytime he hires a new employee, he gets them training as soon as possible.

The Council commended Adam Daake on his perfect record of not having any violations since he opened his business nine years ago.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the application for a Class C-87969 liquor license submitted by DAAKE JAM INC dba Platte Valley Brewery located at 14 East Railroad Street which includes the beer garden on the east side of the building, approve the manager application for Adam Daake, and approve **Resolution No. 2010-36**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2010-36

WHEREAS, DAAKE JAM INC dba Platte Valley Brewery has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-87969 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 14 East Railroad Street, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, DAAKE JAM INC dba Platte Valley Brewery also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Adam Daake; and

WHEREAS, a hearing was held relating to said application on February 23, 2010.

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 C-87969 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to DAAKE JAM INC dba Platte Valley Brewery located at 14 East Railroad Street, Kearney, Nebraska, and to approve the application for Corporate Manager of Adam Daake.

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 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

½¢ SALES TAX CAPITAL IMPROVEMENT PLAN

Mayor Clouse opened the public hearing on the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney, Nebraska.

City Manager Michael Morgan presented this matter to the Council. Two items will be discussed together the ½¢ Sales Tax Plan and discussion on the One and Six Year Street Improvement Plan which has been incorporated into the ½¢ Sales Tax Plan where appropriate. The citizens passed the ½¢ Sales Tax on November 15, 2005 so it will be soon be in effect for five years. Any citizen can go on the City's website and see exactly what the expenditures have been.

He presented a summary. This year there are typical maintenance items. Talmadge Street construction is related to a development agreement including 56th Street interlocal agreement and 11th Street is included in this document and funded. The 39th Street extension from Pony Express east has been removed except for some engineering due to the stimulus program funding. The library expansion will be moved forward and the bid has been awarded. The airport terminal renovation is out to bid. They will continue the five year contribution to the Firefighters Museum. The pedestrian bridge and some other small projects that have been previously approved will be included. The fund balance surplus is \$362,000 which is over and above the target fund balance that they have for the program. They have been able to meet the percentages and the policies that have been discussed in the past. Most of the original projects that were discussed have been completed. In the years to come, there will be a lot more emphasis on road construction and less on buildings. In the next 3-5 years, that fund balance begins to significantly improve.

Council member Lammers asked when the stimulus funds will be available. Director of Public Works Rod Wiederspan stated that all the bills for the construction project will be paid for through the State. The State is comfortable that the funds are there and are 99% certain that 39th Street will be 100% funded by stimulus dollars. This is one of the last projects to actually be bid so that any remaining money from the other projects throughout the State, will be put towards this 39th Street project. By the State's calculations at the present time, there will be sufficient funds to cover the project.

Mayor Clouse asked if City staff is planning on some additional hearings for a wish list as has been done in the past. City Manager stated they made a specific announcement in a press release to the public and encouraged them to participate. Their office did not receive any input. They are open to public comments throughout the year.

Mayor Clouse stated he put a list together which included: east side bridge on 2nd Avenue; clean/upgrade I-80 lake at the entrance to the City; pedestrian bridge at Yanney Park/new school; 16th Street bridge across the tailrace; UNK athletic complex; residential park in northeast Kearney; water splash park in neighborhood parks; paving of Country Club Lane from 35th Street to 39th Street; permanent cover for MONA parking lot; paved parking lot and other improvements at Memorial field; renovations of Harmon Park sonatorium, rock garden, and light house; Harmon Park Pool upgrades – new bath house; City WiFi network; water park; economic development spec building; downtown/Old Town improvements; Veterans memorial; 17th Avenue railroad overpass; new public administration building; street improvements based on prioritization and above standard general fund budget; 39th Street paved to Cottonmill; bricks street repair; downtown public restrooms; downtown parking garage; Meadowlark Hills club house expansion; 17th Avenue bridge across north channel at Talmadge Street; paving Talmadge Street to 30th Avenue; and expansion of Peterson Senior Center.

Council member Buschkoetter stated a project could be building a new facility for the adult fast pitch program because the fields do not match up and would open the facility for more youth sports. As with the basketball tournament that was recently held in Kearney, it shows how much economically these sporting events help the community. He would also like to see additional parking around the park areas.

Council member Lammers stated that he would add building a youth softball/soccer field recreation area for tournaments.

Council member Kearney stated he was not in favor of any kind of a tax increase.

Marv Reichert, 18 Rolling Hills, stated that he would add a skateboard park to the wish list.

Rhoda Brown, 410 Tahoe Drive, stated that she represented the Southeast Neighborhood Association and requested a splash park in Hammer Park. She has been actively pursuing this for the past five years. The kids in that area have to cross five arterial streets to get to Centennial Park or Yanney Park which creates a major safety issue. There is possibly another housing development coming in that will add to the number of kids in that area.

Tom Tye stated that he agreed with Council member Buschkoetter with paving parking lots in City parks that are currently graveled. He named Yanney Park, West Lincoln Way and Baldwin Park as a few that needed improved parking. He looked at those projects being similar to the street paving projects because they would enhance or preserve an existing project. They are difficult projects to raise private funds for.

Larry Muhlman, 2107 East 34th Street, stated he wished to add a stop light button for kids that live east of Avenue N to walk to and from Northeast School on 34th Street. As the enrollment grows, more kids are walking to school. He encouraged a traffic study without law enforcement being present to see how people actually speed through that area.

Jerimiah Quintin, 516 West 28th Street, suggested that the surplus money in the $\frac{1}{2}\%$

Sales Tax fund be kept back for emergencies, such as damage done to parks so those repairs could be done right away instead of waiting to do them.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney, Nebraska as presented. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ONE & SIX YEAR STREET IMPROVEMENT PLAN

Mayor Clouse opened the public hearing on the adoption of the One & Six Year Street Improvement Plan and consider Resolution No. 2010-37.

City Engineer Bruce Grupe presented this matter to the Council. He presented the One Year Plan which included the following

Location	Est. County Cost	Est. State Cost	Est. City Cost	Est. Total Cost
25th Street from Avenue I to Avenue L - 600'		\$500,000	\$100,000	\$600,000
56th Street from 100' East of Avenue Q East 1600'	\$1,159,000		\$309,000	\$1,468,000
39th Street from Avenue F to Avenue M - 1700'			\$1,843,000	\$1,843,000
39th Street from Pony Express to Avenue F - 2100'			\$2,236,000	\$2,236,000
6th Avenue from 110' south of 8th Street south 280' cul-de-sac			\$75,000	\$75,000
5th Avenue from 16th Street to 19th Street - 1070'			\$260,000	\$260,000
Avenue K from 17th to 18th - 350'			\$265,000	\$265,000
17th Street from Avenue K to Avenue M - 522'			\$165,000	\$165,000
18th Street from 8th Avenue to 9th Avenue - 300'			\$100,000	\$100,000
Talmadge Street from 330' west of 3rd Avenue west 700'			\$350,000	\$350,000
15th Avenue from 8th Street to 11th Street - 1200'			\$420,000	\$420,000
16th Avenue from 8th Street to 11th Street - 1100'			\$390,000	\$390,000
8th Street from 148' east of 15th Avenue to 16th Avenue - 720'			\$260,000	\$260,000
30th Avenue from 16th Street north 527'			\$200,000	\$200,000
16th Street from 30th Avenue east 1540' - 1540'			\$500,000	\$500,000
30th Avenue from 11th Street to 16th Street - 990'			\$665,000	\$665,000
11th Street from Kea West Avenue to 30th Avenue - 3950'	\$765,000		\$1,490,000	\$2,255,000

Marv Reichert, 18 Rolling Hills, stated he has brought this up several times in the past, but wanted to know if 39th Street was going to be extended west to Rolling Hills and Equestrian Hills so they would have an alternate route if the bridge were to go out. City Manager responded that a portion is funded in the ½¢ Sales Tax but it is outside the City Limits. The City is in discussion with the developer and there is \$500,000 in the City's ½¢ Sales Tax scheduled for 2012.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the adoption of the One & Six Year Street Improvement Plan and approve **Resolution No. 2010-37**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2010-37

WHEREAS, the City of Kearney, Nebraska is required by Section 39-2119 of the Nebraska Revised Statutes to adopt a One and Six Year Street Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, at a Public Hearing held at approximately 7:00 p.m. on February 23, 2010, in the Kearney City Council Chambers that the One Year City Street Plan for fiscal year ending September 30, 2011 and the Six Year City Street Plan ending September 30, 2016, are hereby adopted as listed on the Summary of One Year Plan and the Summary of Six Year Plan, marked as Exhibit "A" attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held February 9, 2010.
2. Approve the following Claims:

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

AT&T \$291.54 Smcs; Adams Co Sheriff \$1,000.00 Smcs; ADB Airfield Solutions \$230.82 Smcs; All Makes Office Equipment \$2,313.63 Co; Amer Trade Mark \$198.09 Smcs; Anderson Brothers \$32,471.10 Co; Ask Supply \$288.48 Smcs; Aurora Coop

\$669.90 Smcs; Aviva \$1,220.00 Ps; Baker & Taylor Books \$3,174.65 Smcs; BBC Audiobooks \$112.26 Smcs; Bluecross Blueshield \$120,065.70 Smcs; Brilliance Audio \$85.13 Smcs; Brodine,S \$79.30 Smcs; Brouwer,K \$19.00 Smcs; Buffalo Co Reg Deeds \$101.00 Smcs; Business Computer Design \$3,171.00 Smcs; Cash-Wa \$314.00 smcs,co; CH Diagnostic \$445.00 Smcs; CHS Agri Service \$2.00 Smcs; City Glass \$953.10 Smcs; City of Ky \$13,893.40 smcs,ps; College Savings Plan of NE \$150.00 Ps; Control Masters \$3,070.00 Smcs; Copycat Printing \$480.79 Smcs; Credit Management \$101.58 Ps; Cummins Central Power \$243.90 Smcs; Dawson Co PPD \$19,657.15 Smcs; DBSP \$1,000.00 Smcs; Depository Trust \$7,385.00 Ds; Development Council \$3,456.84 Smcs; Dmilaco \$24.25 Smcs; Dutton-Lainson \$755.91 Smcs; Eakes \$351.03 Smcs; Elliott Equipment \$763.55 Smcs; EMC Ins \$3,186.81 Smcs; Eustis Body Shop \$225.00 Smcs; Farmers Union Coop \$31.50 Smcs; Fedex \$22.36 Smcs; Fiddelke Heating \$3,091.00 Smcs; Franzen Fencing \$175.00 Smcs; Frontier \$161.08 Smcs; Gale \$168.14 Smcs; Garrett Tires \$66.95 Smcs; Gear for Sports \$2,235.11 Smcs; General Traffic Controls \$18,375.60 Smcs; Gough,P \$345.00 Smcs; GI Independent \$195.74 Smcs; Great Plains One Call \$81.67 Smcs; Great Plains Safety \$260.00 Smcs; Hall,J \$20.00 Smcs; Harland Technology \$6,470.00 Co; HD Supply \$4,185.29 Smcs; Heiman Fire Equipment \$898.05 Smcs; Hometown Leasing \$237.20 Co; Hydro Tech \$304.00 Smcs; ICMA RC \$4,693.97 Ps; IRS \$104,960.49 Ps; Jack Lederman \$359.20 Smcs; Kaps,D \$19.00 Smcs; Ky Clinic \$268.00 smcs,ps; Ky Concrete \$753.93 Smcs; Ky Hub \$959.00 Smcs; Ky Humane Society \$6,500.00 Smcs; Ky Towing \$75.00 Smcs; KFXL-TV \$200.00 Smcs; KGFW/KRNY \$227.98 Smcs; Koetters,J \$372.00 Smcs; Konica Minolta \$264.51 Smcs; Lentfer,S \$50.00 Smcs; Lieske Law Firm \$2,549.13 Smcs; Lincoln Winwater Works \$13,151.80 Smcs; Linweld \$31.60 Smcs; LVNV Funding \$235.74 Ps; Magic Cleaning \$2,750.00 Smcs; Marlatt Machine Shop \$1,063.99 Smcs; Menards \$131.14 Smcs; Metlife \$8.10 Ps; Middleton Electric \$40.00 Co; Mid-NE Garage Doors \$1,700.00 Smcs; Miller & Associates \$96,716.13 smcs,co; MOCIC \$250.00 Smcs; Moonlight Embroidery \$874.75 Ps; Municipal Supply \$1,710.00 Smcs; Murphy Tractor \$1,987.94 Smcs; NCS Equipment \$582.55 Smcs; NE AWWA \$40.00 Smcs; NE Child Support \$2,896.90 Ps; NE Dept of Aeronautics \$995.00 Ds; NE Dept of Environmental \$450.00 Smcs; NE Dept of Revenue \$29,205.08 Smcs; NE Forest Service Tree \$45.00 Smcs; NE Games & Parks \$1,000.00 Smcs; NE Public Health \$850.00 Smcs; Northwestern Energy \$19,080.30 Smcs; Novus \$35.00 Smcs; Office Depot \$171.73 Smcs; Officenet \$134.96 smcs,co; O'Keefe Elevator \$78.50 Smcs; Otis Air Service \$450.00 Co; Panowicz,K \$24.00 Ps; Paramount \$251.04 Smcs; Pat's Plumbing \$95.00 Smcs; Penworthy \$1,741.08 Smcs; Ping \$1,252.00 Smcs; Pitney Bowes \$44.22 Smcs; Planning Commissioners \$163.00 Smcs; Platte River Radio \$164.00 Smcs; Platte Valley Comm \$274.95 Smcs; Presto-X \$162.75 Smcs; Pumpkin Patch \$150.00 Smcs; Random House \$92.00 Smcs; Recognition Unlimited \$78.65 Smcs; Recorded Books \$261.65 Smcs; Reinke's Heating \$4,587.45 smcs,co; Resource Management \$2,452.90 Smcs; Sam's Club Direct \$9.69 Smcs; Schmidt,K \$35.00 Smcs; Sherwin Williams \$33.39 Smcs; Sign Center \$258.75 Smcs; Splittgerber,L \$19.00 Smcs; Star-Herald \$308.07 Smcs; Telephone Systems of NE \$4,752.20 Co; Tiny Toes Farrier Service \$45.00 Smcs; Titleist \$219.91 Smcs; Tri-County Glass \$776.18 Co; Turfwerks \$157.50 Smcs; Turner Body Shop \$225.00 Smcs; Unique Management \$313.25 Smcs; West Payment Center \$1,372.10 Smcs; Wiegand Security \$75.00 Smcs; Wilkins Hinrichs Stober \$6,165.84 Co; Williams,M \$113.57 Smcs; Wooden,T \$565.50 Smcs; WPCI \$160.50 Ps; Zoll Medical \$3,204.00 Smcs; Payroll Ending 2-13-2010 -- \$311,009.44. 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 March 9, 2010 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Approve the Agreement between the City of Kearney and the Museum of Nebraska Art to block off the parking on the east side of Central Avenue from 24th Street to 25th Street, the north side of 24th Street from Avenue A to Central Avenue on April 9 and 10, 2010 from 4:00 p.m. until 11:00 p.m.; and to block off the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue beginning at 7:00 a.m. April 7, 2010 until 5:00 p.m. on April 12, 2010 in connection with their Biennial fundraiser.

5. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 1978-01 to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.

6. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period of one year.

7. Approve the request submitted by Seth VanHorn on behalf of the Special Olympics National Final Leg Torch Run to block off the parking lot located north of the Museum of Nebraska Art located at 2401 Central Avenue on July 15, 2010 from 7:00 a.m. until 12:00 p.m.

8. Approve Application and Certificate for Payment No. 3 in the amount of \$59,460.82 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. 2010-38**.

RESOLUTION NO. 2010-38

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. 3 in the amount of \$59,460.82, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$341,655.00</u>
Contract Sum To Date	341,655.00
Gross Amount Due	297,638.15
Retainage	29,763.81

Amount Due to Date	267,874.33
Less Previous Certificates for Payment	<u>208,413.51</u>
Current Payment Due	\$ 59,460.82

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 3, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

9. Approve Change Order No. 1 showing a decrease in the amount of \$21,412.75, Application and Certificate for Payment No. 1-Final in the amount of \$83,962.25, and the Certificate of Substantial Completion submitted by Midlands Contracting and approved by Miller & Associates for the 2009 Part 2 Improvements – Manhole Rehabilitation Project and approve **Resolution No. 2010-39**.

RESOLUTION NO. 2010-39

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2009 Part 2 Improvements – Manhole Rehabilitation Project, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$21,412.75, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Midlands Contracting and the City's engineer, have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$83,962.25, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$105,375.00
Change Order No. 1 (2-23-2010)	<u>- 21,412.75</u>
Contract Sum To Date	83,962.25
Gross Amount Due	83,962.25
Retainage	.00
Amount Due to Date	83,962.25
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$83,962.25

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of January 31, 2010, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 1-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Affirm Redevelopment Area #4 which includes the Central Business District be redesignated and continue to be deemed to be “blighted and substandard” and approve **Resolution No. 2010-40.**

RESOLUTION NO. 2010-40

WHEREAS, the City Council created the City of Kearney Community Redevelopment Authority in September, 1993; and

WHEREAS, the Community Redevelopment Authority commissioned a study in 1994 to conduct necessary surveys on redevelopment areas determined to be blighted or substandard; and

WHEREAS, a study was submitted entitled “Kearney, Nebraska Redevelopment Area #4” which includes the Central Business District and such area was determined to be “blighted and substandard” on February 13, 1996 by the Kearney City Council; and

WHEREAS, the State of Nebraska wishes to have the City of Kearney redesignate Area #4 as continuing to be blighted and substandard so that additional grant money can be applied for in this area; and

WHEREAS, the Community Redevelopment Authority Board of Directors has recently redesignated Redevelopment Area #4 as blighted and substandard and is requesting confirmation of this determination from City Council.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Redevelopment Area #4 which includes the Central Business District be redesignated and continued to be deemed to be “blighted and substandard” as is defined by Neb. Rev. Stat. § 18-2103 and that the conditions set forth therein to deem this area as blighted continue to exist as originally determined by the City Council in February of 1996 with said Area #4 being described as follows: Beginning at the intersection of the north line of 26th Street along the east line of Avenue C; thence south along the east line of Avenue C to its intersection of the south line of 24th Street; thence west along the south line of 24th Street to its intersection of the east line of the alley between Avenue B and Avenue C; thence south along the east line of the alley to its intersection of the south line of North Railroad Street; thence southwest along the south line of North Railroad Street to its intersection of the west line of the alley between 3rd Avenue and 2nd Avenue; thence north along the west line of the alley to its intersection of the south line of 24th Street; thence west along the south line of 24th Street to its intersection of the west line of 3rd Avenue; thence north along the west line of 3rd Avenue to its intersection of the north line of 26th Street; thence east along the north line of 26th Street to its intersection of the east line of Avenue C, which is the point of beginning, all in the City of Kearney, Buffalo County, Nebraska, be and is hereby approved.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the bids received for the purchase of a towable compost turner to be used at the Kearney Area Solid Waste Agency Landfill and award the bid to Vermeer High Plains from Lincoln, Nebraska in the amount of \$139,800.00.
12. Approve the T-Hangar C-3 Lease Agreement between the City of Kearney and Mark Markes and approve **Resolution No. 2010-41**.

RESOLUTION NO. 2010-41

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar C-3 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Mark Markes, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 23RD DAY OF FEBRUARY, 2010.

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. 7573 – CONSTRUCTION STORMWATER ORDINANCE

Engineering Assistant Andy Harter gave a powerpoint presentation regarding this ordinance to the Council. On January 1, 2006 the City of Kearney's NPDES stormwater permit became active. With that permit the City began implementing our Stormwater Management Plan to meet the requirements set forth in the permit. Over the past four years, many new programs have been developed and implemented that fulfill our obligations to the State. Many of these programs are directed at public education, construction site compliance, participation in local environmental events and the reduction of pollutant loads from our own operations. This proposed ordinance is yet another step towards meeting the requirements of the City of Kearney's state permit.

As a requirement of the City of Kearney NPDES permit, the following Construction Ordinance has been developed. Efforts have been made to coordinate the appropriate ordinance issues with the Chief Building Official and his department. As stated in the Nebraska Department of Environmental Qualities permit issued to the City: "Your program must include the development and implementation of, at a minimum:

- An ordinance or other regulatory mechanism to require erosion and sediment control.
- Requirements to implement Best Management Practices.
- Requirements to control construction wastes.

- Procedures for site plan review.
- Procedures for consideration of information submitted by the public.
- Procedures for site inspection and enforcement of control measures.

In an effort to involve the construction community in the development of this ordinance and associated programs, a large effort was put towards presenting and allowing comment from contractors affected by this program. Invitations to open meetings, direct mailers and special presentation to local home builders provided us with the opportunity to present this program to local contractors and solicit their input. All proposed documentation for this program has been out for public comment since December 3, 2009. We have addressed all the comments we received in the attached ordinance. We feel confident the program is being developed with the best interest of the City and development community in mind.

The approval of this ordinance not only will help protect our local environment and take a large stride towards permit compliance, but will assist in the beautification of Kearney.

Council Member Lammers introduced Ordinance No. 7573, being Subsection 1 of Agenda Item VI to amend the City Code by adding a new Article 16 entitled "Construction and Post-construction Stormwater Code" to Chapter 9 "Public Works" providing a purpose and intent; providing definitions; setting forth liability responsibilities; setting forth responsibility for administration; providing severability, applicability and prohibitions; providing general requirements for construction activities; providing requirements for the building phase of development; requiring construction stormwater pollution prevention plan; providing requirements for utility construction; providing post-construction requirement of permanent BMPs; providing certificate of permanent BMP's; requiring ongoing inspection and maintenance of permanent BMPs; setting forth technical standards, specifications, and guidance; authorization of enforcement personnel; providing for right of entry and sampling; setting forth violations, enforcement and penalties; setting forth action without prior notice and other legal action, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, 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. 7573 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 Lear seconded by Buschkoetter that Ordinance No. 7573 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. 7573 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. 7574 – ADOPT 2009 INTERNATIONAL BUILDING CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE AND UNIFORM PLUMBING CODE

The model building codes enforced by the State of Nebraska and the City of Kearney are periodically updated to ensure modern up-to-date building codes, designs and building systems are available to contractors in the Kearney community.

The following three model codes have been presented and reviewed by the contracting community and are now ready for adoption: The 2009 International Building Code, which regulates the construction of apartment buildings and all commercial structures. The 2009 Uniform Plumbing Code, which regulates the installation of drain, waste and vent systems in all structures. The 2009 Property Maintenance Code, which regulates maintenance issues on residential structures.

The Development Services Department has introduced these three additions of the codes to the building community and the plumbing community with no concerns expressed toward their adoption.

Chief Building Official Max Richardson stated he met with the plumbing community and the Homeowners Association to introduce them to the 2009 Building Code. They were very comfortable with the adoption of the 2009 code. The Plumbing Board has been reviewing the Plumbing Code for the past 6-8 months. In December, he met with about 25 local members of the plumbing community and introduced them to the Building Code which they accepted. The 2009 Property Maintenance Code is used primarily by staff when dealing with dilapidated properties or those in a run down condition in the City. This code gives guidelines on how to deal with those situations and provides some language for the City Attorney if it elevates to the next level. A different code dealing with single family residential structures, one and two family dwellings or town homes is not being presented at this time because there is currently some litigation at the State level addressing the requirement of sprinklers in that code. The City is taking a wait and see attitude and is not asking for approval of that code at this time until it is worked out at the state level.

Council Member Buschkoetter introduced Ordinance No. 7574, being Subsection 2 of Agenda Item VI to amend the following sections of Chapter 9 “Public Works” of the Code of the City of Kearney: to amend Section 9-204 “Advisory Note” of Article 2 “Building Code Generally” to adopt the International Building Code, 2009 Edition; to amend Section 9-210 “International Building Code; Adoption” of Article 2 “Building Code Generally” to adopt the International Building Code, 2009 Edition; to amend Section 9-211 “International Property Maintenance Code; Adopted” of Article 2 “Building Code Generally” to adopt the International Property Maintenance Code, 2009 Edition; to amend Section 9-801 “International Property Maintenance Code; Adopted” of Article 8 “Housing” to adopt the International Property Maintenance Code, 2009 Edition; to amend Section 9-909 “Limitation on Number of Occupants” of Article 9 “Manufactured

Homes” to adopt the International Building Code, 2009 Edition; to amend Section 9-912 “Duties of Owner, Manager and Licensee Generally” of Article 9 “Manufactured Homes” to adopt the International Building Code, 2009 Edition and the International Property Maintenance Code, 2009 Edition; to amend Section 9-1016 “Uniform Plumbing Code; Adopted” to adopt the Uniform Plumbing Code, 2009 Edition; and to amend Section 9-1017 “Amendments to Uniform Plumbing Code” to adopt the Uniform Plumbing Code, 2009 Edition, 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 Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7574 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7574 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7574 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

OPEN ACCOUNT CLAIMS: NPPD - \$50,719.17, PLATTE VALLEY STATE BANK - \$49,644.03, SCHOOL DISTRICT #7 - \$1,964.45

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$49,644.03 payable to Platte Valley State Bank, and in the amount of \$50,719.17 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$1,964.45 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

BOY SCOUT CELEBRATION

Dana Ernst, Assistant Scout Master of Troop 139 and the 100th Anniversary Chair for the Covered Wagon District stated Boy Scouts in attendance were from Troops 36, 136,

139 and 158 and Packs 152, 366 and 135.

Robbie Potthoff stated that he is a Life Scout and Senior Patrol Leader for Troop 139. He presented the 2009 Report for the Overland Trails Council. The Overland Trails Council serves 44 counties in Central and Western Nebraska, headquartered in Grand Island. The number of youth involved increased to 4,400 boys and girls this year.

David Steinkrueger stated that the scout motto "always be prepared" came in handy when he was in the tornado at Little Sioux Scout Ranch in 2008. He was able to administer first aid to those who were injured, treated those in shock, did CPR and triage which were all health skills that he had learned from scouting, as well as keeping calm in a crisis.

Braxton Bellamy, Pack 36, read a letter from Senator Johanns congratulating scouting on their 100th year. Senator Johanns stated that Boy Scouts of America is helping to prepare the next generations of leaders in Nebraska and across the country.

Eagle Scout Jacob Jeski, Troop 139, read the letter from Representative Adrian Smith. Representative Smith recognized the Boy Scouts for mentoring and guiding youth in a way that builds integrity and leadership skills for the future.

Chase Christiansen, Troop 136, read a letter from Governor Dave Heinemann. Governor Heinemann congratulated the thousands of volunteers, serving as scout leaders in their communities.

Scout Master Ernst stated that each year the U.S. Mint produces two coins. The mint will be offering 350,000 commemorative coins on behalf of the Boy Scouts of America Centennial. A stamp will also be available with two different images of scouting on them.

Ward Schrack unveiled a plaque with an etching of William D. Boise, the founder of the Boy Scouts of America. The emblem on the plaque is the official logo for the 100th Anniversary of the Boy Scouts. This plaque will be placed at the appropriate time right at the foot of the Statue of Liberty on the west wall of Deterding's on 2nd Avenue and 22nd Street. The money came from the funds left over from the Statue of Liberty and Pratt/Heins Foundation provided the rest of it.

CLOSED SESSION

Moved by Lear seconded by Buschkoetter that Council adjourn into closed session at 8:20 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

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

Moved by Clouse seconded by Buschkoetter that Council reconvene in regular session at 8:35 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 8:35 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**