

*Kearney, Nebraska
October 25, 2011
7:00 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on October 25, 2011, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, 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; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Aarom Bishop, Danielle Einspahr, Randall Stones, Cynthia Stones, Denise Madison, 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

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

LIQUOR LICENSE FOR APRI IL VINO, 320 3RD AVENUE

Mayor Clouse opened the public hearing on the Application for a Class I Liquor License submitted by Danielle Einspahr, dba Apri IL Vino, to be located at 320 3rd Avenue and consider Resolution No. 2011-142.

Danielle Einspahr, dba Apri IL Vino has made application for a license to sell on premise only beer, wine and distilled spirits located at its facility, 320 3rd Avenue. The Police Department performed a background check on the applicant as well as a review of the application. There were no issues found in the background or on the application. Ms. Einspahr has worked in several businesses which sell alcohol and has a background and knowledge in that business. There was nothing found in the background or on the application that would indicate that Ms. Einspahr would not be suitable for this license.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, City staff has developed a form entitled "Liquor License Training Compliance" requiring applicants to document and verify training compliance of their employees. Ms. Einspahr has returned the form indicating that she received TIPS training on May 5, 2009. According to the City Council's Liquor License Policy, if the Liquor Commission approves the issuance of the liquor license, Ms. Einspahr will have 60 days in which to have her employees trained and Certificates of Training submitted to the City.

Attorney Aaron Bishop presented this matter to the Council on behalf of Danielle Einspahr. Ms. Einspahr was also present in the audience. He stated this is going to be a small authentic Italian restaurant which will seat about 74 people. They are hoping to have about 25 vintages of wine both domestic and imported bottles and a semi full bar. They will be serving lunch and dinner. The location is in the former restaurant next to Delight Donuts. The name Apri IL Vino means "open the wine". Ms. Einspahr is a long time member of the Kearney community and has previously worked at Bico's and The Cellar. She is now opening her own restaurant. At this point, they are waiting on getting some articles of incorporation filed and for the tax ID number in order to get the business financials set up. The ID number allows them to get bank accounts set up and some credit lines.

Ms. Einspahr has been a server for a long time and has had her TIPS training done for a long time. She is hoping to get about 15 full time servers. The ones she has hired so far are scheduled to have their TIPS training done on November 13, 2011. Their target opening date is the middle of November based on getting her ID number. For the most part, it is ready for opening. Since it is a small location, they did not feel the need for electronic ID equipment at this time. He believed the training of the staff will be sufficient with Ms. Einspahr being there most of the time the restaurant is open for business.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt **Resolution No. 2011-142** recommending approval to the Nebraska Liquor Control Commission the Application for a Class I Liquor License submitted by Danielle Einspahr, dba Apri IL Vino, to be located at 320 3rd Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2011-142

WHEREAS, Danielle Einspahr, dba Apri IL Vino has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-96238 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to do business at 320 3rd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, a hearing was held relating to said application on October 25, 2011 and the cost of the published notice was \$11.29.

WHEREAS, the applicant and its employees have agreed to comply with completing a state approved alcohol server/seller training program as required by the City's Liquor License Policy.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class I-96238 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to Danielle Einspahr, dba Apri IL Vino located at 320 3rd Avenue, Kearney, Nebraska upon the completion of a state approved alcohol server/seller training program.

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

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF STONES PROPERTY LOCATED AT 404 EAST 56TH STREET; ORDINANCE NO. 7680

Mayor Clouse opened the public hearing on the proposed annexation of a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street) to be included within the corporate limits and consider placing Ordinance No. 7680 on first reading.

City Attorney Michael Tye presented this matter to the Council. The City has been investigating areas of the community that for one reason or another have not been annexed but are eligible for annexation. Most commonly, property is annexed into the corporate limits of the City through the subdivision process as the Final Plat for subdivided property contiguous to the corporate limits is filed at the Register of Deeds Office as "an addition to the City of Kearney, Buffalo County, Nebraska." The City is then obligated to serve the property with municipal services within twelve months if the

services are requested.

The second way to annex property is by agreement. The City received an agreement from Randall and Cynthia Stones favoring the annexation of their property located at 404 East 56th Street. This parcel of land is or can be served with municipal services. The Council accepted the agreement on August 23, 2011.

In accordance with Section 19-929 of the Nebraska Statutes, "the municipal governing body shall not take final action on matters relating to...the annexation of territory...until it has received the recommendation of the planning commission if such commission in fact has been created and is existent." The Planning Commission considered the proposed annexation at a public hearing held on September 16, 2011 and was approved. There were no members of the public that testified at said hearing.

In accordance with Section 16-117 of the Nebraska Revised Statutes, the City Council, on October 11, 2011, passed a resolution stating its intent to annex, approved an annexation plan, and set the public hearing for comment on the proposed annexation before the City Council for tonight. The Council will receive comments from the public with regard to the annexation.

The ordinance annexing the said parcel of property is also required. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." Therefore, we will have the first reading of the ordinance by title on October 25, the second reading on November 8 and the third and final reading on November 22.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing on annexing a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street) to be included within the corporate limits, and moved and seconded that Ordinance No. 7680 be placed on first reading by title and that the City Clerk be permitted to read Ordinance No. 7680 on its first 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, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Kearney absent. City Clerk read Ordinance No. 7680 by title on first reading.

APPLICATION FOR RECREATIONAL TRAILS PROGRAM GRANT

Mayor Clouse opened the public hearing on the Application for Recreational Trails Program Grant funds for Rehabilitation of Trailhead Facilities and Trail Link at E.K. & Mary Yanney Park and to consider Resolution No. 2011-143.

Assistant City Manager Suzanne Brodine presented this matter to the Council. The south Yanney Heritage Park parking lot has seen a significant increase in traffic since

its development. Proximity to playgrounds, splashgrounds, facilities, and trails has created a considerable demand for parking. Heavy use, rain and standing water have created ruts and potholes. The lot currently has several paved handicapped accessible spaces, but the sand, gravel and ruts on the remainder of the lot is difficult terrain for disabled persons, strollers, or equipment to cross.

The Nebraska Game and Parks Commission has opened the Recreational Trails Program for applications. Applicants may request up to the lesser of \$150,000 or 80 percent of the total project cost for public trails and trailhead development and restoration. The 2012 Capital Improvement Plan has been approved with \$150,000 budgeted for improvements to the south Yanney parking lot.

Staff has completed an application for \$150,000 for Rehabilitation of Trailhead Facilities and Trail Link at E.K. & Mary Yanney Park. Total estimated project cost is \$278,876 – this includes engineering. If awarded, construction would take place spring/summer 2012. The City of Kearney is required to provide a match of \$128,876 which is budgeted from the ½ cent sales tax.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2011-143** approving the Application for Recreational Trails Program Grant funds for Rehabilitation of Trailhead Facilities and Trail Link at E.K. & Mary Yanney Park. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2011-143

WHEREAS, the City of Kearney, Nebraska is applying for federal assistance from the Recreational Trails Program for the purpose of Rehabilitation of the Trailhead Facilities and Trail Link at Yanney Park; and

WHEREAS, the City Manager of the City of Kearney, Nebraska is authorized to sign the application for federal assistance, and any other official project documents that are necessary to obtain such assistance, including any agreements, contracts or other documents that are required by the State of Nebraska or the Federal Highway Administration; and

WHEREAS, the City of Kearney, Nebraska currently has the written commitment for the 46 percent local matching share for the project elements that are identified on the application form and the supplemental documents and will, as it becomes necessary, allocate the local funds for the project; and

WHEREAS, the City of Kearney, Nebraska will commit the necessary financial resources to operate and maintain the completed project in a safe and attractive manner for twenty-five (25) years; and

WHEREAS, the City of Kearney, Nebraska will not discriminate against any person on the basis of race, color, age, religion, disability, sex or nation origin in the use of any property or facility that is acquired or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, and any of the regulations promulgated pursuant to such Act; and

WHEREAS, the City of Kearney, Nebraska will comply with all rules and regulations of the Recreational Trails Program, applicable Executive Orders and all state laws that govern the grant applicant during the performance of the project; and

WHEREAS, the City of Kearney, Nebraska will comply with the Federal accessibility and use standards where they can be reasonably applied; and

WHEREAS, the City of Kearney, Nebraska has conducted a public hearing upon the proposed application and received favorable public comment respecting the application of \$150,000 for Rehabilitation of the Trailhead Facilities and Trail Link at Yanney Park.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that City staff be and is hereby authorized and directed to submit an application to the Nebraska Game and Parks Commission Recreational Trails Program for \$150,000 for rehabilitation of trailhead facilities and trail link and E.K. & Mary Yanney Park.

BE IT RESOLVED that the City Manager be and is hereby authorized and directed to execute all grant related documents.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 15 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held October 11, 2011.

2. Approve the following Claims:

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

AT&T \$161.65 smcs; Ace Hardware \$276.96 smcs; AED Brands \$1,695.00 smcs; Agri Service Center \$1,295.81 smcs; Air Delights \$628.91 smcs; Airgas North Central \$150.37 smcs; Amax Contracting \$1,548.53 co; Amazon \$4,590.70 smcs,co; American \$875.13 smcs,co; Amer Fence \$2,750.00 smcs; Amer First Aid \$131.05 smcs; Amer Public Works \$833.00 smcs; Amer Red Cross \$217.00 smcs; Ampco Parking Eppley \$54.00 smcs; Amsan \$1,561.45 smcs; Analytical Services \$375.00 smcs; Andersen,B \$10.15 smcs; Anderson,H \$36.14 smcs; Apple Market \$29.97 smcs; AQS Environmental \$945.00 smcs; Arc Network \$175.00 smcs; Arctic Refrigeration \$118.67 smcs; Arif,S \$108.15 smcs; Arrow Seed \$1,725.19 smcs; Ask Supply \$441.54 smcs; Atkins,S \$44.89 smcs; B&H Photo-Video \$1,127.20 smcs,co; B.G. Peterson \$59.50 smcs; Bags & Bows \$296.42 smcs; Baird Holm \$1,500.00 smcs; Baker & Taylor Books \$8,813.03 smcs; Baltic Networks \$371.50 co; Barney Ins \$7,702.50 smcs; Baum Hydraulic \$288.76 smcs; Beckenhauer,T \$13.80 smcs; Berke,N \$100.00 smcs; Best

Western \$627.46 smcs; Big Dallys Deli \$204.27 smcs; Big Rack Shack \$777.85 smcs,co; Bike Shed \$349.46 smcs; Bilau,N \$12.81 smcs; Blessing \$143,827.40 co; Bobs Super Store \$255.42 smcs; Bosselman Energy \$31,687.69 smcs; Broadfoot's \$1,033.50 smcs,co; Brown's Shoe Fit \$43.28 smcs; Buffalo Outdoor Power \$497.95 smcs; Builders Warehouse \$7,170.30 smcs,co; Cabela's \$407.94 smcs; Calendars \$19.99 smcs; Canon Virginia \$117.70 smcs; Carquest \$3,770.24 smcs; Casey's \$171.59 smcs; Cash-Wa \$201.20 smcs; CDW Gov't \$2,102.96 smcs,co; Center Point Large Print \$71.41 smcs; Central Community College \$975.00 smcs; Central District Health \$3,697.50 smcs; Central Hydraulic Systems \$524.69 smcs; Central NE Bobcat \$332.88 smcs; Central NE Equipment \$64.00 smcs; Central State Mueller \$249.15 smcs; Centurion Tech \$432.00 smcs; CF Public Safety \$567.41 smcs; Charter \$209.99 smcs; Cisec \$50.00 smcs; City of Ky \$30,578.97 smcs,ps,co; Clipper Publishing \$60.00 smcs; CMI \$191.12 smcs; Coast to Coast \$384.48 smcs; Cobb,S \$24.89 smcs; Cold Spring Granite \$808.20 smcs; Comcate \$5,871.00 smcs; Computer Warehouse #4 \$24.97 smcs; Conseco Life Ins \$19.00 ps; Consolidated Mgt Co \$19.00 smcs; Construction Rental \$432.50 smcs,co; Copycat Printing \$777.83 smcs; Cornhusker State Industries \$4,003.00 co; CPS \$2,320.05 smcs; Credit Acceptance \$417.78 ps; Crossroads Ford \$312.83 smcs; Culligan \$83.50 smcs; Cummins Central Power \$526.94 smcs; Curtiss,M \$11.99 smcs; CVI Kearney \$1,306.14 smcs; D&S Lighting \$515.92 smcs; Dandee Concrete \$22,843.50 co; Dawson Co PPD \$30,771.13 smcs; Daylight Donuts \$103.80 smcs; Dell \$1,256.93 smcs,co; Delta Air \$1,206.90 smcs; Demco \$701.04 smcs; Depository Trust \$52,751.25 ds; Diamond Vogel Paint \$62.77 smcs; Dish Network \$122.52 smcs; Dog Poop Bags \$74.07 smcs; Doyle Golf \$47.00 smcs; DPC Industries \$6,854.11 smcs; Draeger Safety Canada \$939.99 smcs; Dunkel,B \$31.37 smcs; Dutton-Lainson \$312.82 smcs; Eakes \$2,763.86 smcs,co; Earl May Seed \$13.98 smcs; Ecolab \$36.00 smcs; Economic Dev Council \$135,000.00 smcs; EMC Ins \$504,459.12 smcs; Engineered Systems \$374.51 smcs; Essam's \$3,094.88 co; Eureka,T \$34.40 smcs; Express Parcs \$2.00 smcs; Fairbanks \$1,081.21 smcs; Fairfield Inn \$820.96 smcs; Farmers Union Coop \$111.00 smcs; Fastenal \$348.74 smcs; Felsburg Holt & Ullevig \$600.00 smcs; Fiddelke \$6,034.00 smcs,co; Fire Engineering \$29.00 smcs; Fireguard \$162.47 smcs; Fleetpride \$1,332.69 smcs; Forward Well Service \$248.50 smcs; Frontier \$8,423.34 smcs; Gale \$509.91 smcs; Galls \$172.76 smcs; Gangwish Turf \$9.90 smcs; Garrett Tires \$2,020.10 smcs; Garrett's Desert Inn \$376.68 smcs; GD Construction \$15,031.25 co; Gear for Sports \$2,328.24 smcs; Georgia Fountain Supply \$343.90 smcs; Global GOV/ED Solution \$3,221.00 smcs; Graham Tire \$397.00 smcs; Grainger \$1,343.51 smcs,co; Great Plains Safety \$675.00 smcs; Great Source \$2,270.62 smcs; Gronewaller,B \$46.00 smcs; Guaranteedblindscom \$595.45 co; Guthrie,A \$21.15 smcs; Haack,S \$228.09 smcs; Hach \$644.89 smcs; Hali-Brite \$2,065.32 smcs; Hampton Inn \$109.89 smcs; Harley Davidson \$163.20 smcs; Hastings \$1,985.13 smcs; Hayneedle \$549.99 co; HD Supply \$1,160.00 smcs; Highsmith \$737.44 smcs; Hinrichs,S \$9.62 smcs; HOA Solutions \$2,095.43 smcs; Hobby-Lobby \$214.69 smcs; Holmes Plumbing \$847.29 smcs,co; Hometown Leasing \$237.20 co; Horst,R \$228.71 smcs; Hostetler,D \$22.59 smcs; Hostetler,S \$400.00 smcs; HSBC Bank Nevada \$334.16 ps; HTMC \$128.00 smcs; Huber,R \$5.00 smcs; Hyatt Regency \$1,118.76 smcs; I-80 Epply Express \$919.00 smcs; ICMA RC \$3,851.82 ps; IRS \$106,786.01 ps; Int'l Code Council \$633.88 smcs; Jack Lederman \$2,826.10 smcs; Jamar Technologies \$477.10 smcs; Jimmy Johns \$248.25 smcs; JLC \$105,198.00 co; John Deere Financial \$229.94 smcs; John Deere Landscapes \$2,491.62 smcs,co; Johnsen Corrosion \$42.00 smcs; Johnson Controls

\$282.25 smcs; Johnson Hardware \$405.00 smcs; Johnstone Supply \$381.15 smcs; JR's Western \$89.97 smcs; Jung,J \$10.65 smcs; K&K Parts \$1,139.72 smcs; K12 School Supplies \$234.57 smcs; Kallas,R \$12.08 smcs; Ky Chamber Comm \$100.00 smcs; Ky Clinic \$689.00 smcs,ps; Ky Concrete \$4,520.38 co; Ky Glass \$48.75 smcs; Ky Hub \$1,289.97 smcs; Ky Humane Society \$6,825.00 smcs; Ky Implement \$1,409.22 smcs; Ky Towing \$450.00 smcs; Ky Visitors Bureau \$42,155.19 smcs; Ky Volunteer Fire \$3,000.00 smcs; Ky Warehouse \$4,446.86 smcs; Ky Winlectric \$498.96 smcs,co; Ky Winnelson \$128.33 smcs; Killion Motors \$137.02 smcs; Kindle \$20.98 smcs; King,S \$72.92 smcs; Konica Minolta \$253.19 smcs; Kovar,M \$212.98 smcs; Landin,J \$20.89 smcs; Lawson Products \$31.81 smcs; Leach,R \$87.25 smcs; League of NE Municipalities \$421.30 smcs; Lego Shop at Home \$557.78 smcs; Lenovo Group \$576.74 co; Lifeguard Store \$512.34 smcs; Lindner,S \$228.16 smcs; Linweld \$70.68 smcs; Lockmobile \$77.50 smcs,co; Loomis,L \$8.81 smcs; Loper Athletic Club \$50,000.00 co; Luke,D \$13.80 smcs; Lush,R \$23.28 co; Mac Faucets \$500.78 smcs; Magic Cleaning \$5,060.00 smcs; Mail Express \$423.30 smcs; Marlatt Machine Shop \$1,375.53 smcs; Masek Distributing \$26.13 smcs; Matheson Tri-Gas \$18.90 smcs; McConnell,M \$1.07 smcs; McLaughlin,P \$10.18 smcs; Menards \$4,528.42 smcs; Methe,B \$24.42 smcs; Metlife \$19.00 ps; Microfim Imagine Systems \$2,143.00 smcs; Mid Peterson Meal Program \$105.50 smcs; Mid-American Courtworks \$19,950.00 smcs; Middleton Electric \$302.00 smcs; Midlands Contracting \$2,000.00 smcs; Mid-State Units \$160.00 smcs; Midwest Breathing Air \$173.94 smcs; Midwest Mailing \$1,790.00 smcs; Midwest Storage Solutions \$810.54 co; Midwest Turf \$448.76 smcs; Miller & Associates \$35,510.09 smcs,co; Miller Signs \$980.00 smcs,co; Miller,T \$46.00 smcs; Minitex \$1,459.00 smcs; Miracle Recreation \$624.41 smcs; Moonlight Embroidery \$479.75 smcs; Municipal Supply \$73.84 smcs; Napa All Makes \$185.92 smcs; Nat'l Biz Furniture \$148.95 smcs; NCOA \$225.00 smcs; NCS Equipment \$220.16 smcs; NDEQ \$19,145.00 smcs; NE Child Support \$2,443.91 ps; NE Dept. of Revenue \$194.96 ps; NE DOL/Boiler Inspection \$45.00 smcs; NE Library Commission \$3,078.70 smcs; NE Machinery \$1,707.69 smcs; NE Section AWWA \$725.00 smcs; NE State Board Landscapes \$170.00 smcs; NE Statewide Arboretum \$130.00 smcs; NE Truck Center \$627.73 smcs; NE Workforce Development \$3,478.00 ps; New Directions \$10,269.21 smcs; Newegg \$3,722.21 smcs,co; Newsbank \$915.20 smcs; Norm's Plumbing \$498.20 co; Northern Safety \$82.23 smcs; Northern Tool \$520.54 smcs; Northwest Electric \$2,069.32 smcs; Northwestern Energy \$2,564.24 smcs; OCLC \$408.38 smcs; Office Max \$649.42 smcs,co; Officenet \$3,446.49 smcs,co; Optimal Chemical \$32.90 smcs; O'Reilly Auto \$1,647.97 smcs; Oriental Trading \$111.95 smcs; Orscheln \$451.08 smcs; Paramount \$26.95 smcs; Paypal \$428.16 smcs; Pitney Bowes \$92.97 smcs; Plains Tree Farm \$65.00 smcs; Platte Valley Comm \$929.94 smcs; Platte Valley Glass \$348.86 smcs; Presto-X \$317.00 smcs; Prince of Peace \$57.54 smcs; Protint \$1,992.50 smcs; Provantage \$401.72 smcs,co; Public Risk Management \$385.00 smcs; QT \$193.84 smcs; Quill \$385.72 smcs; R.W. Sorensen Construction \$4,602.74 smcs; Radioshack \$134.86 smcs; Random House \$64.00 smcs; Rare Refrigeration \$197.29 smcs; Ready Mixed Concrete \$1,808.25 co; Reams \$5,090.51 smcs,co; Recognition Unltd \$249.70 smcs; Recorded Books \$436.37 smcs; Recovery Systems \$3,416.88 smcs; Redmans Shoes \$779.89 co; Reineke Enterprises \$150.00 smcs; Reinke's Heating \$8,742.00 co; Reserve Account \$750.00 smcs; Resource Management \$330.24 smcs; RMV Construction \$10,498.00 co; Russell's Appliances \$140.00 co; SA Foster Lumber \$8.92 smcs; Safelite Auto Glass \$276.89 smcs; Sahling Kenworth \$947.86 smcs; Sanitation Products \$274.62 smcs; Sapp Brothers \$47.01

smcs; Schaeffer Mfg \$1,069.33 smcs; Schanou,J \$10.18 smcs; Seals,T \$716.80 smcs; Sears \$176.18 smcs; S-F Analytical \$65.00 smcs; Sheldon,C \$15.01 smcs; Sherwin Industries \$473.00 smcs; Sherwin Williams \$720.56 smcs; Shopletcom \$40.02 smcs; SHRM NE \$422.00 smcs; Simeon,J \$66.02 smcs; Sirchie Finger Print \$268.42 smcs; Sirsi Dynix \$20,303.00 co; Snap-On Tools \$107.95 smcs; SOS Portable Toilets \$105.00 smcs; Soucie,E \$33.20 smcs; Sport Supply Group \$599.53 smcs; Sports Imports \$386.41 smcs; Springer Roofing \$1,165.00 smcs; Steinbrink Landscaping \$479.98 smcs; Strauss,B \$18.44 smcs; Strong,T \$6.77 smcs; Suggitt,J \$1,066.80 smcs; Sunmart \$32.57 smcs; Synovec,A \$25.46 smcs; Target \$6,207.79 smcs; Terri's Shurb Design \$590.00 smcs; Theis,J \$60.00 smcs; Thompson Co \$61.12 smcs; Tractor-Supply \$1,812.03 smcs,co; Travelocitycom \$90.00 smcs; Tri City Outdoor Power \$1,410.92 smcs,co; Trojan Worldwide \$119.30 smcs; Uline Shipping \$167.19 smcs; Ultra Chem \$269.97 smcs; Unique Management \$375.90 smcs; United Seeds \$2,495.50 smcs,co; UNK-Human Resources \$250.66 ps; UPS Store \$119.00 smcs; US Bank \$337,177.50 ds; USPS \$60.64 smcs; Van Diest Supply \$864.28 smcs,co; Verizon Wireless \$48.72 smcs; Veskerna,J \$35.01 smcs; Vessco \$735.40 smcs; Walgreens \$26.98 smcs; Wallnutzcom \$39.45 smcs; Wal-Mart \$1,801.86 smcs; Walsh,C \$264.25 smcs; Watchguard Video \$134.25 co; Wells Fargo Equipment \$44,444.42 ds; Wessels,W \$120.39 smcs; Wick's Sterling Trucks \$43.58 smcs; Wiedel,G \$916.80 smcs; Wieseler,M \$14.44 smcs; Wilke Donovans \$755.23 smcs; Williams,M \$227.10 smcs; Wireless Emporium \$21.61 smcs; WRB Restaurant \$725.00 smcs; Wysocki,E \$6.55 smcs; Young,M \$20.89 smcs; Zimmerman Printing \$529.00 smcs; Payroll Ending 10-8-2011 -- \$346,017.52. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set November 8, 2011 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the application submitted by William Ogle on behalf of the Disabled American Veterans to conduct the Veterans Day Parade on November 11, 2011 beginning at 4:00 p.m. with the parade starting at Railroad Street, north on Central Avenue and ending at the parking lot located north of the Museum of Nebraska Art. This includes the temporary closing of Railroad Street from Avenue A to 1st Avenue from 3:00 p.m. until 4:00 p.m. for staging. Also, using 3 parking stalls in front of Redman Shoes, 2116 Central Avenue for the placement of the public address trailer. The Fire Department will be displaying the American Flag suspended between 2 ladder trucks at the intersection of 23rd Street and Central Avenue.
5. Approve the Agreement between the City of Kearney and James and Jeanette Andersen allowing the Andersens to connect to the City water main located in 20th Street and Avenue H and to construct a private water service in 20th Street and adopt **Resolution No. 2011-144.**

RESOLUTION NO. 2011-144

WHEREAS, James and Jeanette Andersen own property located between Avenue M and Avenue I, if extended, and on the south side of 20th Street; and

WHEREAS, the Andersens own and operate Andersen Wrecking and intends to add equipment on the west end of the property and would like to install a water service to serve that equipment; and

WHEREAS, the Andersens desire to enter into an agreement with the City that would allow Andersens to connect to the City water main located in 20th Street and Avenue H and to construct a private water service in 20th Street to serve the new equipment.

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 Agreement on behalf of the City of Kearney, a copy of the Agreement, marked as Exhibit 1, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the application for a Special Designated License submitted by U Save Foods, Inc., dba Sunmart #765 in connection with their Class DK-24365 liquor license to dispense beer, wine and distilled spirits inside their location on November 10, 2011 from 3:00 p.m. until 8:00 p.m. for a sampling/tasting event.

7. Approve the Plans and Specifications for the 2011 Part 8 Improvements; Airport Terminal Sign and set the bid opening date for November 15, 2011 at 2:00 p.m.

8. Approve the Plans and Specifications for the 2011 Part 13 Improvements; Tech Park Carrier Hotel and set the bid opening date for November 15, 2011 at 2:00 p.m.

9. Approve Application and Certificate for Payment No. 7 in the amount of \$258,711.16 submitted by General Excavating and approved by Miller & Associates for the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard and adopt **Resolution No. 2011-145**.

RESOLUTION NO. 2011-145

WHEREAS, General Excavating of Lincoln, Nebraska has performed services in connection with the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street

Place and Spruce Hollow Boulevard, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 7 in the amount of \$258,711.16, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,816,395.00
Contract Sum To Date	1,816,395.00
Gross Amount Due	1,605,279.05
Retainage	160,527.91
Amount Due to Date	1,444,751.14
Less Previous Certificates for Payment	<u>1,186,039.98</u>
Current Payment Due	\$ 258,711.16

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 7, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Approve Application and Certificate for Payment No. 5 in the amount of \$358,226.83 submitted by Paulsen, Inc. and approved by Miller & Associates for the 2010 Part 5 Improvements – Bid B consisting of Paving Improvement District No. 2010-944 commencing at a point 250 feet east of 11th Avenue and from a point 250 feet west of 11th Avenue in and including all of 56th Street, and commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard and adopt **Resolution No. 2011-146.**

RESOLUTION NO. 2011-146

WHEREAS, Paulsen Inc. of Cozad, Nebraska has performed services in connection with the 2010 Part 5 Improvements – Bid B consisting of Paving Improvement District No. 2010-944 commencing at a point 250 feet east of 11th Avenue and from a point 250 feet west of 11th Avenue in and including all of 56th Street, and commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 5 in the amount of \$358,226.83, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,634,697.50
Contract Sum To Date	1,634,697.50
Gross Amount Due	1,557,536.05
Retainage	155,753.60
Amount Due to Date	1,401,782.45

Less Previous Certificates for Payment	<u>1,043,555.62</u>
Current Payment Due	\$ 358,226.83

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 5, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Approve Change Order No. 1 showing an increase in the amount of \$30,861.75, Application and Certificate for Payment No. 1 in the amount of \$285,135.53 submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 6 Improvements; Central Avenue from 18th Street to South Railroad Street and adopt **Resolution No. 2011-147.**

RESOLUTION NO. 2011-147

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 6 Improvements; Central Avenue from 18th Street to South Railroad Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$30,861.75, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and the City's engineer, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$285,135.53, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$886,999.00
Contract Sum To Date	886,999.00
Gross Amount Due	316,817.25
Retainage	31,681.73
Amount Due to Date	285,135.53
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$285,135.53

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", and Application and Certificate for Payment No. 1, as shown on Exhibit "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

12. Approve the Plans and Specifications for 2011 Part 7; 5th Avenue from North

Railroad Street to 25th Street and set the bid opening date for December 6, 2011 at 2:00 p.m.

13. Adopt **Resolution No. 2011-148** committing the City of Kearney to membership of Greater Nebraska Cities and to authorize the Mayor to represent the City.

RESOLUTION NO. 2011-148

RESOLUTION COMMITTING CITY TO MEMBERSHIP OF GREATER NEBRASKA CITIES AND AUTHORIZING CHIEF ELECTED OFFICIAL TO REPRESENT CITY

WHEREAS, the City of Kearney, Nebraska, desires to establish and further communication and collaboration with similar cities in Nebraska; and

WHEREAS, the City of Kearney, Nebraska, desires to preserve local control and represent the interests of and improve the quality of life of their citizens; and

WHEREAS, the City of Kearney, Nebraska desires to share and evaluate best practices in City management and strategies for addressing issues of common concern; and

WHEREAS, the City of Kearney, Nebraska desires to monitor, evaluate and respond to legislative issues of mutual concern to similar cities in a timely manner with a unified voice; and

WHEREAS, the City of Kearney, Nebraska wishes to participate with the cities of Lexington, Grand Island, Hastings, Kearney, and North Platte to form the Greater Nebraska Cities to take such actions.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all guidelines, documents or other memoranda between City of Kearney and the Greater Nebraska Cities so as to effect acceptance of membership to the organization.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the Plans and Specifications for the Brigham Lofts CDBG NSP3 Project and set the bid opening date for November 15, 2011 at 2:00 p.m.

15. Approve the Addendum to Carrier Hotel Lease between the City of Kearney and NebraskaLink allowing NebraskaLink to locate a temporary structure and adopt **Resolution No. 2011-149.**

RESOLUTION NO. 2011-149

WHEREAS, August 9, City Council approved a Carrier Hotel Lease between the City of Kearney and NebraskaLink; and

WHEREAS, NebraskaLink is ready to terminate fiber at this time, but the Carrier Hotel facility will not be complete until Spring 2012; and

WHEREAS, an addendum to the Carrier Hotel Lease would grant NebraskaLink the right to construct a temporary structure on the tech park property for fiber termination which they may occupy until such time as the permanent Carrier Hotel is complete.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to execute the Addendum to Carrier Hotel Lease on behalf of the City of Kearney.

PASSED AND APPROVED THIS 25TH DAY OF OCTOBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7623A AMENDING ORDINANCE NO. 7623

This item is a housekeeping matter that is required by the title insurance company for the purchaser of property as part of the tech park transaction. As City Council will recall, the City purchased property from Donaly Farms for the tech park site and as a part of that transaction the City deeded agricultural property near the airport as a part of the consideration. The earlier ordinance indicated that we are transferring property to Donaly Farms and technically we transferred the property to the two principle owners of Donaly Farms, Lynda Colette Jones and Janeen Vokoun. This matter will clarify that a transfer for title purposes will in no way affect the transaction otherwise.

Council Member Clouse introduced Ordinance No. 7623A, being Subsection 1 of Agenda Item V amending Ordinance No. 7623 selling individually rather than as a corporation a tract of land described as part of the Southeast Quarter of Section 16, Township 9 North, Range 15 West and part of the Southwest Quarter of Section 15, Township 9, North Range 15 West, all of the 6th P.M., containing 170 acres, more or less, Buffalo County, Nebraska, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney 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. 7623A 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 Kearney seconded by Lammers that Ordinance No. 7623A 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. 7623A 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

MANAGER APPLICATION FOR EAGLES FRATERNAL ORDER 2722

Mayor Clouse opened for discussion the Manager Application for Denise Madison submitted by Eagles Fraternal Order 2722, located at 17 West 24th Street in connection with their Class C-11097 liquor license.

An Application for Manager has been submitted by Eagles Fraternal Order 2722 in connection with their Class C-11097 liquor license located at 17 West 24th Street. A background was conducted by the Police Department on Denise Madison as the applicant for Manager for the Eagles. According to the records at the Liquor Commission, the Eagles was cited in July of 2009 for Open Container After Hours.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, City staff has developed a form entitled "Liquor License Training Compliance" requiring applicants to document and verify training compliance of their employees. Ms. Madison has returned the form indicating all their employees have received training and copies of their Certificates of Training have been filed with the City Clerk.

Denise Madison presented this matter to the Council. She stated the Eagles Club has been in Kearney since 1948. They presently have bartenders who have been on staff for the last several years and no one less than a year and half or two years. The staff has all completed the TIPS training and certificates have been submitted to the City Clerk. They are not an establishment that has a lot of problems with minors because they are a members only club. They do have wedding receptions, Christmas parties, etc. The bartenders are trained to check IDs in those situations and apply wristbands to those individuals so they can be distinguished throughout the event.

Moved by Lammers seconded by Lear to approve the Manager Application for Denise Madison submitted by Eagles Fraternal Order 2722, located at 17 West 24th Street in connection with their Class C-11097 liquor license. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$97,317.06, PLATTE VALLEY STATE BANK - \$51,281.43, STAN CLOUSE - \$212.28

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$51,281.43 payable to Platte Valley State Bank, in the amount of \$97,317.06 payable to Nebraska Public Power District, and in the amount of \$212.28 payable to Stan Clouse be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:14 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**