

Kearney, Nebraska
May 24, 2011
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 May 24, 2011, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Bruce Grupe, City Engineer were also present. Some of the citizens present in the audience included: Steve Altmaier from KGFW Radio, Kevin Hervert from Kearney Hub, and 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.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

LIQUOR LICENSE – FAIRFIELD INN, 510 TALMADGE ROAD

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

Mayor Clouse opened the public hearing on the application for a Class C-93899 liquor license submitted by Kearney Hospitality Inc., dba Fairfield Inn, located at 510 Talmadge Road, consider the manager application for Paul Younes, and to consider Resolution No. 2011-54.

The Applicant and Manager, Paul Younes has eight liquor licenses throughout Nebraska:

- Holiday Inn in Kearney – has not been cited for more than 10 years.
- Holiday Inn Express in Kearney – no violations.
- Younes Conference Center in Kearney – no violations.
- Holiday Inn Express in Norfolk – no violations.
- Holiday Inn Express in Fremont – no violations.
- Holiday Inn Express in Columbus – no violations.
- Holiday Inn Express in Hastings – no violations.
- Fairfield Inn & Suites in Grand Island – no violations.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicant. These are two additional licenses to the community. The Application for Manager identifies Paul Younes. Mr. Younes has extensive knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

On March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. Since Fairfield Inn will not open until August of 2011, Mr. Younes has returned the Liquor License Training Compliance form indicating the employees will be trained. With regard to Wingate Inn, Mr. Younes has indicated that the general manager and staff will attend the TIPS (Training for Intervention ProcedureS) program.

The applicant nor any representation was present.

Police Chief Dan Lynch stated that the applicant, Paul Younes, has not had any violations with any of his establishments.

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 C-93899 liquor license submitted by Kearney Hospitality Inc., dba Fairfield Inn, located at 510 Talmadge Road, consider the manager application for Paul Younes,

and adopt **Resolution No. 2011-54**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-54

WHEREAS, Kearney Hospitality Inc., dba Fairfield Inn has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-93899 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 510 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, Kearney Hospitality Inc., dba Fairfield Inn also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Paul Younes; and

WHEREAS, a hearing was held relating to said application on May 24, 2011 and the applicant has or will complete a state approved alcohol server/seller training program.

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-93899 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to Kearney Hospitality Inc., dba Fairfield Inn located at 510 Talmadge Road, Kearney, Nebraska, and to approve the application for Corporate Manager of Paul Younes upon the completion of a state approved alcohol server/seller training program.

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 24TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LIQUOR LICENSE – WINGATE INN, 103 3RD AVENUE

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

Mayor Clouse opened the public hearing on the application for a Class C-93900 liquor license submitted by WIN Investments Inc., dba Wingate Inn, located at 103 3rd Avenue, consider the manager application for Paul Younes, and to consider Resolution No. 2011-55.

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-93900 liquor license submitted by WIN Investments Inc., dba Wingate Inn, located at 103 3rd Avenue, consider the manager application for Paul Younes, and adopt **Resolution No. 2011-55**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2011-55

WHEREAS, WIN Investments Inc., dba Wingate Inn has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-93900 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 103 3rd 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, WIN Investments Inc., dba Wingate Inn also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Paul Younes; and

WHEREAS, a hearing was held relating to said application on May 24, 2011 and the applicant has or will complete a state approved alcohol server/seller training program.

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-93900 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to WIN Investments Inc., dba Wingate Inn located at 103 3rd Avenue, Kearney, Nebraska, and to approve the application for Corporate Manager of Paul Younes upon the completion of a state approved alcohol server/seller training program.

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 24TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Clouse seconded by Lammers that Subsections 1 through 18 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held May 10, 2011.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services
 - ER Equipment Rental
 - CO Capital Outlay
 - DS Debt Service

AT&T \$215.67 smcs; ABA Recovery \$175.94 ps; Alfred Benesch & Co \$6,370.38 smcs,co; All Makes Auto Supply \$4,309.46 smcs; Amax Contracting \$96.16 smcs; Anderson,K \$14.53 smcs; Ashley,J \$16.24 smcs; Ask Supply \$423.29 smcs; Aurora Coop \$474.06 smcs; Baker & Taylor \$2,047.19 smcs; Bamford \$1,290.00 smcs; Baum,T \$2.17 smcs; Blessing Construction \$7,500.00 co; Bluecross Blueshield

\$137,641.80 smcs; Bosselman \$2,364.70 smcs; Broadfoot's \$1,216.00 smcs; Bruce,K \$118.69 co; Brunkhard,R \$39.47 smcs; Buffalo Co Treasurer \$25.00 co; Builders \$67.75 smcs; Bumblebee's \$50.57 smcs; Burns,Q \$14.90 smcs; Carquest \$999.75 smcs; Casey's \$65.89 smcs; Cash-Wa \$33.31 smcs; Central Fire & Safety \$101.50 smcs; Charter \$209.99 smcs; Chesterman \$290.20 smcs; City of Ky \$21,165.05 smcs,ps; CNA Surety \$40.00 smcs; Cold River Records \$1,750.00 smcs; Consec Life Ins \$19.00 ps; Copycat Printing \$105.56 smcs; Dandee Concrete \$20,264.00 smcs,co; Dawson Co PPD \$22,117.34 smcs; Dell \$4,677.00 co; Delta Medical Systems \$176.80 smcs; Delta Systems \$1,895.00 smcs; Depository Trust \$232,808.75 ds; Dish Network \$124.63 smcs; Dmilaco \$250.44 smcs; DPC Industries \$5,620.03 smcs; Ductwork MD \$550.00 smcs; Dutton-Lainson \$99.37 smcs; Eakes \$872.17 smcs; Ecolab \$36.00 smcs; Eden,S \$34.54 smcs; EMC Ins \$935.97 smcs; Emrick,D \$28.45 smcs; Encore Funding \$325.44 ps; Fireguard \$7,861.68 smcs,co; Foulk,S \$60.00 smcs; Fox,J \$5.09 smcs; Frontier \$9,004.48 smcs; Gangwish Turf \$14.85 smcs; Garret Tires & Treads \$1,517.46 smcs; GE Money Bank \$1,740.70 smcs; Grauerholz,L \$24.42 smcs; Great Plains One Call \$432.63 smcs; Great Plains Safety \$200.00 smcs; Gronewoller,B \$31.00 smcs; H&H Distributing \$602.25 smcs; Hausmann Construction \$40,651.07 co; HD Supply \$1,082.06 smcs; Heaton,T \$38.15 smcs; Hinrichs,S \$195.26 ps; Hudec,L \$21.59 smcs; ICMA RC \$3,819.15 ps; IRS \$102,694.54 ps; Jenkins,E \$325.00 smcs; JLC \$317,346.00 co; Jordan,J \$22.31 smcs; K&K Parts \$1,054.17 smcs; Ky Clinic \$470.00 smcs,ps; Ky Concrete \$3,584.22 smcs,co; Ky Crete & Block \$104.00 smcs; Ky Hub \$8,597.24 smcs; Ky Humane Society \$6,825.00 smcs; Ky Towing \$150.00 smcs; Koerner,K \$40.78 smcs; Konica Minolta \$2.14 smcs; Krav Maga Worldwide \$1,000.00 smcs; Lamken,K \$22.55 smcs; Leupold & Stevens \$462.00 smcs; Lewis Automotive Group \$66.79 smcs; Lincoln Journal Star \$18.09 smcs; Lockmobile \$2.00 smcs; Magic Cleaning \$3,410.00 smcs; Malone, Brittany \$16.24 smcs; Matheson Tri-Gas \$16.60 smcs; McCain,S \$35.00 smcs; Menards \$8,027.39 co; Metlife \$17.88 ps; Microfilm Imaging \$2,624.00 smcs; Mid Amer Signal \$698.00 smcs; Midlands Contracting \$5,250.00 smcs; Mid-State Units \$200.00 smcs; Miller & Associates \$1,960.00 co; Miller,A \$31.00 smcs; Moonlight Embroidery \$165.00 smcs; Munch,S \$49.11 smcs; Municipal Automation \$414.90 smcs; Municipal Supply \$811.96 smcs; NASRO \$740.00 smcs; NE Child Support \$2,861.15 ps; NE Dept of Aeronautics \$370.00 ds; NE Dept of Environmental \$560,501.46 smcs,ds; NE DMV \$32.50 smcs; NE Public Health \$642.00 smcs; NE Safety & Fire \$325.00 smcs; NEland Distributors \$447.70 smcs; Neopost \$9,010.00 smcs; Northgate Veterinary \$55.00 smcs; Northwestern Energy \$8,150.09 smcs; NOVA Fitness Equipment \$606.46 ps; Obermiller,A \$1.03 smcs; OCLC \$548.72 smcs; O'Keefe Elevator \$161.00 smcs; Olson,L \$25.02 smcs; O'Reilly Automotive \$1,184.68 smcs; Osborn,T \$31.00 smcs; Outdoor Recreation \$5,947.00 smcs,co; Paramount \$72.39 smcs; Peerless Machine \$80.00 smcs; Pet Kingdom \$20.62 smcs; Pitney Bowes \$45.00 smcs; Platte Valley Comm \$351.26 smcs; Pool Tables 4 U \$1,200.00 co; Presto-X \$213.00 smcs; Ready Mixed Concrete \$582.62 smcs; Recorded Books \$311.97 smcs; Reed,C \$31.00 smcs; Reinke's Heating \$713.14 smcs; Rooney,D \$31.68 smcs; Ross,E \$47.27 smcs; Rush,S \$17.20 smcs; Sapp Brothers \$33,064.99 smcs; Schmidt,J \$33.67 smcs; Schoene,L \$32.04 smcs; Schutt,C \$27.10 smcs; Sherwin-Williams \$4,555.20 smcs; Shopper \$302.83 smcs; Sid Dillon \$29,147.00 co; Smith Signs \$370.00 smcs; Snap-On Tools \$290.25 smcs; SOS Portable Toilets \$100.00 smcs; Spitzleberger,J \$7.75 smcs; Stamp,C \$220.50 smcs; Steinbrink Landscaping \$5,350.00 smcs,co; Stotts,C \$14.64 smcs; Sudbeck,T \$35.88 smcs; Theis,J \$60.00 smcs; Thome,B \$45.70 smcs; Tinkham,K \$4.20 smcs; Tool Doctor

\$25.00 smcs; Tri-County Glass \$181.07 smcs; Turner Body Shop \$150.00 smcs; Uline \$146.42 smcs; Underground Construction \$480.00 smcs; Unique Management \$295.35 smcs; US Bank \$82,453.02 smcs; Walters Electric \$84.86 smcs; We Care Tree Care \$70.00 co; Wiegand Security \$85.00 smcs; Wilkins Hinrichs Stober \$4,128.80 co; Williams,M \$40.00 smcs; Wilson,J \$59.06 smcs; Wolf,J \$41.48 smcs; WPCI \$239.00 ps; Zwiener,G \$43.22 smcs; Payroll Ending 5-7-2011 -- \$332,798.67. 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 June 14, 2011 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the Elizabeth Stratton Memorial 5K Run/Walk scheduled for August 13, 2011 starting at 8:30 a.m. and beginning at the Archway Monument, west on 1st Street, north on Avenue M, and east on the hike-bike trail back to the Archway Monument.
5. Approve the application for a Special Designated License submitted by Event Center Operations LLC, dba Tri City Events Center in connection with their Class CK-84864 catering liquor license to dispense beer, wine and distilled spirits in an enclosed fenced area in front of the arena in the parking lot of the Tri City Events Center, 609 Platte Road, on July 3, 2011 from 1:00 p.m. until 12:30 a.m. for a beer garden.
6. Approve the Agreement submitted by the Central Nebraska Auto Club to temporarily block off Central Avenue from 25th Street to North Railroad Street, 24th Street from 1st Avenue to Avenue A, 23rd Street from 1st Avenue to Avenue A, 21st Street from 1st Avenue to Avenue A, the parking lot located west of Cunningham's Journal, the parking lot located behind City Hall, and the parking lot located north of MONA in conjunction with Cruise Nite 2011 on July 16, 2011. Parking on these public properties will be prohibited on July 16, 2011 beginning at 2:00 a.m.
7. Approve the request submitted by the Central Nebraska Auto Club to conduct a parade on July 16, 2011 at 5:00 p.m. beginning at Railroad Street and Central Avenue, north on Central Avenue and dispersing at the intersection of 28th Street and Central Avenue. This will include closing the northbound traffic on Central Avenue south of the railroad tracks.
8. Approve the request submitted by Main Street Kearney Organization Committee to temporarily block off Central Avenue from 25th Street to Railroad Street and Railroad Street from Central Avenue west to 30th Avenue to conduct the 1st Annual Cruise Nite Run scheduled for July 17, 2011 beginning at 8:00 a.m. The route will begin on Central Avenue and Railroad Street, running south on Railroad Street to 30th Avenue.
9. Approve traffic studies to be conducted for school crossings at 11th Street for Kenwood Elementary School and Avenue N for Sunrise Middle School.
10. Approve the Plans and Specifications for 2011 Part 4 Improvements; School Crossing Traffic Signal Construction for Kenwood Elementary School and Sunrise Middle School and set the bid opening date for June 16, 2011 at 3:00 p.m.

11. Approve the request submitted by the Great Platte River Road Archway Monument to temporarily close Central Avenue from Talmadge Street to 1st Street and to temporarily close 1st Street from Central Avenue to Cherry Avenue on June 18, 2011 from 7:00 a.m. until 7:00 p.m. in connection with the Pow Wow Celebration.

12. Approve the application for a Special Designated License submitted by Kearney Investment, Corp., dba Holiday Inn in connection with their Class CK-17964 catering liquor license to dispense beer, wine and distilled spirits at the Kearney Area Children's Museum, 5827 4th Avenue, on June 10, 2011 from 6:00 p.m. until 10:00 p.m. for a fund raiser.

13. Approve the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Nathan Staskal, Michael Page, Brad Parman, and Kevin Royal and adopt **Resolution No. 2011-56**.

RESOLUTION NO. 2011-56

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 24TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Reject the bids received for the CDBG World Theatre Restoration Project.

15. Approve the request submitted by the Friends of the Library to temporarily block

off the east six parking stalls on the north side of the Kearney Public Library, 2020 1st Avenue, on July 21, 2011 from 7:00 a.m. until 7:00 p.m.

16. Approve the recommendation from the Development Services Division on the annual renewal of the following manufactured home court licenses until May 31, 2012: **Cornhusker Mobile Home Park**, 1115 Avenue C; **Countryside Mobile Park**, 1920 15th Avenue; **East Lawn Mobile Homes Estates**, 2900, 3010 Grand Avenue; **Merriweather Mobile Home Village**, 914 West 17th Street; **Rodeo Court**, 2414 West 24th Street; **R-Villa East, West and South**, 2424, 2719, 2803 West 24th Street; **Schnase Trailer Court**, 1284 62nd Avenue; **Valley View Mobile Home Court**, 2701 Grand Avenue; **Van Vleet Trailer Court**, 550 30th Avenue; **Villa Park**, 2703 West 24th Street; **Westside Trailer Court**, 1282 62nd Avenue; **Wood River Trailer Court**, 865 West 78th Street.

17. Adopt **Resolution No. 2011-42A** approving a partial release of a Mortgage under a Second Amendment to Mortgage and Security Agreement and allowing the State of Nebraska to purchase an easement to certain properties on the east edge of the Archway property for the construction of a new interstate interchange.

RESOLUTION NO. 2011-42A

WHEREAS, the City of Kearney, Nebraska entered into and executed the Indenture of Trust (as amended and supplemented prior to the date hereof, the "Indenture"), dated March 1, 1998 and executed between it (the "Issuer") and Wells Fargo Bank, National Association (the "Trustee"); and

WHEREAS, the Issuer entered into and executed the Loan Agreement (as amended and supplemented prior to the date hereof, the "Loan Agreement"), dated March 1, 1998 and executed between it and The Great Platte River Road Memorial Foundation (the "Archway"), as borrower; and

WHEREAS, the Archway entered into and executed the Mortgage and Security Agreement (as amended and supplemented prior to the date hereof, the "Mortgage"), dated March 1, 1998 and executed between it and the Trustee; and

WHEREAS, the State of Nebraska (the "State") wishes to purchase fee simple title and an easement to certain properties on the east edge of the Archway property for the construction of a new interstate interchange, the description of which property the State intends to purchase fee simple title to being specifically set forth on the attachment hereto marked Exhibit "A" and made a part hereof by this reference with payment by the State to the Archway of \$425,000; and

WHEREAS, Section 10 of the Mortgage requires a resolution of the Issuer approving a partial release of said Mortgage under a Second Amendment to Mortgage and Security Agreement, a copy of which is attached hereto marked Exhibit "B" and made a part hereof by this reference, and

WHEREAS, the Issuer is not in default under any of the provisions of the Loan Agreement or the Indenture; and

WHEREAS, the Issuer wishes to ratify the proposed fee sale and easement by the Archway to the State.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney being the Issuer hereby approves the Second Amendment to Mortgage and Security Agreement attached hereto marked

Exhibit "B" authorizing the release of certain of the lands described in Exhibit "A" to the State.

PASSED AND APPROVED THIS 24TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

18. Adopt **Resolution No. 2011-49A** correcting the legal description for the final plat for Richter's 6th Subdivision, Buffalo County, Nebraska for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (west side of Blue Mill Road off of 2nd Avenue North to Wood River).

RESOLUTION NO. 2011-49A

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Richter's 6th Subdivision of Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of said Section 13 and assuming the East line of said Northwest Quarter as bearing S00°26'40"E and all bearings contained herein are relative thereto; thence S00°26'40"E on the aforesaid East line a distance of 561.95 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the centerline of the Wood River; thence continuing S00°26'40"E on the aforesaid course a distance of 535.26 feet; thence S89°29'26"W a distance of 946.52 feet to a point on the East line of Richter's 2nd Subdivision, to Buffalo County, Nebraska; thence N00°28'40"W on the aforesaid East line of Richter's 2nd Subdivision and the East line of Richter's 3rd Subdivision, a subdivision being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, a distance 600.27 feet to a point on the centerline of said Wood River; thence downstream N71°00'21"E on said centerline a distance of 18.51 feet; thence N10°52'09"W leaving said centerline a distance of 34.8 feet to a point on the existing high bank of the Wood River; thence N71°24'55"E on said existing high bank a distance of 159.5 feet; thence continuing on said existing high bank N86°23'35"E a distance of 97.1 feet; thence S66°14'36"E on the aforesaid existing high bank a distance of 195.5 feet to a point on the centerline of said Wood River; thence S19°39'47"W on the aforesaid centerline a distance of 135.18 feet; thence continuing on said centerline S07°45'13"E a distance of 181.38 feet; thence S67°41'13"E a distance of 89.71 feet; thence N66°23'47"E a distance of 261.0 feet; thence N51°54'32"E a distance of 186.0 feet; thence N51°16'34"E a distance of 76.43 feet to the place of beginning, containing 10.83 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved

and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

PASSED AND APPROVED THIS 24TH DAY OF MAY, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7647 – DELETE ARTICLE 14 OF CHAPTER 9 OF THE CITY CODE

In 2007 the City created the Development Services Advisory Board in an effort to improve communication and customer service regarding construction related activities in the City of Kearney. Over the past few years, the City received input and made several policy, administrative and technical changes to improve the delivery of services related to development. Most recently, the Public Works Department was reorganized and a full-time Assistant Development Services Director, Bobbi Pettit, was hired. She has done an outstanding job in working closely with the citizens and developers and their upcoming projects that the need for the Advisory Board is no longer needed. Letters have been sent to the members of the Board explaining the disbanding of the Advisory Board.

Council Member Lammers introduced Ordinance No. 7647, being Subsection 1 of Agenda Item V amending the Kearney City Code by deleting in its entirety Sections 14-1401 through 14-1412 of Article 14 “Development Advisory Board” of Chapter 9 “Public Works”, 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, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7647 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7647 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance,

Ordinance No. 7647 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. 7648 – CREATE PAVING DISTRICT NO. 2011-946

Regular Agenda Items 2, 3 and 4 pertain to the same development.

A Subdivision Agreement was approved by the City Council and developer at the last meeting, May 10, 2011. In accordance with the Agreement, the public improvements were to be created through improvement districts in Aspen Meadows Second. Section 57-102 of the Kearney City Code requires the developer to deposit fifty percent of the total estimated costs of the districts. The remaining unpaid costs of the improvements shall be assessed against the property in said districts on a basis of special benefit to the property, if any, as provided by law.

Council Member Lammers introduced Ordinance No. 7648, being Subsection 2 of Agenda Item V creating Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, 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, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7648 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7648 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7648 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. 7649 – CREATE WATER DISTRICT NO. 2011-562

Regular Agenda Items 2, 3 and 4 pertain to the same development.

Council Member Lammers introduced Ordinance No. 7649, being Subsection 3 of Agenda Item V creating Water District No. 2011-562 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, 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, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7649 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7649 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7649 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. 7650 – CREATE SEWER DISTRICT NO. 2011-502

Regular Agenda Items 2, 3 and 4 pertain to the same development.

Council Member Lammers introduced Ordinance No. 7650, being Subsection 4 of Agenda Item V creating Sanitary Sewer District No. 2011-502 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, 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, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No.

7650 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7650 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7650 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. 7651 – CREATE PAVING DISTRICT NO. 2011-947

The City received a request to pave the alley between 26th Street and 27th Street from 4th Avenue to 5th Avenue.

Council Member Lammers introduced Ordinance No. 7651, being Subsection 5 of Agenda Item V creating Paving Improvement District No. 2011-947 for the alley lying between 26th Street and 27th Street from 4th Avenue to 5th Avenue, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7651 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7651 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7651 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIMS: NPPD - \$70,822.89, PLATTE VALLEY STATE BANK - \$49,081.62

Moved by Buschkoetter seconded by Lammers that Open Account Claim in the amount of \$70,822.89 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Clouse abstained. Motion carried.

Moved by Clouse seconded by Lammers that Open Account Claim in the amount of \$49,081.62 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Kearney absent. Lear abstained. Motion carried.

VII. REPORTS

39TH STREET AND RAILROAD TRACKS NORTH OF FAIRGROUNDS

There is a stop sign at 39th Street and the railroad tracks north of the Fairgrounds which was originally placed by the County before that site was annexed in the City Limits. City Manager Michael Morgan stated the Railroad recently posted a yield sign adjacent to the stop sign at the crossing. There is a law that allows the Railroad to post signs on passive crossings.

Director of Public Works Rod Wiederspan stated the yield sign has been temporarily taken down. Two years ago a study on that crossing was conducted and at that time it was determined that a stop sign was found to be unnecessary. The State and the Railroad were working together at that time to put either yield signs or stop signs at the cross bucks on all railroad crossings. The City decided that since they were going to be doing it, why come forward with a study since the Railroad would do something very quickly. That did not happen and now two years later they finally got around to putting up the yield sign. That is really what the City wanted at that crossing in the first place. However, the Railroad did not take a look at what was already there for traffic control and placed the yield sign adjacent to the stop sign.

This issue will need to be brought to the Council to approve taking down the stop sign and turning it over to the railroad for appropriate signage in accordance with what their traffic engineers have determined. City Manager stated there were concerns in the past from neighbors in that area that the stop sign was not going to be there, so it does need to come back to Council to approve the traffic control installation. They will coordinate with the railroad and bring it back to Council in two weeks.

KEARNEY REGIONAL AIRPORT OPEN HOUSE

Council member Lammers congratulated the airport on being open. The facility looks good and will be very nice for the community.

Mayor Clouse stated that the Air Transportation Committee and the Chamber of Commerce presented a plaque that will be displayed at the Airport.

JOEL JOHNSON RECOGNITION

Council member Lammers recognized Joel Johnson for winning the Sertoma Service to

Mankind Award. He is a very deserving applicant and has done a lot for the citizens of Kearney, the community and the area.

CLOSED SESSION

Moved by Lear seconded by Buschkoetter that Council adjourn into closed session at 7:12 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. 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 7:34 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 7:34 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**