

*Kearney, Nebraska  
November 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 November 23, 2010, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Cathy Vogt, Acting City Clerk; Council Members Randy Buschkoetter, Don Kearney and Bob Lammers. Absent Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant to the City Manager; Kirk Stocker, Director of Utilities were also present. Some of the citizens present in the audience included: George Wiedel, Terry Eirich, Kevin Hervert from Kearney Hub, Steve Altmaier from KGFW Radio.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

## **I. ROUTINE BUSINESS**

### **INVOCATION**

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

### **PLEDGE OF ALLEGIANCE**

Tyler Nuby from Boy Scout Troop 158 led the Council members and audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

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

### **RECOGNITION**

Mayor Clouse and Council Members recognized George Wiedel, a volunteer firefighter with Kearney Volunteer Fire Department. Mayor Clouse and Council members expressed their gratitude on behalf of the community.

Fire Chief Terry Eirich presented an outstanding service award to George Wiedel. He was on his way back to Kearney on I- 80 on November 6, 2010 after taking the EMT test and came upon a wreck. The accident happened when a mini-van stopped in the

middle of the Interstate and was rear ended by a pickup. Mr. Wiedel ran up to see if he could help and another firefighter from Beatrice and his wife who is a nurse were helping. One person was ejected from their vehicle and another was still in their vehicle which was on fire. They proceeded to get the man out of the burning vehicle. They assisted him until the Gretna Fire Department responded and took control of the accident. Mr. Wiedel did what most emergency services personnel do because once they have had the training it is difficult not to stop for any accident or fire without helping.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

### **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

There were no Public Hearings.

### **IV. CONSENT AGENDA**

Mayor Clouse stated the agenda was amended on Monday to include Subsection 12 of the 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, Lammers, Kearney, Buschkoetter. Nay: None. Lear absent. Motion carried.

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

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

3M \$2,151.00 smcs; AT&T \$140.39 smcs; Ace Irrigation \$25.75 ps; Agri Service Center \$2,307.63 smcs; Alfred Benesch & Co \$2,182.24 smcs; Allen,A \$14.00 smcs; AWWA \$1,615.00 smcs; Amsan \$252.74 smcs; Andersen Wrecking \$210.00 smcs; Ask Supply \$49.60 smcs; Audio Go \$153.16 smcs; Aurora Coop \$105.04 smcs; Baker & Taylor Books \$3,376.21 smcs; Barber Appraisals \$5,600.00 smcs; Big Iron \$16,275.00 co; Blessing \$174,010.56 co; Bluecross Blueshield \$74,254.22 smcs; Bosselman Energy \$31,101.94 smcs; Broadfoot's \$262.30 smcs,co; Buffalo Co Comm Partners \$20.00 smcs; Buffalo Co Court \$97,967.00 smcs; Buffalo Co Reg of Deeds \$20.50 smcs; Buffalo Co Treasurer \$16.00 co; Builders \$1,011.43 smcs,co; Capstone Press

\$3,840.44 smcs; Casey's General Store \$53.87 smcs; Cash-Wa \$427.10 smcs; Central Contracting \$105,185.05 co; Central Fire & Safety \$283.50 smcs; Charter \$209.99 smcs; Chesterman \$457.25 smcs; City of Ky \$19,691.06 co,smcs,ps; College Savings Plan of NE \$200.00 ps; Comfy Bowl \$200.00 smcs; Conseco Life Ins \$19.00 ps; Construction Rental \$170.00 co; Credit Management Serv \$95.72 ps; Crop Production Serv \$960.00 smcs; Cudaback,K \$48.69 smcs; Dandee Construction \$3,855.00 co; Data Technologies \$3,980.56 smcs; Dawson Co PPD \$1,217.60 smcs; Delaet Electric \$87.05 smcs; Dept of Health & Human \$31.00 smcs; Dowhy Towing \$280.00 smcs; Eakes \$2,156.27 smcs,co; Ecolab \$31.00 smcs; Econ Dev Council \$60.00 smcs; EMC Ins \$7,383.65 smcs; Eustis Body Shop \$400.00 smcs; Expression Wear \$191.00 ps; Express Distributing \$96.00 smcs; Fedex \$96.51 smcs; Frontier \$8,556.07 smcs; Gale \$632.19 smcs; Gangwish Turf \$130.50 co; Garrett Tires \$7,047.27 smcs; GE Money Bank \$1,798.99 smcs; Great American Outdoor \$656.69 smcs; HD Supply \$958.80 smcs; Hoehner Turf \$220.00 smcs; Hometown Leasing \$237.20 co; Hotsy Equipment \$108.98 smcs; HSBC Bank Nevada \$318.25 ps; ICMA RC \$4,118.18 ps; Info USA Marketing \$2,800.00 smcs; IRS \$100,844.61 ps; Int'l Assn for Identification \$70.00 smcs; Jack Lederman \$1,881.04 smcs; JCB Enterprises \$11.75 smcs; Jim Morgans Books \$52.71 smcs; JLC \$210,052.00 co; John Deere Landscapes \$1,400.00 smcs; Ky Chamber Comm \$275.00 smcs; Ky Clinic \$4,155.00 smcs,ps; Ky Comm Foundation \$55,828.84 smcs; Ky Concrete \$10,583.59 smcs,co; Ky Crete & Block \$3,767.31 co; Ky Hub \$4,771.45 smcs; Ky Towing \$85.00 smcs; Keogh,J \$7.58 smcs; KGFV-AM \$200.00 smcs; Kirkham Michael \$900.00 smcs; K-mart \$154.98 smcs; Konica Minolta \$116.12 smcs; Lerner Publishing \$832.69 smcs; Magic Cleaning \$2,710.00 smcs; Mail Express \$163.44 smcs; Marlatt Machine Shop \$408.57 smcs; McAfee \$2,063.04 smcs; McCarty,D \$23.75 smcs; Metlife \$8.94 ps; Mid-State Units \$126.60 smcs; Miller & Associates \$163,766.70 co; Miller Signs \$410.00 smcs; MPH Industries \$152.45 co; Municipal Supply \$1,841.23 smcs; Napa \$6.99 smcs; NCS Equipment \$3,164.80 smcs,co; NE Child Support \$2,454.98 ps; NE Dept of Aeronautics \$370.00 ds; NE Game & Parks \$100.00 smcs; NE Library Comm \$1,500.00 smcs; NE State Library \$53.00 smcs; NE Supreme Court \$53.00 smcs; Neopost \$7,643.93 smcs; NeRPA \$290.00 smcs; New World Systems \$52,970.00 smcs; NMC Exchange \$4,200.00 co; Norcom Communications \$1,704.21 smcs; Norm's Plumbing \$1,031.19 smcs; Northwestern Energy \$2,343.08 smcs; NOVA Fitness Equipment \$324.50 ps; Novus \$70.00 smcs; Nuttelman Fencing \$299.00 smcs; O'Connor,S \$50.39 ps; Officenet \$200.00 co; Paramount \$298.20 smcs; Pat's Plumbing \$175.00 smcs; Pep Co \$51.10 smcs; Petersen,A \$52.00 smcs; Platte Valley Comm \$798.21 smcs; Presto-X \$95.90 smcs; Random House \$84.00 smcs; Ready-Mixed Concrete \$13,725.76 co; Recorded Books \$242.52 smcs; Recovery Systems \$345.90 smcs; Reineke,B \$202.80 ps; Reinke's Heating \$889.44 smcs; Rick's Sod Farm \$1,434.06 co; RNDC-Falcon Division \$182.56 smcs; Roesler,A \$48.15 smcs; Russell's Appliance \$1,148.00 smcs; Salem Press \$421.00 smcs; Sanitation Products \$4,280.00 smcs; Sesna,D \$269.00 smcs; Sheldon,S \$59.11 smcs; Smart Money Week \$150.00 smcs; Snap-On Tools \$949.00 smcs; Steinbrink's Landscaping \$5,639.37 smcs,co; Super Shine Auto Wash \$8.50 smcs; Theis,G \$33.37 smcs; Tielke Enterprises \$243.35 smcs; Titleist \$138.43 smcs; Tool Doctor \$79.97 smcs; TruGreen ChemLawn \$159.60 smcs; Turfwerks \$207.00 smcs; Turner Body Shop \$75.00 smcs; Unique Management \$214.80 smcs; Valdois,M \$55.00 smcs; Video Service of America \$73.07 smcs; Warrington,D \$21.96 smcs; Water Environment \$96.00 smcs; Wells Fargo Bank \$2,000.00 smcs; West Payment Center \$1,454.43 smcs; Wiegand Security \$80.00 smcs; Wilkins Hinrichs Stober

\$9,065.30 co; WPCI \$303.50 ps; Yant Equipment \$232.50 smcs; Payroll Ending 11-20-2010 -- \$317,563.95. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Receive recommendations of Planning Commission and set December 14, 2010 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Approve the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Dave Krueger and Brett Melchert and adopt **Resolution No. 2010-224**.

**RESOLUTION NO. 2010-224**

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

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

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

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

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

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

ATTEST:  
CATHY M. VOGT  
ACTING CITY CLERK

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

5. Approve T-Hangar A-6 Lease Agreement between the City of Kearney and David Winfield for storage purposes at the Kearney Regional Airport and adopt **Resolution No. 2010-225**.

**RESOLUTION NO. 2010-225**

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 A-6 Lease Agreement, on behalf of the City of Kearney, Nebraska, with David Winfield, 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 NOVEMBER, 2010.

ATTEST:  
CATHY M. VOGT  
ACTING CITY CLERK

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

6. Approve Change Order No. 2 showing an increase in the amount of \$2,150.00, Change Order No. 3 showing a decrease in the amount of \$21,796.60, Application and Certificate for Payment No. 7-Final in the amount of \$68,713.24, and accept the Certificate of Substantial Completion submitted by Blessing LLC and approved by Miller & Associates for the 2010 Part 1 Improvements on the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street and adopt **Resolution No. 2010-226**.

**RESOLUTION NO. 2010-226**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 1 Improvements consisting of paving 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$2,150.00 and Change Order No. 3 showing a decrease in the amount of \$21,796.60, as shown on Exhibits "A" and "B" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 7-Final in the amount of \$68,713.24, as shown on Exhibit "C" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,256,795.30
Change Order No. 1 (8-24-2010)	+ 5,812.40
Change Order No. 2 (11-23-2010)	+ 2,150.00
Change Order No. 3 (11-23-2010)	- 21,796.60
Contract Sum To Date	1,242,961.10
Gross Amount Due	1,242,961.10
Retainage	.00
Amount Due to Date	1,242,961.10
Less Previous Certificates for Payment	<u>1,174,247.86</u>
Current Payment Due	\$ 68,713.24

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of September 8, 2010, as shown by Exhibit "D" 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 Nos. 2 and 3, as shown on Exhibits "A" and "B", Application and Certificate for Payment No. 7-Final as shown on Exhibit "C", and the Certificate of Substantial Completion as shown on Exhibit "D" be and are hereby accepted and approved.

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

ATTEST:  
CATHY M. VOGT  
ACTING CITY CLERK

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

7. Approve Application and Certificate for Payment No. 3 in the amount of \$423,105.41 submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 2 Improvements – Bid B consisting of Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street and adopt **Resolution No. 2010-227**.

#### RESOLUTION NO. 2010-227

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 2 Improvements – Bid B consisting of Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$423,105.41, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$698,752.00
Change Order No. 1 (9-28-2010)	+ <u>8,284.00</u>
Contract Sum To Date	707,036.00
Gross Amount Due	622,282.12
Retainage	62,228.21
Amount Due to Date	560,053.91
Less Previous Certificates for Payment	<u>136,948.50</u>
Current Payment Due	\$423,105.41

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 are hereby accepted and approved.

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

ATTEST:  
CATHY M. VOGT  
ACTING CITY CLERK

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

8. Approve the request submitted by the Main Street Kearney and the Downtown Improvement Board as follows: (1) block off three parking stalls in front of Time For Baby, 2304 Central Avenue for a Kettle Corn vendor on December 2, 2010 from 8:00 a.m. until 9:00 p.m.; (2) block off four parking stalls in front of Nelson's Furniture, 2109 Central Avenue from November 24, 2010 until December 31, 2010 to place Santa's house; (3) block off four parking stalls in front of The Solid Rock, 2010 Central Avenue for a live nativity on December 2, 2010 from 8:00 a.m. until 9:00 p.m.; (4) block off all parking stalls in front of the Kearney Hub, 13 East 22nd Street on December 2, 2010 from 8:00 a.m. until 9:00 p.m. for hayrack rides through downtown Kearney; (5) block off three parking stalls in front of KGFW Radio, 2223 Central Avenue for Santa's reindeer and sleigh on December 2, 2010 from 8:00 a.m. until 9:00 p.m.; (6) block off four parking stalls in front of Yanda's Music, 2301 Central Avenue a Christmas Carol reenactment on December 2, 2010 from 8:00 a.m. until 9:00 p.m.; (7) block off all parking stalls on the east side of the 2200 block of Central Avenue for Santa's Reindeer in front of KGFW, 2223 Central Avenue and a live nativity in front of Annie Kay and Company, 2201 Central Avenue on December 2, 2010 from 8:00 a.m. until 9:00 p.m.

9. Appoint Andrew Harter to serve as the City Street Superintendent with regard to requirements and duties with the Nebraska Department of Roads effective September 11, 2010.

10. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the Bella Casa Party Room, 3012 West Highway 30 on December 10, 2010 from 6:00 p.m. until 12:00 a.m. for a reception.

11. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the Great Platte River Road Archway Monument, One Archway Parkway on December 11, 2010 from 5:00 p.m. until 12:00 a.m. for a reception.

12. Approve the application for a Special Designated License submitted by Night Life Concepts Inc. dba Cunningham's Journal in connection with their Class CK 59311 catering liquor license to dispense beer, wine and distilled spirits on December 18, 2010 in the Expo Building located at the Buffalo County Fairgrounds, 3807 Avenue N, from 12:00 p.m. to 12:00 a.m. for a rodeo.

## **V. CONSENT AGENDA ORDINANCES**

There were no Consent Ordinances.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 7623 SELL TRACT OF LAND TO DONALY FARMS**

City Attorney Michael Tye stated this matter is to authorize the transfer the 170 acres at the Airport which is part of the Donaly Farms Tech Park transaction. The Council authorized the purchase agreement on August 24, 2010 which involves a transfer of that agricultural property at the airport in order to acquire the Donaly Farms parcel which is at 56th Street and Antelope Avenue. The other piece to this involves state grant money, as well as some additional funds from the City of Kearney in order to acquire that parcel. They are still looking to close that transaction before the end of the year and this ordinance authorizes transfer of that property as part of that transaction. This Ordinance is contingent upon FAA approval as well as state approval for grant funding necessary to complete transaction.

Council Member Lammers introduced Ordinance No. 7623 being Subsection 1 of Agenda Item VI selling a tract of land described as part of the Southeast Quarter of Section 16, Township 9 North, Range 15 West and part of the Southwest Quarter of Section 15, Township 9, North Range 15 West, all of the 6th P.M., containing 170 acres, more or less, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7623 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7623 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7623 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 - \$61,121.51, PLATTE VALLEY STATE BANK - \$47,432.78**

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$47,432.78 payable to Platte Valley State Bank, and in the amount of \$61,121.51 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse abstaining. Lear absent. Motion carried.

## **VII. REPORTS**

**39TH STREET PROJECT NEARING COMPLETION**

City Manager Michael Morgan stated he visited 39th Street project today. The concrete is all in place, but there are some tie-ins that are left to do and some sidewalks. If the weather holds at 40+ degrees is the goal to finish that project. The completion is near.

**VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 7:10 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lammers. Nay: None. Lear absent. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**CATHY M. VOGT  
ACTING CITY CLERK**