

Kearney, Nebraska
September 13, 2011
7:00 p.m.

Prior to the regular Council meeting, the Council met as the Board of Directors for the Kearney Area Solid Waste Agency in open and public session at 7:00 p.m. on September 13, 2011 in the Council Chambers at City Hall. This meeting adjourned at 7:06 p.m. A meeting of the City Council of Kearney, Nebraska, was then convened in open and public session at 7:06 p.m. on September 13, 2011 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle 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 City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Bobbi Pettit, Assistant Development Services Director; and Recreation Superintendent Scott Hayden were also present. Some of the citizens present in the audience included: Belinda Tolle, Ron Follmer, Dennis Clabaugh, Ron Blessing, Mitchel Greenwalt, Ann Snider, 12 Boy Scouts from Troop 132, 6 UNK students, Steve Altmaier from KGFW Radio, Kevin Hervert from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

Pastor Brian Kline from Evangelical Free Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Boy Scouts Josh Phelps and Trevor Meusch 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

CONDITIONAL USE PERMIT TO RANDALL STONES; 404 EAST 56TH STREET

Mayor Clouse stated the Application submitted by Randall Stones for a Conditional Use Permit to locate a facility for veterinary services for both large and small animals on property located at 404 East 56th Street has been withdrawn.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO RON BLESSING FOR SOUTH OF ARCHWAY MONUMENT AND I-80

Mayor Clouse opened the public hearing on the Application submitted by Ron Blessing (Applicant) for Coal Chute Park LLC (Owner) for a Conditional Use Permit to operate a fill dirt borrow site on property zoned District AG, Agricultural District and described as a tract of land located in Government Lots 2, 3 and 4, with exceptions, and the North Half of the Northwest Quarter, with exceptions, all located in Section 17, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Archway Monument and I-80) and consider Ordinance No. 7666. Planning Commission recommended application subject to conditions a through k with the hours of operation being Monday through Saturday, 7:00 a.m. to 7:00 p.m. with variations to the hours of operation being allowed due to the construction cycle.

The applicant is requesting a Conditional Use Permit (CUP) for removal of construction fill material that will create a borrow pit on the south side of the interstate along East 1st Street South. The site is zoned Agricultural; therefore, a CUP is required for resource extraction. At this time, the applicant is unsure whether or not a water hole will remain or if he will fill the site in and return it to farm ground.

The applicant is seeking this CUP in conjunction with the Cherry Avenue Bypass Project. Blessing Construction will be supplying infill material to complete the south end of the structure. When considering this application, staff believes that three components must be addressed:

- Duration
- Wellhead Protection Overlay District
- Circulation

The duration of the permit will be six (6) months past the completion of Phase I of the Cherry Avenue Bypass project. The applicant has requested that the application be renewable at the end of Phase I if he is awarded any project bids for Phase II. Staff supports granting this request.

This site is in Zone 3 and abuts Zone 1 of the Wellhead Protection Overlay District, a restricted area intended to protect the water quality for the City of Kearney Wellfield. If an excavation project were allowed on a limited basis, the presence of heavy

equipment and diesel fuel may cause concern for the Nebraska Department of Environmental Quality or the City due to the Wellhead Protection Area. The applicant is aware of the location of the site near the City's Wellfield and has indicated his willingness to abide by Section 45-104 "Wellhead Protection Overlay – Zone 1" of the Kearney City Code. Those regulations will be part of the conditions placed on this CUP.

The Utilities Department has contacted the Department of Environmental Quality on previous CUP applications in the area regarding requirements that they may have regarding the issuance of storm water and other permits. In addition to the requirements of the City Code, state and federal agency regulations listed above, the Utilities Department has added conditions to the Conditional Use Permit below, if it is approved by City Council.

The applicant has indicated that the primary purpose of the extraction operation is to provide fill material for the south end of the interstate structure. Therefore, the applicant will be hauling material across South 1st Street and accessing Archway property to deliver the material. At this time, the applicant does not anticipate utilizing South 1st Street going west, or the Avenue M overpass. Should the nature of the project change, the applicant has agreed to contact the City. City staff will also monitor South 1st Street during the project and may require the applicant to maintain the road. The specifications that the road will be maintained will also be included in the conditions of this permit.

Staff also has concerns about the use of Avenue M for truck traffic. South 1st Street crosses the Interstate with a "local access only" viaduct which is narrower than a typical interstate crossing bridge designed for semi-truck traffic. This particular bridge is also more dangerous because there are sharp curves in the road at both ends of the bridge making sight distance and vehicle maneuvering difficult, especially for large trucks. For these reasons staff requested a written letter from the Nebraska Department of Roads stating that the existing road network in this area, including the bridge, will be allowable for the proposed trucking operation for previous applications. Staff has received the letter and it is included in the packet. NDOR states in the letter that the road and the bridge are designed for public traffic, including trucks, and can accommodate the proposed increase in use. The applicant will also be limited on hours of operation in order to accommodate for the local use, nature of the roads and nearby residences.

In order to address the time, wellhead protection, and circulation issues associated with this project, staff recommends the following conditions be incorporated into the CUP:

- a) This CUP shall be limited to a time limit of six (6) months after the completion of Phase I of the Cherry Avenue Bypass project, but may be renewable at the end of the project if the applicant is awarded additional work for Phase II and a renewal is authorized by the Planning Commission and City Council.
- b) The applicant must maintain a setback of at least 50 feet from interstate right-of-way in accordance with Table 15-102 "Site Development Regulations" of Chapter 15 of the Kearney City Code.

- c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape.
- d) All equipment must be removed from the site by the time the CUP expires.
- e) This operation shall meet all Federal or State agency requirements and standards.
- f) The applicant shall apply for an Industrial Storm Water Permit, and a discharge permit if necessary, from the Nebraska Department of Environmental Quality. If said permit is issued the applicant will provide the City of Kearney with a copy of the permit and abide by the conditions of the permit during the term of the Conditional Use Permit.
- g) Portable toilet facilities shall be utilized, properly maintained and protected from damage.
- h) Fuel storage areas, if located on-site, shall be lined with a 60 mil high density polyethylene liner and bermed to contain the entire contents of the fuel storage container. The liner should extend over the berms and be anchored on the outside of the containment area.
- i) The applicant must adhere to the regulations set forth in Section 45-104 "Zone 1 Regulations" of Chapter 45 "District W, Wellhead Protection Overlay District of the Kearney City Code:
 - 1. Septic systems and leach fields are prohibited. All development must be directly connected to City sewer services, if available.
 - 2. Any development must be connected to City water services if such services are available within 500 feet of the site. If a connection is impossible, all new wells shall be installed in accordance with Title 178 of the Nebraska Administrative Code. Well installation further requires the approval of both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.
 - 3. Storage of petroleum and agricultural chemicals for resale shall be prohibited. Storage of over 500 gallons of petroleum and/or agricultural chemicals for personal use shall require approval by both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.
 - 4. Surface water run-off shall be contained within the boundaries of any proposed development.
 - 5. All development requires the written approval of the City's Director of Utilities and the appropriate State of Nebraska Department of Health.
- j) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the roads impacted by this project and CUP:

1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with ½-inch limestone or crushed concrete aggregate.
 2. River gravel or river rock is not acceptable for rebuilding subgrade
 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule during times that the site is active. Staff recommends that the road be watered and bladed every four hours when trucks are operating.
 4. Applicant shall maintain a minimum 2-inch average depth of gravel or rock surfacing on top of the road bed at all times.
- k) Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m.

The Planning Commission agreed with the proposed conditions except for item k, in which the hours of operation were amended to read as follows:

“Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 am to 7:00 pm. with variations to the hours of operation being allowed due to the construction cycle.”

Ron Blessing presented this matter to the Council. He agrees with all conditions of the Conditional Use Permit. With regard to the concerns about oil spills, they will not be storing any diesel fuel or petroleum products on the site. They have talked to Ron Sklenar about crossing the road onto the Archway property which is about 500 feet west of the south abutment that will be built. That is what this bar will be used for. They will maintain the road during construction and will need a flagman to do what it takes to make it safe. He also talked to Mr. Sklenar about doing work in the ditches if necessary. The concern that was discussed at the Planning Commission meeting was about the road being rather narrow for large equipment. The maintainer is the only equipment that will actually be on that road. All other equipment will only be crossing perpendicular to the road.

Dennis Claubaugh who lives east of the property stated the county has done a good job of maintaining that road during the 27 years he has lived there. It is difficult to maintain because it is sand based and farm trucks and heavy equipment just tear it up when they turn no matter how good of an operator is driving. The county has tried river rock, white rock, crushed concrete and if you look at it now there is nothing out there. He believed that the condition to grade it every four hours and water it down while Blessing is working out there was unfair. He compared it to the gravel road on Avenue M where the City trucks go in and out to dump. It is like a washboard all the time and they are not required to grade it every four hours and water it down. He believed that the county and the city do a good job of maintaining that road, although he has a neighbor who has complained about any road maintenance that has been done out there.

Director of Public Works Rod Wiederspan stated that a lot of the language in the Conditional Use Permit is standard language that is in other conditional use permits for the county. They did run into a situation in another area where they hauled in a lot of

material with that CUP but that road took a lot of effort to maintain and keep up. This standard language was added so that they have the ability to have the road maintained to a safe level for the citizens who live out there.

City Manager Michael Morgan stated that Mr. Blessing and the citizens who have access to that road can work with the County Road Department and resolve those issues, they are not really City issues. If there is more maintenance needed or if more maintenance is not good, Mr. Blessing can work with the County. Those conditions were just to insure if they were necessary they would be done. Mr. Blessing knows a lot about roads and how to maintain them so he will use common sense. If they did not meet these requirements, it would be brought back to the Council to revoke the CUP if necessary. If the City receives a complaint, they will re-evaluate it and meet with the citizens who are affected and Mr. Blessing and resolve the situation. Council member Lear stated the provisions of the CUP outlines what they can require, but not necessarily what they will require based on road conditions.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 7666 on the Application submitted by Ron Blessing (Applicant) for Coal Chute Park LLC (Owner) for a Conditional Use Permit to operate a fill dirt borrow site on property zoned District AG, Agricultural District and described as a tract of land located in Government Lots 2, 3 and 4, with exceptions, and the North Half of the Northwest Quarter, with exceptions, all located in Section 17, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Archway Monument and I-80) subject to compliance with conditions a through k as set forth in the ordinance 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 close the hearing and suspend the rules for Ordinance No. 7666. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7666 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7666 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. 7666 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.

AMEND LAND USE MAP FOR 8TH AVENUE AND 19TH STREET – SOUTH RAILROAD STREET

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by City of Kearney (Applicant and Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Light Industrial to Medium Density Residential for property described as Lot 13 and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th Avenue and 19th Street – South Railroad Street) and consider Resolution No. 2011-111. Planning Commission recommended denial.

Director of Utilities Kirk Stocker presented this matter to the Council. City Administration is requesting rezoning from District M-1, Limited Industrial District to District R-3, Urban Residential Multi-Family District for Lot 13 and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way (ROW). This property is owned by the City of Kearney and located south of the Union Pacific Railroad tracks at 8th Avenue. The property was a former well site that was under the control of the City Utilities Department. In the late 1990s, the well was abandoned in accordance with the Nebraska Administrative Code. A construction contractor that owned a nearby warehouse approached the City in 2003 with a request to lease the property as a parking lot for construction equipment. The property was zoned R-3 at the time. Across the street to the north all land adjacent to the railroad track is zoned M-1. In August 2003 the City Council rezoned these two lots from R-3 to M-1 and the City leased the property to the contractor. The contractor did not renew the lease last fall and the City has not found another tenant.

Now that the lease has expired, the City would like to rezone the lots back to R-3. All the surrounding property south of South Railroad Street is zoned R-3. The Future Land Use Map of the City of Kearney Comprehensive Development Plan shows the area to be "Light Industrial". The Future Land Use Map should be amended to "Medium Density Residential" to accommodate the requested rezoning. The proposed zoning request is compatible with the surrounding area, which is bordered on three sides by residential development. It is staff's opinion that residential development on these lots would be more compatible and more beneficial to the surrounding neighborhood.

Staff has made efforts to stabilize this neighborhood. Within the past five years a dilapidated house was condemned and eventually removed from the lot across the street to the west of the property. A foundation permit has since been issued for a moved in dwelling, which will be used as a duplex, as the property is zoned R-3. Rezoning the property in question to R-3 as well will permit a similar structure or single family house to be installed as adequate lot area exists to support either structure.

At the Planning Commission hearing one commissioner and three citizens questioned

the reason why the City wants to rezone this parcel. They were of the opinion that M-1 zoning will bring a higher return if the property is sold. Although there is M-1 zoning directly across the street to the north, the other three sides of this property are bordered by R-3 residential. The Planning Commission voted to deny the land use map amendment and rezoning request. They chose this action because they believed that the property will bring more revenue when sold with an M-1 designation. The commission also stated that no complaints or issues have arose with the lot in the past seven years and this lot is a more appropriate location for an industrial rather than residential use.

Three citizens appeared at the Planning Commission meeting in opposition to the rezoning action. With the exception of Director of Utilities Kirk Stocker, no one attended the meeting in support of the rezoning. However, a petition from surrounding neighbors in support of the rezoning has been received by the City Clerk and is included with this memorandum.

Staff is primarily concerned with the well being of the existing neighborhood. No major construction on this lot has taken place; therefore, staff believes that the timing is appropriate to protect the best interest of neighboring property owners by avoiding potential residential-industrial land use conflicts.

Director of Utilities stated they did not recall any opposition to rezoning it to M-1 in 2003. The City Clerk stated that she received a petition from property owners in the neighborhood that they would like to see it maintained as R-3 or turned back to R-3. The petition was received after the Planning Commission meeting.

Assistant Development Services Director Bobbi Pettit stated there was no one in support of the R-3 zoning that came to the Planning Commission meeting. In the week following that meeting their office received phone calls from neighbors who were upset with their department because they did not see the meeting posting sign. Those signs are always posted facing the street which was 19th Street, but the neighbors stated they never use that street. Therefore, the Planning Commission meeting was over by the time they sent the petition.

Belinda Tolle, 1810 7th Avenue, stated neither she nor her neighbors saw the Planning Commission notice sign. The road that it was posted on is used primarily by cattle trucks. They found out about it after it came out in the newspaper about the rezoning. She stated there is an alley going through those properties. All but two of the property owners use the alley to access their garages. When it was rented to the construction people, they tore the end of the alley up by going in and out all the time. They also destroyed huge cement barriers on the property line and one of them was knocked over during a snow storm. The City came in after they vacated the property and cleaned it up and planted trees and put in grass and sprinklers. They would like to see it go back to residential so the lot can be put to good use and not have any more construction vehicles in there. It is difficult to enter and exit the alley on 19th Street because of the construction items sitting down there. All of the signatures on the petition were from people who live in the area. They would all like to see it rezoned.

Council member Buschkoetter stated he understood the Planning Commission's decision to try and help out the business across the street have a parking lot. He also knows what M-1 zoning looks like because he passes on the way home and he would not necessarily want to live right next to that. Since that side of the street is all residential, he thought that residential fits there. M-1 would be okay if the City could control it like they did when they were the landlord and he was comfortable with it at that time, but now believes it is time to go back to R-3. It was kind of a temporary solution to a temporary problem at that time and now that they chose not to rent again, he would like to see it go back.

Council member Lammers stated it was residential until 2003 and it has residential on three sides. In looking at the map, it made sense to him that it be left in residential. He understood what they did for that interim while they were renting.

Mayor Clouse stated he was also in agreement. The City originally owned the property because there was a well on it which has not been abandoned.

City Manager stated he and the Mayor recently attended a housing meeting and Kearney is in dire need of lots in this price range in the community that are ready to be developed. Director of Utilities stated it would probably be sold as one residential lot because the west frontage is only 85 feet because the railroad right-of-way does cut off the northwest corner of the lot. The lot is about 85x140. Assistant Development Services Director stated that they could fit a duplex or a single family dwelling legally on this lot. To the west is a vacant lot; however, they have issued a foundation only permit for a duplex that will be moved onto that lot which is right across the street. There is some momentum in that neighborhood about to take place.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by City of Kearney (Applicant and Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Light Industrial to Medium Density Residential for property described as Lot 13 and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th Avenue and 19th Street – South Railroad Street) and adopt **Resolution No. 2011-111**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2011-111

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being Lot 13 except the east 5.0 feet thereof, and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way except the east 5.0 feet thereof, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th

Avenue and 19th Street - South Railroad Street) from Light Industrial to Medium Density Residential, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Light Industrial to Medium Density Residential the use classification for a tract of land being Lot 13 except the east 5.0 feet thereof, and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way except the east 5.0 feet thereof, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th Avenue and 19th Street - South Railroad Street).

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING 8TH AVENUE AND 19TH STREET – SOUTH RAILROAD STREET

Mayor Clouse opened the public hearing on the Application submitted by City of Kearney (Applicant and Owner) to rezone from District M-1, Limited Industrial District to District R-3, Urban Residential Multi-Family District (Medium Density) property described as Lot 13 and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th Avenue and 19th Street – South Railroad Street) and consider Ordinance No. 7667. Planning Commission recommended denial.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing and introduced Ordinance No. 7667 on the Application submitted by City of Kearney (Applicant and Owner) to rezone from District M-1, Limited Industrial District to District R-3, Urban Residential Multi-Family District (Medium Density) property described as Lot 13 and that part of Lot 14 lying south of the Union Pacific Railroad right-of-way, all in Block Two, Kearney Land and Investment Company's Choice Addition to the City of Kearney, Buffalo County, Nebraska (8th Avenue and 19th Street – South Railroad Street) and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7667. President of the Council asked for

discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7667 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7667 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. 7667 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.

ADOPT CITY OF KEARNEY 2011-2012 FISCAL YEAR BUDGET

Public Hearings 4 and 5 were discussed together but voted on separately.

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Budget for the 2011-2012 Fiscal Year and consider Ordinance No. 7668.

Pursuant to Section 13-506 of the Nebraska Revised Statutes, the City Council is required to conduct a public hearing on the City of Kearney proposed budget and the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2011-2012 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. After the Budget Document is reviewed and the public hearings are conducted, Ordinance No. 7668 should be passed and approved. Ordinance No. 7668 legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney. The 2011-2012 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the City, and keeping expenditures and taxes as low as possible.

Director of Finance Wendell Wessels presented this matter to the Council. He stated the fiscal year 2012 budget is proposed to be \$59,322,952. This is about a \$2 million increase over last year. The majority of those funds will go for operating costs (supplies and material), personnel costs and about 30 percent will go for capital outlay and debt service related to capital outlay. The budget is broken down into different functions of government and the largest function receiving funds will be culture and recreation. It will receive about 21 percent which is higher because of the cost of completing the renovation of the Library. Public works and streets will receive 18 percent and public safety (Police & Fire) will get 18 percent. Personnel costs will include a three percent cost of living raise for a total of \$371,000. Position additions or changes will include

reclassifying the Assistant Library Director to full time, add two part time library clerks, one part time TLC monitor, one full time facilities maintenance worker in the park department, one full time maintenance worker in the transportation division, six part time recycling processors in the sanitation collection area and one full time GIS technician for the Sanitary Sewer and Water division.

Director of Utilities Kirk Stocker stated they are seeing an increase in recycling and in the past they have had a backlog of recyclables left on the floor that cannot be sorted during the normal 5-hour period that the first shift is there. The intent of these additional employees is to have at least a partial second shift for afternoon (12:00 to 4:00 p.m.) sorting. They particularly have trouble when there is a holiday during the middle of the week in addition to the normal backlog. Recyclables is a revenue generating service which is popular with the citizens, as well as conserves landfill space.

Director of Finance stated total capital outlay is \$13,790,000. He listed the top ten projects for next year:

- \$1.5 million for East Kearney Bypass-Phase I,
- \$784,000 for 17th Avenue, 49th Street north 600 feet and 50th Street from 17th Avenue west 550 feet,
- \$489,000 for those two projects go hand in hand,
- \$500,00 for asphalt street replacement 5th Avenue,
- \$500,00 to replace the Landfill compactor,
- CDBG grant for new sidewalks around Emerson school (Grant pays \$305,000 – City pays \$174,000),
- \$300,00 for Park & Rec/Library parking lot,
- \$240,000 to replace a 1989 street sweeper,
- \$239,000 for Aspen Meadows 2nd Addition,
- \$225,000 for water main in 5th Avenue and goes with the asphalt street project.

On the debt service side, Director of Finance stated that at the beginning of the year they will have about \$40,856,000 outstanding in bonds. There are three categories of bonds; public safety, various purpose and revenue bonds. They are going to pay about \$3.5 million on those bonds during the year. The only new debt they are looking at now are various purpose bonds for Cherry Avenue, 17th Avenue and 50th Street project. When they issue that new debt, they will not be using property tax to pay off that debt. The debt issued for Cherry Avenue will be paid for with keno money. The debt issued for the street projects in northeast Kearney will be paid for with sales tax revenues. The ending debt for the year will be about \$40,200,000 or a decrease of about \$660,000 for the year.

Revenue totals will be \$51,078,000 – taxes are a big part at \$15,630,000 and charges for services about \$18.5 million (primarily services from utility funds). Taxes are about 26 percent and charges for revenues about 31 percent. Of those taxes, 66 percent is made up of sales tax, 16 percent property taxes and 11.5 percent occupation taxes. For the proposed property tax request, the valuation that has been certified by the County Assessor is a little over \$1.7 billion. We have seen about 3.25 percent growth rate since last year. The General Fund property tax requirement is \$2,156,000 and

equals a levy of 12 cents per 100. The Public Safety Bonds tax requirement is \$390,000 and equals a levy of just over two cents. Added together it equals about \$2.5 million for a 14.8 per/\$100 property tax levy. On a \$150,000 home, the property tax to the City of Kearney would be \$223.00. Regarding property tax distribution for every dollar paid to the Buffalo County Treasurer in 2010, the City of Kearney received about seven cents and the rest went to the other political subdivisions. Sales tax revenues for 2010 were \$6.5 million. They estimate that 2011 will be about \$6.8 million which is a 4.5 percent increase over last year. That is what they are budgeting for 2012. The ½ cent special sales tax was almost \$3.3 million and it is almost \$3.4 million this year so that is what is going to be budgeted for next year. The ½ cent special sales tax grand total for fiscal year 2010 is \$9,852,000, for 2011 is \$10.3 million and will estimate \$10.3 million next year. If it comes in more than that, we will carry it into the next fiscal year.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing and introduced Ordinance No. 7668 for the adoption of the City of Kearney Budget for the 2011-2012 Fiscal Year 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 close the hearing and to suspend the rules for Ordinance No. 7668. 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. 7668 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. 7668 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7668 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.

ADOPT OFFSTREET PARKING DISTRICT NO. 1 2011-2012 BUDGET

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2011-2012 Fiscal Year.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt the City of Kearney Offstreet Parking District No. 1 Budget for the 2011-2012 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

2011 PROPERTY TAX LEVY

Mayor Clouse opened the public hearing for setting the 2011 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and consider Resolution No. 2011-112.

Director of Finance Wendell Wessels presented this matter to the Council. Section 77-1601.02 of the Nebraska Revised Statutes requires political subdivisions of the State of Nebraska to conduct a Special Public Hearing to set the 2011 property tax request if the request is going to be different than the 2010 property tax request. The same statutes include a provision stating that the property tax request for 2010 will be the property tax request for 2011 unless the political subdivision passes by a majority vote a resolution setting the property tax request at a different amount.

Resolution No. 2011-112 sets the property tax request for 2011. The 2011-2012 City of Kearney Budget includes a property tax requirement of \$2,156,038.92 for the General Fund, and a property tax requirement of \$390,288.24 for the Public Safety Tax Anticipation Bond Fund. The 2011 property tax requirements are different than the 2010 property tax requirements; therefore, a special public hearing is required to set the 2011 property tax requirement.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve for setting the 2011 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and adopt **Resolution No. 2011-112**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2011-112

WHEREAS, Section 77-1601.02 of the Nebraska Revised Statutes authorizes the City Council to set the 2011 property tax request for the City of Kearney; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that a 2011 property tax request be set for the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes an All-Purpose Tax Request of \$2,156,038.92 is set for the fiscal year beginning the 1st day of October, 2011 and ending on the 30th day of September, 2012 for the purpose of equipping, maintaining and paying the departments of the City of Kearney.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes, a Special Tax Request of \$390,288.24 is set for the fiscal year beginning the 1st day of October, 2011 and ending the 30th day of September, 2012 for the purpose of paying off bonds authorized by Section 18-1202 of the Nebraska Revised Statutes.

BE IT FURTHER RESOLVED that the City Clerk is hereby ordered to certify said request to the Buffalo County Clerk in order that the same may be placed on the property tax rolls and be collected in the manner provided by law.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2011.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

PERMANENT WATER AND SANITARY SEWER EASEMENT FROM PRINCE OF PEACE

Mayor Clouse opened the public hearing on the proposed acquisition of a Permanent Water and Sanitary Sewer Easement granted to the City by the Prince of Peace Catholic Church, Inc. of a tract of land being part of the Southeast Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND part of Lot 1, Bent Bar C Subdivision East, Buffalo County, Nebraska and consider Resolution No. 2011-113.

Director of Utilities presented this matter to the Council. At the April 27, 2010 City Council meeting the Council approved a Developer Constructed Infrastructure Agreement for the Prince of Peace Catholic Church located on West 56th Street. The agreement required the developer to construct water and sanitary sewer mains meeting City specifications onto the property to serve the development. The agreement also required the church to grant the City a water and sanitary sewer easement over the water and sanitary sewer mains that were constructed.

Since that time Prince of Peace Catholic Church has completed the construction of the church and the construction of the water and sanitary sewer mains required by the agreement. Prince of Peace Catholic Church has also granted the City a Permanent Water and Sanitary Sewer Easement for the water and sanitary sewer located on the property.

Nebraska Revised Statute 18-1775 requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and a public hearing.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the proposed acquisition of a Permanent Water and Sanitary Sewer Easement granted to the City by the Prince of Peace Catholic Church, Inc. of a tract of land being part of the Southeast Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND part of Lot 1, Bent Bar C Subdivision East, Buffalo County, Nebraska and consider **Resolution No. 2011-113**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2011-113

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisitions by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a permanent water and sanitary sewer easement and voted in favor to proceed with the acquisition; and

WHEREAS, Prince of Peace Catholic Church, Inc., a Nebraska Nonprofit Corporation has granted to the City of Kearney, Nebraska a Permanent Water and Sanitary Sewer Easement for the following tracts of land:

PERMANENT WATER EASEMENT

A tract of land being part of the Southeast Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND part of Lot 1, Bent Bar C Subdivision East, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of said Southeast Quarter and assuming the South line of said Quarter as bearing N89°20'08"E and all bearings hereon relative thereto; thence N89°20'08"E on said South line a distance of 318.07 feet; thence N00°39'52"W perpendicular to said South line a distance of 39.37 feet to the Actual Point of Beginning; thence continuing N00°39'52"W a distance 24.13 feet; thence S89°20'08"W parallel with said South line a distance of 20.60 feet; thence N00°39'52"W perpendicular to said South line a distance of 20.00 feet; thence N89°20'08"E parallel with said South line a distance of 20.60 feet; thence N00°39'52"W perpendicular to said South line a distance of 2.50 feet; thence N14°24'47"W a distance of 598.95 feet; thence N75°35'13"E a distance of 20.00 feet; thence S14°24'47"E a distance of 601.36 feet; thence S00°39'52"E perpendicular to said South line a distance of 48.38 feet; thence S89°20'08"W parallel with said South line a distance of 8.07 feet; thence S00°39'52"E perpendicular to said South line a distance of 0.63 feet; thence S89°20'08"W parallel with said South line a distance of 11.93 feet to the Point of Termination.

PERMANENT SANITARY SEWER EASEMENT

A tract of land being part of the Southeast Quarter of Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; AND part of Lot 1, Bent Bar C Subdivision East, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest Corner of said Southeast Quarter and assuming the South

line of said Quarter as bearing N89°20'08"E and all bearings hereon relative thereto; thence N89°20'08"E on said South line a distance of 232.44 feet; thence N00°39'52"W perpendicular to said South line a distance of 39.37 feet to the Actual Point of Beginning; thence continuing N00°39'52"W a distance 10.63 feet; thence N18°11'07"W a distance of 397.93 feet; thence N71°48'53"E a distance of 20.00 feet; thence S18°11'07"E a distance of 404.24 feet; thence N89°20'08"E parallel with said South line a distance of 423.77 feet; thence S00°39'52"E perpendicular to said South line a distance of 6.27 feet; thence S86°12'09"W a distance of 56.13 feet; thence S89°20'08"W parallel with said South line a distance of 291.13 feet; thence S00°39'52"E perpendicular to said South line a distance of 0.63 feet; thence S89°20'08"W parallel with said South line a distance of 97.56 feet to the Point of Termination.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the permanent water and sanitary sewer easement, marked as Exhibit "1" attached hereto and made a part hereof by reference, granted by Prince of Peace Catholic Church, Inc., a Nebraska Nonprofit Corporation, be and is hereby accepted and approved.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated that the agenda was amended on Monday to include Subsection 17 to approve the application for a Special Designated License submitted by Holiday Inn.

Because of a conflict of interest, Council member Lear will need to abstain from voting on Subsections 9, 10 and 17. Council member Buschkoetter will need to abstain from voting on Subsection 4 because of a conflict of interest. These will be voted on separately.

Moved by Buschkoetter seconded by Clouse that Subsections 9, 10 and 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstain. Motion carried.

9. Approve the Amendment of the Money Accumulation Plan for Employees of the City of Kearney, the Amendment of the City of Kearney, Nebraska Police Officers' Pension Plan and Trust, and the Amendment to the City of Kearney, Nebraska Firefighters' Pension Plan and Trust and adopt **Resolution No. 2011-119** approving the Agreement with Union Bank & Trust Company.

RESOLUTION NO. 2011-119

BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska:

1. Adoption of Amendment of the Money Accumulation Plan for Employees of the City of Kearney: the City shall amend and it hereby does adopt an Amendment to the Money Accumulation Plan for Employees of the City of Kearney (the "Civilian Plan") in the form of the Amendment document attached hereto and by this reference fully incorporated herein. The purpose of said Amendment is to adopt certain changes enacted under the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008.

2. Adoption of Amendment to the City of Kearney, Nebraska Police Officers' Pension Plan and Trust: the City shall amend and it hereby does adopt an Amendment to the City of Kearney, Nebraska Police Officers' Pension Plan and Trust (the "Police Plan") in the form of the Amendment document attached hereto and by this reference fully incorporated herein. The purpose of said Amendment is to adopt certain changes enacted under the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008.

3. Adoption of Amendment to the City of Kearney, Nebraska Firefighters' Pension Plan and Trust: the City shall amend and it hereby does adopt an Amendment to the City of Kearney, Nebraska Firefighters' Pension Plan and Trust (the "Firefighter Plan") in the form of the Amendment document attached hereto and by this reference fully incorporated herein. The purpose of said Amendment is to adopt certain changes enacted under the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008.

BE IT FURTHER RESOLVED that the Mayor and other appropriate elected officials and officers of the City of Kearney shall be, and they hereby are, authorized to do all things necessary to carry out and accomplish the foregoing Resolutions, including the execution of any document or amendment which may be necessary or appropriate to amend and administer the aforesaid Plans, including such actions as may be necessary or appropriate to achieve and maintain tax qualification of the aforesaid Plans under Section 401(a) of the Internal Revenue Code of 1986, as amended.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the Removal of Current Trustee of the Money Accumulation Plan for Employees of the City of Kearney, the Removal of Current Trustee of the City of Kearney, Nebraska Police Officers' Pension Plan and Trust, and the Removal of Current Trustee to the City of Kearney, Nebraska Firefighters' Pension Plan and Trust and to name Union Bank & Trust Company as successor Trustee of the Plans and adopt **Resolution No. 2011-120.**

RESOLUTION NO. 2011-120

BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska:

1. Removal of Current Trustee of the Money Accumulation Plan for Employees of the City of Kearney: that pursuant to the power granted under Section 14.6 of The Money Accumulation Plan for Employees of the City of Kearney and Section 19-3501(1) of the Revised Statutes of Nebraska, Platte Valley State Bank & Trust Company is hereby removed as Trustee of said Plan, effective as of January 1, 2012.

2. Removal of Current Trustee of the City of Kearney, Nebraska Police Officers' Pension Plan and Trust: that pursuant to the power granted under Section 12.9 of the City of Kearney, Nebraska Police Officers' Pension Plan and Trust and Section 16-1004(2) of the Revised Statutes of Nebraska, Platte Valley State Bank & Trust Company is hereby removed as Trustee of said Plan, effective as of January 1, 2012.

3. Removal of Current Trustee of the City of Kearney, Nebraska Firefighters' Pension Plan and Trust: that pursuant to the power granted under Section 12.8 of the City of Kearney, Nebraska Firefighters' Pension Plan and Trust and Section 16-1023(2) of the Revised Statutes of Nebraska, Platte Valley State Bank & Trust Company is hereby removed as Trustee of said Plan, effective as of January 1, 2012.

4. Appointment of Successor Trustee: that Union Bank & Trust Company is hereby appointed to serve as successor Trustee of each of the aforesaid Plans, effective as of January 1, 2012.

5. Amendment of Plans: that each of the aforesaid Plans are hereby deemed amended, as appropriate, to name Union Bank & Trust Company as successor Trustee of the Plan, effective as of January 1, 2012.

BE IT FURTHER RESOLVED that the Mayor and other appropriate elected officials and officers of the City of Kearney shall be, and they hereby are, authorized to do all things necessary to carry out and accomplish the foregoing Resolutions, including the execution of any document or amendment which may be necessary or appropriate to establish and administer the aforesaid Plans, including such actions as may be necessary or appropriate to achieve and maintain qualification of the aforesaid Plans under Section 401(a) of the Internal Revenue Code of 1986, as amended.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

17. 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 in the Training Room located at the Platte Valley State Bank, 2223 1st Avenue on September 29, 2011 from 6:00 p.m. until 8:00 p.m. for a reception.

Moved by Clouse seconded by Kearney that Subsection 4 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter abstain. Motion carried.

4. Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental keno funds designed for outside agencies.

Moved by Clouse seconded by Kearney that Subsections 1 through 8 and 11 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 23, 2011.

2. Approve the following Claims:

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

Alfac \$2,815.56 ps; Alfred Benesch & Co \$25,987.95 smcs,co; All Makes Auto Supply \$1,625.05 co; Ally B Designs \$400.00 smcs; Amer First Aid \$449.32 smcs; Analytical Services \$2,775.00 smcs; Anderson Brothers \$142.26 smcs; Anderson,S \$185.93 smcs; AQS Environmental \$575.00 smcs; Arctic Refrigeration \$391.07 smcs; Arner,T \$14.80 smcs; Artisans \$200.00 smcs; Ask Supply \$590.96 smcs; Avey,C \$25.00 smcs; Baker & Taylor Books \$12,472.82 smcs; Bamford \$61.78 co; Barney Abstract \$870.00 smcs; Bennett,T \$1,621.50 smcs; Blessing \$130,706.62 smcs,co; Bluecross Blueshield \$123,579.79 smcs; Book Page \$456.00 smcs; Bosselman \$17,350.44 smcs; Box Car Willie Inn \$4,440.88 smcs; Brabec,R \$900.00 smcs; Brennan,C \$18.97 smcs; Brilliance Audio \$141.29 smcs; Broadfoot's \$94.75 smcs; Bruha,S \$140.00 smcs; Buffalo Co Court \$198.00 co; Buffalo Co Reg Deeds \$82.50 smcs; Buffalo Co Treasurer \$18,750.00 smcs; Builders Warehouse \$6,715.76 smcs,co; Cadex Electronics \$2,772.00 smcs; Carquest \$2,295.67 smcs; Casey's General Store \$71.83 smcs; Cash-Wa \$473.30 smcs; Center Point Large Print \$26.21 smcs; Central Fire & Safety \$96.00 smcs; Central Platte NRD \$50.00 co; CH Diagnostic \$565.00 smcs; Charter \$89.24 smcs; Chief Supply \$21.09 smcs; City of Ky \$307,553.36 ps,smcs,co; Coast to Coast \$360.59 smcs; Colling,G \$500.00 co; Comcate \$3,000.00 smcs; Construction Rental \$215.67 smcs,co; Copycat Printing \$120.05 smcs; Cornhusker Cleaning \$166.30 smcs; Credit Acceptance Corp \$407.35 ps; Credit Management Service \$223.43 ps; C-Tech Restoration \$9,287.19 smcs; D&M Security \$108.60 smcs; Dan Roeder Concrete \$277,758.95 co; Dandee Concrete \$2,640.00 co; Dell \$7,679.85 co; Demco \$53.07 smcs; Depository Trust \$125,085.00 ds; Dmilaco Sports \$534.00 ps; DPC Industries \$19,074.87 smcs; Dutton-Lainson \$669.95 smcs,co; Eakes \$10,210.55 smcs,co; Ecolab \$36.00 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$1,899.39 smcs; Engineered Controls \$438.00 smcs; Fairbanks \$1,986.16 smcs; Farmers Union Coop \$28.50 smcs; Felsburg Holt & Ullevig \$480.00 smcs; Fiddelke \$268.70 smcs; Fort Ky Shooting \$6,875.00 smcs; Frontier \$8,738.26 smcs; Gale \$412.06 smcs; Gangwish Turf \$49.50 co; Gaylord Brothers \$1,557.20 co; GE Money Bank \$1,522.35 smcs; GT Distributors \$264.95 smcs; H&H Distributing \$1,945.85 smcs; Hauff,K \$125.00 smcs; HD Supply \$7,599.32 smcs; Heiman Fire Equipment \$2,555.88 smcs; Highsmith \$147.42 smcs; Hometown Leasing \$237.20 co; Hornady \$286.00 smcs; HSBC Bank Nevada \$650.88 ps; HTMC \$128.00 smcs; Humphrey,D \$15.59 smcs; Hydrite Chemical \$1,882.10 smcs; ICMA RC \$7,603.03 ps; IRS \$215,113.13 ps; Isaac Drywall \$1,350.00 smcs; Jack Lederman \$1,371.04 smcs; James,D \$45.00 smcs; Jerry's Sport Center

\$371.40 smcs; Johnstone Supply \$39.72 smcs; K&K Parts \$1,190.40 smcs; Ky Arts Council \$550.00 smcs; Ky Catholic Health \$2,500.00 smcs; Ky Concrete \$1,287.54 smcs; Ky Hub \$113.40 smcs; Ky Humane Soc \$7,153.00 smcs; Ky Towing \$75.00 smcs; Ky United Way \$603.24 ps; Kehl Tree Services \$5,200.00 co; Kelly Electric \$715.20 smcs; Konica Minolta \$656.46 smcs; Kowalek,G \$6.59 smcs; Krueger,L \$80.00 smcs; Krull Ins \$1,950.00 smcs; Lang,L \$200.00 smcs; Liljehorn,S \$17.61 smcs; Loschen,S \$385.00 smcs; Magic Cleaning \$4,660.00 smcs; Matheson Tri-Gas \$71.66 smcs; May-Werner,J \$21.60 smcs; McCarty,D \$213.00 smcs; Menards \$9.14 smcs; Metlife \$6,744.44 ps; Middleton Electric \$80.00 smcs; Midlands Contracting \$22,157.60 smcs; Miller & Associates \$68,329.00 smcs,co; Moffett,R \$863.60 smcs; Moonlight Embroidery \$1,413.25 smcs; Morgan,M \$75.37 smcs; Municipal Emergency Serv \$99.93 ps; Municipal Supply \$3,520.77 smcs,co; Natl Arbor Day Found \$35.00 smcs; Natl Tactical Officers \$150.00 smcs; NCS Equipment \$112.72 smcs; NDEQ-Fiscal Services \$7,500.00 smcs; NE Child Support \$5,515.75 ps; NE Dept of Revenue \$86,230.93 smcs,ps; NE Library Assn \$508.00 smcs; NE Liquor Control Comm \$45.00 smcs; NE Public Health \$782.00 smcs; NE Rural Water Assn \$25.00 smcs; NE Secretary of State \$30.00 smcs; NE State Library \$27.50 smcs; NE State Patrol \$38.00 smcs; NEland Distributors \$1,246.88 smcs; Nelson,T \$3.00 smcs; Neopost \$6,000.00 smcs; Newman Signs \$7,281.88 smcs; Newquist,D \$52.00 smcs; Northwestern Energy \$763.63 smcs; Novus \$75.00 smcs; NSA/POAN Conference \$450.00 smcs; Office Depot \$91.05 smcs; Olive Software \$9,200.00 smcs; O'Reilly Automotive \$1,047.49 smcs; Otto Environmental Systems \$21,979.20 smcs; Paramount Linen \$68.12 smcs; Pat's Plumbing \$1,700.00 co; Paulsen \$96,096.60 co; Payflex Systems \$531.25 ps; Platte Valley Comm \$980.39 smcs; Poggioli,J \$75.00 smcs; Police Officer's Assn NE \$570.00 smcs; Presto-X \$104.00 smcs; Protex Central \$101.00 smcs; Pulliam,R \$40.00 smcs; Quill \$103.67 smcs; Random House \$684.26 smcs; Recorded Books \$1,418.10 smcs; Reinke's Heating \$463.36 smcs; Rixstine Recognition \$407.68 smcs; Rodehorst,R \$35.00 smcs; Rumbeck,J \$25.00 smcs; Sam's Club Direct \$51.52 smcs; Sapp Bros \$29,674.90 smcs; Scott Daake Masonry \$1,275.00 smcs; Sears \$1,499.99 smcs; Shea,S \$560.00 smcs; Sherwin-Williams \$9,315.60 smcs; Sid Dillon Ford \$25,894.00 co; Smith Signs \$296.00 smcs; Snap-On Tools \$352.75 smcs; Snow,T \$50.00 smcs; Sorenson,W \$55.00 smcs; St of NE/AS Central \$3,770.68 smcs,co; St of NE/Health & Human \$400.00 smcs; Suburban Fire Protection \$13,500.00 smcs; Sun Life Financial \$43,010.16 smcs; Sungard Public Sector \$10,178.83 smcs; Synovec,A \$385.00 smcs; Terry's Transport Tickets \$9,950.00 smcs; Theis,J \$60.00 smcs; Thompson Co \$109.25 smcs; Tilley Sprinklers \$95.00 smcs; Tri-Cities Group \$822.97 smcs; Tri-County Glass \$22,899.08 smcs; TruGreen ChemLawn \$190.00 smcs; Turner Body Shop \$74.70 smcs; Tye & Rademacher \$11,879.55 smcs; Ultramax \$6,278.00 smcs; Underground Construction \$1,865.35 co; University of Missouri \$11,000.00 smcs; Verizon Wireless \$1,705.21 smcs,co; Village Uniform \$645.08 smcs; Waggoner Plbg \$8,850.00 co; Walters Electric \$397.72 smcs; Watchguard Video \$8.00 co; West Central NE HBA \$360.00 smcs; West Payment Center \$117.50 smcs; Wiegand Security \$85.00 smcs; Williams,M \$9.82 smcs; Wooden,T \$1,600.00 smcs; Woods,W \$18.95 smcs; World Book \$1,903.00 smcs; Zurich North America \$1,932.00 smcs; Payroll Ending 8-27-2011 -- \$344,593.68. 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. Adopt **Resolution No. 2011-114** allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$112,644.49 which will be carried over to the 2011-2012 Budget as "Unused Budget Authority".

RESOLUTION NO. 2011-114

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Section 13-519.03 of the Nebraska Revised Statutes, as amended, allows governmental units to exceed the two and one half percent limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by an additional one percent as allowed pursuant to Section 13-519.03 of the Nebraska Revised Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Section 13-519.03 of the Nebraska Revised Statutes, as amended, by an additional one percent.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2011.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the recommendation from the Advisory Board of Park & Recreation Commissioners to approve the revised Park & Recreation Rules and adopt **Resolution No. 2011-115**.

RESOLUTION NO. 2011-115

WHEREAS, on May 8, 1984 the City Council adopted Rules and Regulations for the Park & Recreation Department; and

WHEREAS, it has become apparent that the Rules and Regulations need to be updated.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska that the Park & Recreation Rules and Regulations be and are hereby revised and adopted. A copy of the Rules and Regulations, marked as Exhibit A is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the Additional Software License Agreement between the City of Kearney and New World Systems Corporation for software and implementation services and adopt **Resolution No. 2011-116**.

RESOLUTION NO. 2011-116

WHEREAS, on September 26, 2000, the City Council approved a Standard Software License and Services Agreement with New World Systems for an Integrated Financial System; and

WHEREAS, New World Systems has recently developed a product named Logos.NET built entirely on the Microsoft.NET platform which is intended to replace the software purchased eleven years ago.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Additional Software License Agreement with New World Systems to purchase and implement the Logos.NET product for Financial Management, Payroll & Human Resources, Utility Management, Business Analytics, and eSuite Self-Service software. A copy of the Additional Software License Agreement, marked as exhibit A, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Approve Change Order No. 1 showing an increase in the amount of \$4,332.91 submitted by Blessing LLC and approved by Alfred Benesch & Company for the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23) and adopt **Resolution No. 2011-117**.

RESOLUTION NO. 2011-117

WHEREAS, Blessing LLC of Kearney, Nebraska has performed services in connection with the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23), and the City's engineer, Alfred Benesch & Company, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$4,332.91 and to change the completion date by 14 calendar days, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum

\$696,717.50

Change Order No. 1 (9-13-2011)	+ 4,332.91
Contract Sum to Date	<u>\$701,050.41</u>

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

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the Grant Agreement between the City of Kearney and F.A.A. for the Airport Master Plan and Airport Layout Plan Update – Phase II for Kearney Regional Airport (Project No. 3-31-0045-26-2011) and adopt **Resolution No. 2011-118**.

RESOLUTION NO. 2011-118

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR PROJECT NO. 3-31-0045-26 FOR THE AIRPORT MASTER PLAN AND AIRPORT LAYOUT PLAN UPDATE – PHASE II FOR KEARNEY REGIONAL AIRPORT

WHEREAS, the City of Kearney, Nebraska has submitted a project application to the Federal Aviation Administration for Project No. 3-31-0045-26 to update the Airport Master Plan and Airport Layout Plan – Phase II for the Kearney Regional Airport; and

WHEREAS, the Federal Aviation Administration has approved the project for the Kearney Regional Airport.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into a Grant Agreement with the Federal Aviation Administration for Project No. 3-31-0045-26 for the purpose of obtaining federal assistance to update the Airport Master Plan and Airport Layout Plan – Phase II for the Kearney Regional Airport. A copy of the said Grant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Grant Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the request submitted by the Kearney Housing Agency to waive the Payment In Lieu of Taxes perpetually and adopt **Resolution No. 2011-121**.

RESOLUTION NO. 2011-121

WHEREAS, the Kearney Housing Authority was established in 1959 and over the years have made annual in lieu of tax payments to Buffalo County which is distributed to all political subdivisions in Kearney on a pro-rata basis based on the political subdivision's property tax levy; and

WHEREAS, Section 71-1590(1) of the Nebraska Revised Statutes exempts real and personal property of a local housing agency from property taxes; and

WHEREAS, Section 71-1590(2) of the Nebraska Revised Statutes states that a housing agency may agree to make annual payments in lieu of taxes to the county treasurer; and

WHEREAS, because capital funds of the Kearney Housing Agency have decreased significantly over the past ten years, they are requesting the City Council to waive the payment in lieu of taxes perpetually.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska that based on the fact that Section 71-1590(2) of the Nebraska Revised Statutes says that a housing agency may agree to make in lieu of tax payments to the county and is exempt from property taxes, the City Council hereby agrees to waive the payment in lieu of taxes perpetually.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve the Task Order Agreement between the City of Kearney and Miller & Associates for Phase I of the East Kearney Bypass project for the relocation of City owned sewer and water infrastructure and adopt **Resolution No. 2011-122.**

RESOLUTION NO. 2011-122

WHEREAS, the City of Kearney, Nebraska is developing a transportation project for which it intends to obtain Federal funds; and

WHEREAS, the City of Kearney, Nebraska as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, the City of Kearney, Nebraska and Miller & Associates wish to enter into a Task Order Agreement to provide Construction Engineering Services for the Federal-aid project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska Stanley A. Clouse, Mayor of the City of Kearney, Nebraska is hereby authorized to sign the attached Task Order Agreement between the City of Kearney, Nebraska and Miller & Associates.

PASSED AND APPROVED THIS 13TH DAY OF SEPTEMBER, 2011.

ATTEST:

STANLEY A. CLOUSE

MICHAELLE E. TREMBLY
CITY CLERK

PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

13. Approve the Plans and Specifications for the 2011 Part 6 Improvements consisting of Paving Improvement District No. 2010-946, Water District No. 2011-562 and 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 set the bid opening date for October 4, 2011 at 2:00 p.m.

14. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 1, 2011 from 6:00 p.m. until 1:00 a.m. for a dance (alternate date is October 8, 2011 from 6:00 p.m. until 1:00 a.m. in the Exhibit Building).

15. Approve the recommendation on awarding the bid submitted by Midwest Storage Solutions for the Library Shelving – Phase 2 for the Kearney Public Library.

16. Approve the application to extend Conditional Use Permit No. 1979-06 granted to Susan Underhill to locate a Day Care Facility at 2803 Avenue I for a period of one year.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7669 – SALARY ORDINANCE

This ordinance will repeal Ordinance No. 7636 (2010-2011 Annual Personnel Ordinance); classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for the payments of vehicle allowances; and provide for the payment of cell phone allowances.

Ordinance No. 7669 includes all the job classifications, pay grades and ranges of compensation that are included in the City of Kearney 2011-2012 Pay Policy. Additionally, various employee benefits as discussed above have been included in the ordinance. Passage of the Personnel Ordinance is done on an annual basis in conjunction with the budget process. Ordinance No. 7669 is required pursuant to Section 16-502 of the Nebraska Revised Statutes, which mandates that the governing bodies of First Class Cities specifically appropriate all personnel expenditures in ordinance form. The 2011-2012 City of Kearney budget includes salaries and benefits reflected in the Personnel Ordinance.

Council Member Kearney introduced Ordinance No. 7669, being Subsection 1 of Agenda Item V repealing Ordinance No. 7636 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7669 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 Lammers seconded by Lear that Ordinance No. 7669 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. 7669 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. 7670 – AMEND SECTIONS 7-203, 7-204, AND 7-206 OF CITY CODE

The Kearney City Code provides the process of appointments for the Advisory Board of Park & Recreation Commissioners. Currently, the composition of the Advisory Board consists of five resident freeholders plus one additional alternate member in the City and two residents of Buffalo County. The one additional alternate member shall attend and vote only when any other member is unable to attend for any reason.

The purpose of having an alternate member was the difficulty in obtaining a quorum at its monthly meetings. With an addition of an alternate, it was the opinion that having five members out of eight will greatly increase the success of a quorum. The City Code was amended on April 22, 2003 allowing for the appointment of an alternate member.

However, when the City revamped its process on the appointments of members to the various Boards/Commissions, several citizens have shown an interest in serving on these Boards. When the Advisory Board of Park & Recreation Commissioners met on August 18, they have recommended to make the Advisory Board an 8-member board

and to eliminate the alternate member. Therefore, ordinance amending the City Code will eliminate the alternate member and allowing an 8-member board.

Council Member Kearney introduced Ordinance No. 7670, being Subsection 2 of Agenda Item V amending the following sections of Article 2 “Advisory Board of Park and Recreation Commissioners” of Chapter 7 “Park and Recreation” of the Code of the City of Kearney: Section 7-203 “Composition” to eliminate the appointment of one additional alternate member who shall attend and vote only when any other member is unable to attend for any reason and to increase the number of resident freeholders to six; to amend Section 7-204 “Appointment” to eliminate the appointment of one additional alternate member and to increase the number of resident freeholders to six; and to amend Section 7-206 “Filling Vacancies” to eliminate the appointment of one additional alternate member and to increase the number of resident freeholders to six, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Kearney, 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. 7670 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 Lammers seconded by Lear that Ordinance No. 7670 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. 7670 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. 7671 – AMEND SECTION 8-314 OF CITY CODE

Section 8-314 states “It shall be unlawful for any person to ride any bicycle on any sidewalk within the City.” This section has been in the City Code since 1958. During the Park & Recreation Advisory Board meeting on August 18, discussion was held on the need to change the City Code. Since the sidewalks away from the downtown area are part of the trail system, a change needs to be made to the City Code to allow people to ride bicycles on the hike bike trail which includes the use of sidewalks. Therefore, this ordinance will amend Section 8-314 that would allow persons to ride any bicycle on the sidewalk within the City unless posted otherwise.

Council Member Kearney introduced Ordinance No. 7671, being Subsection 3 of

Agenda Item V amending Section 8-314 "Riding Bicycles on Sidewalks" of Article 3 "General Traffic Regulations" of Chapter 8 "Police" of the Code of the City of Kearney to allow riding bicycles on the sidewalks unless posted otherwise, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7671 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 Lammers seconded by Lear that Ordinance No. 7671 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. 7671 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. 7672 – AMEND CHAPTER 8 OF CITY CODE TO INCLUDE UNLAWFUL SCAVENGING

Due to concerns raised by Police Chief Dan Lynch, City staff has prepared a new City Code section to deal with scavenging through City trash receptacles. Other communities have reported problems with people scavenging through trash receptacles looking for recyclable metal and other materials due to the high price of these commodities. Also, scavenging has been a source of identity theft. In order to address these concerns, City staff has prepared a Code section that would make it illegal to scavenge through trash containers. This would be a misdemeanor offense.

Council Member Kearney introduced Ordinance No. 7672, being Subsection 4 of Agenda Item V amending the Code of the City of Kearney by adding a new section entitled Unlawful Scavenging to Article 16 "Offenses Against Property" of Chapter 8 "Police" to prohibit any person, other than the owner of a refuse container or the employees or agents of the City refuse collection services, to tamper with, rummage in, disturb, interfere with, scavenge, move or remove any refuse container or any refuse or recyclable material from such container, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council

Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7672 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 Lammers seconded by Lear that Ordinance No. 7672 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. 7672 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

ANNEXATION AND ORDINANCE NO. 7663 FOR PROPERTY LOCATED AT 1316 WEST 11TH STREET; CRAIG AND CHRISTY WEGNER

Moved by Lear seconded by Buschkoetter that Ordinance No. 7663 be placed on second reading by title and that the City Clerk be permitted to read Ordinance No. 7663 annexing a tract of land to be included within the corporate limits: part of the Southwest Quarter of the Southwest Quarter of Section 2 and the Northwest Quarter of the Northwest Quarter of Section 11, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (1316 West 11th Street) on its second reading. 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, Kearney, Lammers, Buschkoetter. Nay: None. City Clerk read Ordinance No. 7663 by title on second reading.

ANNEXATION AND ORDINANCE NO. 7664 FOR PROPERTY LOCATED AT AVENUE M AND THE NORTH CHANNEL OF THE PLATTE RIVER; O & O FARMS

Moved by Lear seconded by Buschkoetter that Ordinance No. 7664 be placed on second reading by title and that the City Clerk be permitted to read Ordinance No. 7664 annexing the following tract of land to be included within the corporate limits: part of Government Lot 3 in Section 7, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (Avenue M and the North Channel of the Platte River) on its second reading. 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, Kearney, Lammers, Buschkoetter. Nay: None. City Clerk read Ordinance No. 7664 by title on second reading.

ANNEXATION AND ORDINANCE NO. 7665 FOR PROPERTY LOCATED AT THE NORTH CHANNEL OF THE PLATTE RIVER AND AVENUE M; AVENUE M LIFT STATION PROPERTY

Moved by Lear seconded by Buschkoetter that Ordinance No. 7665 be placed on second reading by title and that the City Clerk be permitted to read Ordinance No. 7665 annexing the following tract of land to be included within the corporate limits: land located in the Southwest Quarter of Section 7, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (North Channel of the Platte River and Avenue M) on its second reading. 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, Kearney, Lammers, Buschkoetter. Nay: None. City Clerk read Ordinance No. 7665 by title on second reading.

OPEN ACCOUNT CLAIMS: NPPD - \$464.70, PLATTE VALLEY STATE BANK - \$98,920.96, SCHOOL DISTRICT #7 - \$4,677.55

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$98,920.96 payable to Platte Valley State Bank, and in the amount of \$464.70 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 \$4,677.55 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

PRESENTATION ON RESTAURANT AND DRINKING PLACE OCCUPATION TAX

City Manager Michael Morgan presented the recommendations based on project review by staff, response during the listening sessions, as well as from the Park & Recreation Advisory Board that spent a significant amount of time reviewing the potential projects. These projects would be considered if the restaurant and drinking place occupation tax would pass. The proposed tax would generate \$1.3 million in revenue annually. The targeted expenditures would be \$400,000 toward tourism development, UNK capital related projects, other community betterment projects. \$900,000 would be targeted toward Park & Recreation projects. The debt goal would be less than fifty percent of annual costs which will be reviewed when going through the debt schedule based on the projects.

The targeted project list could possibly change. The dollar amounts are estimated at this point and very few have actual dollar amounts. This project list just represents the funds related to the Park & Recreation cost allocation of \$900,000. He presented the

list in year one (a partial year) as Harmon Park Rock Garden renovation, Ted Baldwin Park shelter, Nina Hammer Park splash ground, Yanney Park parking lot (hope to receive 50 percent grant funds) for a total project cost of \$300,000.

The project list for year two include Harmon Park Sanatorium renovation \$250,000, Ted Baldwin Park parking lot, Memorial Field improvements, Apollo Park skateboard park, Hike & Bike Trail extension, Veteran's Memorial (a little under 2 years due to the way the funds are collected) all total about \$900,000.

The project list for year three include building a 5-field adult softball complex (recommended debt service for 20 years for a total of \$3.5 to \$4 million dollars), to renovate Harvey Park and make it a youth softball complex, Apollo Park tennis court lighting, Hike & Bike Trail from 11th Street to YMCA.

Recreation Superintendent Scott Hayden gave more information on the Yanney Park Community Fieldhouse later in the meeting. The Yanney Park Foundation has notified the City that it is their intent to have a goal to raise up to \$5 million to match this \$5 million if the tax were to pass in order to build a 100,000 square foot, \$10 million community fieldhouse at Yanney Park.

The project list for year four include Harvey Park additional youth softball renovations, Harmon Park pool renovation \$100,000.

Project list for year five include Harmon Park Pool additional renovation \$100,000, Meadowlark Hills Golf Course improvements \$300,000. That \$300,000 would probably be combined with some capital funds. Since the golf course will be paid off, some of the keno funds will go toward capital outlay budget for the golf course and would be combined with these funds. If the tax were to continue through the years, there would be some of the other projects slated that were mentioned previously. There would be additional funds set aside for Harmon Park being saved to go towards that project. Looking at the \$900,000, \$571,000 is for debt service for two large projects which are the Fieldhouse and the 5-field softball complex.

City Manager explained some of the general guidelines such as adoption of annual plan including project estimates, tracking costs and revenues similar to what they did with the ½ cent special sales tax and holding an annual public hearing (at minimum) to hear citizens input into developing annual plans. All requests for any of the funds would be evaluated and approved by the Kearney City Council. The priority will be given for projects with private funding and also to projects that would attract visitors to our community and promote development.

Park & Recreation Superintendent talked about two of the larger projects being proposed. One is the 5-plex adult softball complex with an estimate cost of \$3.5 to \$4 million which will be located on approximately 20 acres. The target group for this would be 16 years and older. One of the reasons for recommending this is at that the current Harvey Park complex, the outfield fence is 275 foot with the adaptations of the bats these days the distance the balls travel is 300-325 feet is the norm. They are a little landlocked at Harvey to be able to change those fences any further out. They liked the

5-field complex to give them some growth in the future as the leagues continue to increase. Some of the amenities that would go with that project would be a concession building, pavilion and picnic tables, storage maintenance building and possibly a children's playground, paved parking area, covered dugouts, ADA sidewalks, lighted fields, electronic scoreboards, bleacher seating, warm up area, synthetic infield (recommended to limit rainouts), PA systems, restrooms.

They generally have 90-100 teams for the adult slow pitch teams from May through August. They have one of the largest adult leagues in the state. They also have a fall adult flag football, adult kickball, UNK Intramural softball is playing out there this fall and adult slow pitch tournaments, local, state, regional. With a larger and more advanced complex we may be able to draw a few more of those. One field potentially will be dedicated as a championship field. There are always times for that and will do the same at Harvey when it gets renovated. They have talked about what could be done at Harvey such as bring the fences in for the youth, leave a couple of 275 feet fences and bring up some portables which would bring a little expansion capability if we have a larger adult tournament. All those things are to be decided. He believed their adult leagues could grow even beyond that. Their advisory board is very active. There are a group of players who have coordinated several weekend tournaments. The girls fast pitch has 3-4 large tournaments a year and they would be interested in doing more.

The estimated cost for the fieldhouse is \$8-\$10 million. It would have approximately 100,000 square feet. It would target all ages. Yanney Park is the proposed location. A fieldhouse is a little different than a community center. A fieldhouse is more of a programming type facility. They would have leagues and scheduled practices. A lot of communities are going to this concept and one of the things that fit Kearney is that our weather is not very good for several months. This essentially provides an indoor park. Grand Island has one in one of their fairground buildings which is open about 11 months a year except during the state fair. It has a synthetic grass area where you can do soccer, youth and adult softball infield, football, ultimate Frisbee, potentially there could be a track around the outside of these fields used for running laps and miles (not competitive).

They also envision hard courts that could be used for basketball, tennis, volleyball, pickle ball and table tennis and activities of all types. Basketball and volleyball can share that same type of floor. Tennis would require a different type of floor. This season they are close to 70 teams for the fall on three nights for volleyball. They are kind of crammed in on Monday, Tuesday and Wednesdays at Horizon on three courts. They are to the point that they are shortening the length of the games in order to accommodate all the teams. There will be another 60 teams in the winter from January through mid-March. For their summer leagues, they had 24 women's teams and about 16 high school teams. They could also add a spring season if they wanted to. He believed that the fieldhouse would be used by local people, as well as bringing people to the community to use it. They run one volleyball tournament a year and attract about 60 teams really without trying. There is a big potential for bringing in more teams if we had the facilities. There are also the youth programs in addition. If we had the space and an appropriate time such as for pickle ball earlier in the evenings, there would be more of a demand for it. They also could do a variety of special events in a facility like

this.

Some of the amenities of the fieldhouse would be hitting cages for all sports, hitting facility for golf, protected bleacher seating by netting or plexiglass, concessions, reception/check in area, restrooms and potentially a children's play area. This request stems from the 40+ user group meetings that City staff met with. Some of those groups were Kearney soccer club, girls fast pitch softball, junior football league, Kearney tennis association, two volleyball clubs, Kearney basketball club, little league baseball. All could utilize this facility.

Ann Snider, Park and Rec Advisory Board, stated that over the past several years, they have put together this list after meeting with every person on the advisory board. After reviewing the 5-year plan that was presented, they were particularly excited about the fieldhouse. It really will meet a huge amount of needs for the people who live in Kearney and offer a lot of things we have not been able to in the past.

Mitch Greenwall, Park and Rec Advisory Board, stated this is a fantastic opportunity for the City of Kearney to expand and renovate the parks in a way that will bring people and business into Kearney. This occupation tax is a great way to pay for these things and to get people who are not from Kearney to pay for these amenities. They could get a fantastic return on this investment with the matching funds coming from outside user groups. It will help Kearney keep up with what is going on in the rest of the state.

CLOSED SESSION

Moved by Clouse seconded by Kearney that Council adjourn into closed session at 8:11 p.m. for the protection of the public interest to discuss possible litigation matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

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

Council member Kearney left the meeting at 8:20 p.m.

Moved by Buschkoetter seconded by Lear that Council reconvene in regular session at 8:23 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 8:23 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

**MICHAELLE E. TREMBLY
CITY CLERK**

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