

*Kearney, Nebraska
April 24, 2012
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 April 24, 2012, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; 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: Steve Altmaier from KGFW Radio and Mike Konz 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

Charles Kelliher from Holy Family Ecumenical Catholic Community provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

AMEND LAND USE MAP FOR SOUTH OF 56TH STREET EAST OF ANTELOPE AVENUE

Mayor Clouse stated that Public Hearings 1 and 2 pertain to property located south of 56th Street east of Antelope Avenue as submitted by the City of Kearney and Two Sisters Farms. Public Hearing 1 is an amendment to the Land Use Map from Mixed Use 3 to Business Park and Public Hearing 2 is rezoning of the property from Agricultural District to Business Park/Planned Development Overlay District. These public hearings will be postponed.

Moved by Lammers seconded by Lear to postpone until May 8, 2012 the public hearing on the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 3 to Business Park for property described as a tract of land located in part of the South Half of the Northwest Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 56th Street east of Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

REZONING FOR SOUTH OF 56TH STREET EAST OF ANTELOPE AVENUE

Mayor Clouse stated that Public Hearings 1 and 2 pertain to property located south of 56th Street east of Antelope Avenue as submitted by the City of Kearney and Two Sisters Farms. Public Hearing 1 is an amendment to the Land Use Map from Mixed Use 3 to Business Park and Public Hearing 2 is rezoning of the property from Agricultural District to Business Park/Planned Development Overlay District. These public hearings will be postponed.

Moved by Lear seconded by Buschkoetter to postpone until May 8, 2012 the public hearing on the Application submitted by City of Kearney, Nebraska (Applicant) and Two Sisters Farms, Inc. (Owner) to rezone from District AG, Agricultural District to District BP/PD, Business Park/Planned Development Overlay District property described as a tract of land located in part of the South Half of the Northwest Quarter and part of the Southwest Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of 56th Street east of Antelope Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

IV. CONSENT AGENDA

City Manager stated that Subsection 18 will need to be postponed.

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held April 10, 2012.
2. Approve the following Claims:

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

1800GoFedEx \$15.94 smcs; 3M \$9,714.05 smcs; AT&T \$284.04 smcs; Ace Eaton Metals \$76.00 smcs; Ace Hardware \$58.69 smcs; Active Forever \$36.55 smcs; Adams Mystery Playhouse \$1,300.00 smcs; Aervoe \$839.88 smcs; Ahren,V \$250.00 smcs; Alfred Benesch \$1,058.84 smcs,co; All Makes Auto Supply \$2,080.21 smcs; All Makes Office Equip \$2,317.41 co; Allied Electronics \$99.88 smcs; Ally B Designs \$600.00 smcs; Amazon \$1,536.45 smcs,co; American \$320.67 smcs; Amer Fence \$1,575.00 smcs; Amer Library Assn \$34.50 smcs; AWWA \$170.00 smcs; Amsan \$769.30 smcs; Analytical Services \$1,125.00 smcs; Andersen Wrecking \$190.00 smcs; Anderson Brothers \$142.26 smcs; APA Membership \$27.50 smcs; APA Natl Conference \$860.00 smcs; Apple Market \$51.01 smcs; Arctic Refrigeration \$479.49 smcs; Arrow Seed \$1,336.25 smcs; Ask Supply \$1,705.13 smcs; Atchison,C \$35.00 smcs; Aurora Coop \$403.60 smcs; Baird Holm \$80.00 smcs; Baker & Taylor \$3,165.00 smcs; Baltic Networks \$147.50 co; Barney Abstract \$1,201,590.00 smcs; Bauer,A \$245.00 smcs; Beacon Athletics \$18,446.14 smcs; Berens-Tate Consulting \$2,500.00 smcs; Bert Gurney & Associates \$45,105.00 co; Bigfishcoolerscom \$31.59 smcs; Bluecross Blueshield \$135,239.78 smcs; Bobs Super Store \$6.57 smcs; Bosselman \$41,574.17 smcs; Bowman,R \$25.00 smcs; Broadfoot's \$1,427.00 smcs; Brodart Supplies \$75.00 smcs; Bruce,K \$22.00 smcs; Bubble Factory \$51.55 smcs; Buffalo Co Reg Deeds \$102.00 smcs; Buffalo Co Treasurer \$15.00 co; Buffalo Outdoor Power \$165.32 smcs; Buggy Bath Car Wash \$18.50 smcs; Builders \$3,995.71 smcs,co; Cabela's \$459.72 smcs; Camera Doctor \$57.08 smcs; Capstone Press \$5,486.37 smcs; Carquest \$3,729.87 smcs; Cash-Wa \$683.40 smcs; CDW Govt \$469.87 smcs; Center Point Large Print \$71.41 smcs; Central Dist Health Dept \$3,233.50 smcs; Central Hydraulic Systems \$642.65 smcs; Central NE Bobcat \$1,855.02 smcs; Certification Partners \$79.00 smcs; Charter \$209.99 smcs; City Glass \$97.48 smcs; City of Ky \$17,713.51 smcs,ps; Cold Spring Granite \$543.60 smcs; Colling,G \$150.00 smcs; Community Action Partner \$17,262.51 smcs,co; Complete Music & Video \$50.00 smcs; Consec Life Ins \$19.00 ps; Consolidated Electrical \$1,627.90 smcs; Construction Rental \$2,442.70 smcs,co; Copycat Printing \$802.06 smcs; Corey's Complete Detailing \$50.00 smcs; Crop Production \$111.66 smcs; Crossroads Ford \$696.35 smcs; C-Tech Restoration \$5,849.52 co; Culligan \$390.35 smcs; D&S Lighting \$109.20 smcs; Dandee Concrete \$640.00 smcs; Danko Emergency \$818.32 smcs; Davis Equipment \$25.36 smcs; Dawson PPD \$27,827.24 smcs,co; Daylight Donuts \$133.95 smcs; Dell \$997.54 smcs; Depository Trust \$342,751.25 ds; Diamond Vogel Paint \$109.48 smcs; Digicert \$174.00 co; Dogpoopbagscom \$325.57 smcs; Dultmeier Sales \$119.90 smcs; Dworak,T \$21.70 smcs; Eakes \$5,904.35 smcs,co; Earl May \$88.94 smcs; Eckhoff,N \$79.30 smcs; Ecolab \$37.04 smcs; Egan Supply \$949.94 smcs; Eileens Colossal Cookies \$94.85 smcs; Elliott Equipment \$14,499.95 smcs; EMC Insurance \$149.64 smcs; Encyclopaedia Britannica \$320.00 smcs; Enterprise RAC \$78.00 smcs; Eustis Body Shop \$60.00 smcs; Evermap Co \$199.00 co; Expression Wear \$308.00 smcs;

Eynetich,P \$79.30 smcs; Fairbanks \$4,885.09 smcs; Farmers Union \$78.33 smcs; Fastenal \$1,829.04 smcs; Flag Company \$50.00 smcs; Frontier \$9,464.05 smcs; Frontier Air \$503.60 smcs; Gale \$159.73 smcs; Galeton Gloves \$737.10 smcs; Galls \$189.40 smcs; Gangwish Turf \$198.00 co; Garrett Tires \$12,884.74 smcs; GE Money Bank \$1,871.71 smcs; Geographics \$29.84 smcs; Global Industrial \$297.07 smcs; Graham Tire \$23.95 smcs; Grainger \$936.36 smcs; Great Lakes \$1,415.50 smcs; Great Plains One Call \$431.38 smcs; Green,K \$150.00 smcs; H&H Distributing \$1,374.05 smcs; Hach \$897.30 smcs; HD Supply \$3,717.14 smcs; HGTV Magazine \$15.00 smcs; Hinrichs,S \$11.50 smcs; Hobby-Lobby \$78.93 smcs; Holiday Inn Express \$77.00 smcs; Holmes Plumbing \$1,060.31 smcs,co; Hotsy Equipment \$8,515.00 co; ICMA RC \$3,755.71 ps; IRS \$107,720.25 ps; Int'l Society Arboriculture \$150.00 smcs; Jack Lederman \$629.83 smcs; James,D \$49.98 smcs; John Deere Landscapes \$968.29 co; Johnson Controls \$205.00 smcs; Johnstone Supply \$656.31 smcs; K&F Associates \$962.75 smcs; K&K Parts \$644.36 smcs; Karabel,D \$149.50 smcs; Ky Chamber Commerce \$110.00 smcs; Ky Clinic \$791.00 smcs,ps; Ky Concrete \$2,649.66 smcs,co; Ky Crete & Block \$302.20 smcs,co; Ky Glass \$149.45 smcs; Ky Hub \$323.59 smcs; Ky Humane Society \$6,825.00 smcs; Ky Implement \$37,980.07 smcs,co; Ky Towing \$260.00 smcs; Ky Visitors Bureau \$31,585.44 smcs; Ky Winlectric \$446.75 smcs; Keiss,M \$30.02 smcs; Kelly Electric \$30.85 smcs; Killion Motors \$268.06 smcs; Kimball Midwest \$522.04 smcs; Kindle \$24.28 smcs; Kmart \$13.88 smcs; Knuth,L \$21.70 smcs; Koelling,T \$50.61 smcs; Kohel,K \$17.16 smcs; Kotschwar,T \$160.00 smcs; Kowalek,G \$7.70 smcs; Krepel,J \$248.00 smcs; Lakeside Moulding \$451.60 smcs; Lands End \$219.33 smcs; Lang,L \$419.83 smcs; Larue Distributing \$416.27 smcs; Laserlinkgo \$597.00 smcs; Lawson Products \$220.34 smcs; Leach,C \$77.65 smcs; Lerner Publishing \$1,395.95 smcs; Linweld \$402.59 smcs; Little Caesars \$138.75 smcs; Lobner,B \$30.00 smcs; Lockmobile \$41.10 smcs; Logan Contractors Supply \$970.21 smcs; Luke,D \$198.53 smcs; Mac Tools \$119.99 smcs; Magazine Express \$39.98 smcs; Magic Cleaning \$7,910.00 smcs; Mail Express \$1,149.03 smcs; Marlatt Machine Shop \$1,218.79 smcs; Marriott \$3,183.69 smcs; McCarty,D \$42.57 smcs; Menards \$2,048.67 smcs; Mergent \$1,010.00 smcs; Midlands Contracting \$51,976.45 smcs; Midway Chrysler \$90.00 smcs; Midwest Breathing Air \$367.23 smcs; Midwest Turf \$1,697.47 smcs; Mieth,T \$27.55 smcs; Miller & Associates \$44,836.24 co; Miller Signs \$2,880.00 smcs; Mirror Image \$50.00 smcs; Moonlight Embroidery \$454.75 smcs; Moore & O'Connor \$18.99 smcs; Municipal Supply \$1,279.06 smcs; Murphy Tractor \$217.40 smcs; Napa All Makes \$94.77 smcs; NCS Equipment \$409.95 smcs; NE Child Support \$2,138.82 ps; NE Dept of Environmental \$13,213.53 smcs; NE Dept of Revenue \$68,734.33 smcs; NE Dept of Roads \$113,967.10 co; NE Game & Parks \$69.62 smcs; NE Machinery \$550.34 smcs; NE Rural Water Assn \$25.00 smcs; NE Sec of State \$180.00 smcs; NE Truck & Equipment \$433.99 smcs; NE Truck Center \$1,142.83 smcs; NEland Distributors \$1,313.32 smcs; Newegg \$428.53 smcs,co; NFPA National Fire \$54.40 smcs; Norm's Plumbing \$678.71 smcs; Northern Tool \$143.30 smcs; Northwestern Energy \$9,444.24 smcs; Nova Fitness Equipment \$550.70 smcs; Nuttelman Fencing \$6,164.83 smcs,co; OCLC \$579.92 smcs; Office Depot \$756.62 smcs; Office Max \$1,106.85 smcs,co; Officenet \$670.88 smcs; Ogden Publications \$32.00 smcs; O'Neill Wood Resources \$9,430.00 smcs; O'Reilly Automotive \$707.01 smcs; Oriental Trading \$147.98 smcs; Orscheln \$923.64 smcs; Oshkosh \$348.34 smcs; Outdoor Recreation \$8,697.70 smcs,co; Paramount Linen \$105.50 smcs; Peerless Machine \$17,901.00 co; Perpetualplaquescom \$197.95 smcs; Pitney Bowes \$147.96 smcs; Platte Valley Comm \$547.23 smcs; Positive Promotions \$806.10 smcs;

Powerplan \$1,529.38 smcs; Powers Electric Products \$227.79 smcs; Prestige Flag \$602.27 smcs; Presto-X \$432.32 smcs; Provantage \$845.59 smcs,co; QA Balance Services \$125.00 smcs; Quill \$189.75 smcs; RW Sorensen Construction \$6,158.00 co; Radioshack \$243.43 smcs; Random House \$301.25 smcs; Recorded Books \$769.52 smcs; Reeder,J \$18.97 smcs; Rent-A-Center \$48.26 smcs; Reserve Account \$750.00 smcs; Riekes Equipment \$124.39 smcs; RNDC-Eagle Div \$484.74 smcs; RNDC-Falcon Div \$322.42 smcs; Roeseler,A \$205.90 smcs; RT Corp \$403.50 smcs; Russell's Appliance \$860.00 smcs; SA Foster Lumber \$27.06 smcs; Safelite Autoglass \$459.79 smcs; Sahling Kenworth \$1,426.73 smcs; Sanitation Products \$3,683.64 smcs; Schanou,J \$41.54 smcs; Schindler Elevator \$2,013.76 smcs; Schroeder,R \$216.00 smcs; Schuber,S \$54.00 smcs; Sensusource \$860.99 smcs; Seton Name Plate \$75.25 smcs; Sherwin Williams \$318.27 smcs; Shopletcom \$263.36 smcs; Show Me Cables \$13.75 co; Shultis,K \$79.30 smcs; Solid Waste Agency \$72.67 smcs; Sorensen Group \$5,095.48 smcs,co; SOS Portable Toilets \$105.00 smcs; Stanley Works \$374.40 smcs; St of NE/Dept Labor \$5,475.36 ps; Steinbrink Landscaping \$740.00 smcs; Sterling Distributing \$738.90 smcs; Sunmart \$32.62 smcs; Sunnybunnyeastereggscm \$244.48 smcs; Superior Signals \$3,546.00 co; Superslutte \$120.00 smcs; Taillon,R \$35.46 smcs; Tappan,S \$29.78 smcs; Target \$323.56 smcs,co; Theis,J \$60.00 smcs; Thompson,K \$41.97 smcs; Tire Rack \$162.70 smcs; Titan Machinery \$2,962.33 smcs; Tool Doctor \$36.90 smcs; Tractor-Supply \$741.97 smcs; Trade Well Pallet \$1,700.00 smcs; Trans Iowa Equipment \$325.00 smcs; Travelocity \$7.00 smcs; Tri City Outdoor Power \$1,723.85 smcs; Tri-Cities Group \$111.27 smcs; Turner Body Shop \$2,907.00 smcs; Two Sister's Farms \$5,000.00 co; Union Bank \$54,226.26 ps; UPRR \$10,000.00 smcs; Unique Management Serv \$196.90 smcs; Unisan \$1,314.69 co; United Air \$25.00 smcs; United Seeds \$945.00 smcs; UNL \$530.00 smcs; UPS \$24.38 smcs; US Flag and Flagpole \$238.00 smcs; USA Blue Book \$47.36 smcs; USPS \$103.53 smcs; Van Diest \$7,467.76 smcs; Van Wall Equipment \$94.93 smcs; Verizon Wireless \$14.99 smcs Voss Lighting \$968.96 smcs; Wagners Irrigation \$5,200.00 co; Walgreens \$29.97 smcs; Walmart \$648.61 smcs; Warrington,D \$266.80 smcs; Wastecorp Pumps \$1,170.10 smcs; Water Environment \$80.50 smcs; Wells Fargo Equipment \$66,937.77 ds; Whelen Engineering \$518.00 smcs; Wicks Sterling Trucks \$635.28 smcs; Wiegand Security \$90.00 smcs; Wilke,G \$36.96 smcs; Wilke's True Value \$246.64 smcs; Williams,M \$100.46 smcs; Win Zip Computing \$29.95 co; Witter,B \$26.97 smcs WPCI \$132.00 ps; Zimmerman Printing \$72.58 smcs; Payroll Ending 4-7-2012 -- \$345,425.19. 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 May 8, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2012-62** approving the Letter of Agreement between the City of Kearney and Good Samaritan Hospital for ambulance services.

RESOLUTION NO. 2012-62

WHEREAS, Good Samaritan has and currently does provide sale emergency and non-emergency ambulance service to the community of Kearney and the Suburban Fire Protection District #1 and will continue to do so as set forth in the Letter of Agreement.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Letter of Agreement be approved and that the Mayor be and is hereby authorized to execute said document on behalf of the City of Kearney, Nebraska. The Letter of Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2012-63** approving the Development Constructed Infrastructure Agreement between the City of Kearney and Johnson Imperial Home Co. to construct a water main and install a fire hydrant for Lot 2, Block Three, Windsor Estates Seventh Addition.

RESOLUTION NO. 2012-63

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 2, Block Three, Windsor Estates Seventh Addition" between the City of Kearney and Johnson Imperial Home Co., to construct a water main and to install a fire hydrant to serve Lot 2, Block Three, Windsor Estates Seventh Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Johnson Imperial Home Co. to construct said water main and to install a fire hydrant as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt **Resolution No. 2012-64** approving Change Order No. 4 showing a decrease in the amount of \$110,400.00 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).

RESOLUTION NO. 2012-64

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. 4 showing a decrease to the contract sum in the amount of \$110,400.00, 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
Change Order No. 2 (12-13-2011)	- 7,290.00
Change Order No. 3 (3-27-2012)	+ 12,884.50
Change Order No. 4 (4-24-2012)	<u>- 110,400.00</u>
Contract Sum to Date	\$596,244.91

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. 4, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

7. Adopt **Resolution No. 2012-65** approving the Agency Agreement for Project No. 3-31-0045-27 between the City of Kearney and the Nebraska Department of Aeronautics for administrative services in connection with the Terminal Apron Sealcoat project at the Kearney Regional Airport.

RESOLUTION NO. 2012-65

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE DEPARTMENT OF AERONAUTICS OF THE STATE OF NEBRASKA FOR PROJECT NO. 3-31-0045-27 TO BE SUBMITTED BY THE DEPARTMENT TO THE FEDERAL AVIATION ADMINISTRATION TO OBTAIN FEDERAL ASSISTANCE FOR THE DEVELOPMENT OF THE AIRPORT.

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

1. The City of Kearney shall enter into an Agency Agreement with the Department of Aeronautics for Project No. 3-31-0045-27 for the purpose of obtaining federal assistance in the development of the Airport and that such agreement shall be set forth hereinbelow.

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

3. The said Agreement, referred to hereinabove, is inserted in full and attached herewith, and made a part hereof as Exhibit "O".

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

8. Adopt **Resolution No. 2012-66** approving the Union Pacific Railroad Longitudinal Pipeline Agreement for a new sanitary sewer main to serve the East 56th Street Estates Addition.

RESOLUTION NO. 2012-66

WHEREAS, Union Pacific Railroad Company has tendered to the City of Kearney, Nebraska an agreement covering a longitudinal gravity sewer pipeline located in the East 56th Street Estates Addition to the City of Kearney, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Longitudinal Pipeline Agreement on behalf of the City. The Agreement is marked as Exhibit "A" and is attached hereto and made a part hereof.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the request by Mt. Carmel Nursing Home to temporarily block off 18th Street from 4th Avenue to 5th Avenue on May 14, 2012 from 1:00 until 2:30 p.m. for putt putt golf for the residents of the Nursing Home.

10. Adopt **Resolution No. 2012-67** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and Randy Griffiths to construct paving, sanitary sewer, water and storm sewer to serve Lots 1 through 5 of Block One, Eastbrooke Eleventh Addition, Lots 2 through 5 of Block Four, and Lot 1 of Block 5, Eastbrooke Eighth Addition all in the City of Kearney.

RESOLUTION NO. 2012-67

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled Developer Constructed Infrastructure Agreement for Lots 1 through 5 of Block One, Eastbrooke Eleventh Addition, Lots 2 through 5 of Block Four, and Lot 1 of Block 5, Eastbrooke Eighth Addition between the City of Kearney and Randy Griffiths to construct paving, sanitary sewer, water and storm sewer to serve said property be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Randy Griffiths to construct said paving, sanitary sewer, water and storm sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the Plans and Specifications for the 2011 Part 12 Improvements; Harmon Park Inclusive Playground and set the bid opening date for May 15, 2012 at 2:00 p.m.

12. Adopt **Resolution No. 2012-68** approving Change Order No. 3 showing a decrease in the amount of \$11,301.50 and accept the Certificate of Substantial Completion submitted by Midlands Contracting and approved by Miller & Associates for the 2011 Part 5 Improvements; Truck Washout Facility.

RESOLUTION NO. 2012-68

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2011 Part 5 Improvements; Truck Washout Facility, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing a decrease in the amount of \$11,301.50, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

Original Contract Sum	\$150,967.35
Change Order No. 1 (11-22-2011)	- 13,239.00
Change Order No. 2 (3-27-2012)	+ 6,311.00
Change Order No. 3 (4-24-2012)	- 11,301.50
Contract Sum To Date	<u>\$132,737.85</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 31, 2012, as shown by Exhibit "B" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 3, as shown on Exhibit "A" and the Certificate of Substantial Completion as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

13. Adopt **Resolution No. 2012-69** approving Supplemental Agreement No. 5 regarding the Kearney East Bypass – Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) between the City of Kearney, Buffalo County, and the Nebraska Department of Roads inserting language pertaining to the closure of the existing at-grade railroad crossings located at Antelope Avenue and Cherry Avenue will be permanent.

RESOLUTION NO. 2012-69

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute Supplemental Agreement No. 5 between the State of Nebraska Department of Roads, the City of Kearney, and Buffalo County with regard to Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) (the Kearney East Bypass Project) striking the language of Section 4 of Supplemental Agreement No. 2 and also Section 4 of Supplemental Agreement No. 3 and replace with the following language:

“Due to insufficient Federal Railroad Safety (STPN) Funds, the Parties agree to share project cost for the new 4-lane viaduct, including approaches, over the UPRR and US-30 in accordance with Supplemental Agreement No. 3 to XL0531, Section 1. Upon completion of the construction of the new viaduct over the UPRR and US-30, the City agrees to the permanent closure and vacation of the public crossing located at Antelope Avenue – DOT# 817534C and the County agrees to the permanent closure and vacation of the public crossing located at Cherry Avenue – DOT# 817533C.”

A copy of said Supplemental Agreement No. 5, marked as Exhibit “A”, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

14. Adopt Resolution No. 2012-70 approving Change Order No. 2 showing a decrease in the amount of \$88,151.50, Application and Certificate for Payment No. 5-Final in the amount of \$63,758.38 and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 6 Improvements; Central Avenue from 18th Street to South Railroad Street.

RESOLUTION NO. 2012-70

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. 2 showing a decrease in the amount of \$88,151.50, as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$63,758.38, as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$886,999.00
Change Order No. 1 (10-25-2011)	+ 30,861.75
Change Order No. 2 (4-24-2012)	- <u>88,151.50</u>
Contract Sum To Date	829,709.25
Gross Amount Due	829,709.25
Retainage	.00
Amount Due to Date	829,709.25
Less Previous Certificates for Payment	<u>765,950.87</u>
Current Payment Due	\$ 63,758.38

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 16, 2012, as shown by Exhibit “C” attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown

on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. Adopt **Resolution No. 2012-71** approving Supplemental Agreement No. 1 to the original Construction Engineering Services Agreement BK1023 between the City of Kearney and Olsson Associates for modifications and/or additional duties and/or funding responsibilities for 39th Street from Pony Express Road to Avenue M project (Project No.: URB-5922(3)).

RESOLUTION NO. 2012-71

WHEREAS, City of Kearney and Olsson Associates, Inc. have previously executed a Construction Engineering Services Agreement BK1023 for a transportation project for which the Local Public Agency (LPA) would like to obtain Federal funds; and

WHEREAS, City of Kearney understands that it must continue to strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of this Federal-aid project; and

WHEREAS, City of Kearney and Olsson Associates, Inc. wish to enter into a Supplemental Construction Engineering Services Agreement setting out modifications and/or additional duties and/or funding responsibilities for the Federal-aid project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska that: Stanley Clouse, Mayor of the City of Kearney, Nebraska is hereby authorized to sign the attached supplemental Construction Engineering Services Agreement, Supplement No. 1 between the City of Kearney and Olsson Associates, Inc.

BE IT FURTHER RESOLVED City of Kearney is committed to providing local funds for the project as required by the Project Program Agreement and any Supplemental Project Agreements.

NDOR Project Number: URB-5922(3)

NDOR Control Number: 42633

NDOR Project Description: 39th Street, Pony Express Road to Avenue M

PASSED AND APPROVED THIS 24TH DAY OF APRIL, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

16. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on May 12, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

17. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits inside the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 9, 2012 from 3:00 p.m. until 12:00 a.m. for a reception.

Moved by Clouse seconded by Lammers to postpone until May 8, 2012 Resolution No. 2012-72 approving developing standards to be applied toward the development of the Tech ONE Crossing Business Park located at the southeast corner of 56th Street and Antelope Avenue. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7721 CREATING PAVING DISTRICT NO. 2012-952

The City received a letter from Ron Grapes, President of Sun Development, Inc. requesting paving, water and sanitary sewer districts be created for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac. Section 57-102 of the Kearney City Code requires the developer to deposit fifty percent of the total estimated costs of the districts. The remaining unpaid costs of the improvements shall be assessed against the property in said districts on a basis of special benefit to the property, if any, as provided by law. The City notified Mr. Grapes on the estimate for the project and he wants the City to proceed with the creation of the districts. Therefore, Items 1, 2 and 3 create paving, water and sanitary sewer districts.

Council Member Lammers introduced Ordinance No. 7721, being Subsection 1 of Agenda Item V creating Paving Improvement District No. 2012-952 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7721 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7721 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7721 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. 7722 CREATING WATER DISTRICT NO. 2012-564

Council Member Lammers introduced Ordinance No. 7722 being Subsection 2 of Agenda Item V creating Water District No. 2012-564 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7722 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7722 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7722 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. 7723 CREATING SANITARY SEWER DISTRICT NO. 2012-504

Council Member Lammers introduced Ordinance No. 7723, being Subsection 3 of Agenda Item V creating Sanitary Sewer District No. 2012-504 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7723 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7723 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7723 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

OPEN ACCOUNT CLAIMS: NPPD - \$78,134.69, SCHOOL DISTRICT #7 - \$3,684.15, \$138.72 – STAN CLOUSE

Moved by Buschkoetter seconded by Lammers that the Open Account Claims in the amount of \$138.72 payable to Stan Clouse, and in the amount of \$78,134.69 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained. Kearney absent. Motion carried.

With the abstention of Council members Buschkoetter and Lammers and the absence of Council member Kearney, the Open Account Claim to School District #7 will be placed on the next agenda.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 7:08 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**