

*Kearney, Nebraska
August 28, 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 August 28, 2012 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. Wendell Wessels, Acting City Manager; Michael Tye, City Attorney; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Shawna Erbsen, Administrative Services Director; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Marlin Heiden, Jonathan Nikkila, Brian Fausch, Steve Altmaier from KGFW Radio.

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

I. ROUTINE BUSINESS

INVOCATION

Pastor Doug Shada from Living Faith Fellowship provided the Invocation.

PLEDGE OF ALLEGIANCE

One Boy Scout 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.

RECOGNITION – OUTGOING BOARD MEMBERS

Mayor Clouse and Council Members recognized the following outgoing Board members by presenting them with a plaque: Marlin Heiden for 15 years of service on the Board of Adjustment; Todd Herges for 7 years of service on the Library Advisory Board; Becky Evers for 7 years of service on the Library Advisory Board; and Jerry Schroeder for 5 years of service on the Park & Recreation Advisory Board.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

PERMANENT WATER MAIN EASEMENT

Mayor Clouse opened the public hearing on acquiring an interest in real property by purchase, dedication or eminent domain for a temporary construction easement and a permanent water main easement of a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Resolution No. 2012-139.

City Attorney Michael Tye presented this matter to the Council. The extension of a water main is along 56th Street and extends to Airport Road. This portion of the water main runs along 56th Street as it approaches the intersection of Cherry Avenue. Acquisition of this Easement is necessary for the City's contract to proceed with this project later this fall. In order to cover any crop loss or other potential damages to the owner for acquisition for this Easement, the City has agreed to pay \$3,850.00 as compensation.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt **Resolution No. 2012-139** on acquiring an interest in real property by purchase, dedication or eminent domain for a temporary construction easement and a permanent water main easement of a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2012-139

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 acquisition 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 temporary construction easement and a permanent water main easement with regard to the 56th Street and voted in favor to proceed with the acquisition; and

WHEREAS, Two Sisters' Farms, Inc., a Nebraska Corporation has granted to the City of Kearney, Nebraska a temporary construction easement and a permanent water main easement as follows:

TEMPORARY CONSTRUCTION EASEMENT

A tract of land being part of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th Principal Meridian, Buffalo County, Nebraska, being more

particularly described as follows: a 25-foot wide tract abutting, paralleling and lying southerly of the previously described tract and all that area lying northerly of said previously described tract, lying southerly of said south right-of-way of said 56th Street and lying westerly of said west right-of-way line of said Cherry Avenue, all in Buffalo County, Nebraska.

PERMANENT WATER MAIN EASEMENT

A tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 29, Township 9 North, Range 15 West of the 6th Principal Meridian, Buffalo County, Nebraska, being more particularly described as follows: Referring to the Northeast Corner of said Section 29 and assuming the north line of said Northeast Quarter as bearing N89°31'04"W and all bearings contained herein are relative thereto; thence N89°31'04"W on said north line a distance of 667.31 feet; thence S00°28'56"W perpendicular to said north line a distance of 33.00 feet to the south right-of-way line of 56th Street and the Actual Point of Beginning of the centerline of a 30 feet wide (15 feet each side) of a tract to be used for water main purposes; thence S78°16'04"E on said centerline a distance of 68.22 feet; thence S86°32'10"E continuing on said centerline a distance of 275.36 feet; thence S75°17'10"E continuing on said centerline a distance of 71.84 feet; thence N89°58'07"E continuing on said centerline a distance of 223.31 feet to the Point of Termination, said point lying on the west right-of-way line of Cherry Avenue and lying S00°05'32"W a distance of 76.07 feet; thence N89°54'28"W a distance of 33.00 feet from said northeast corner, all in Buffalo County, Nebraska. The Easement and Map, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the temporary construction easement and a permanent water main easement granted by Two Sisters' Farms, Inc., a Nebraska Corporation to the City of Kearney be and is hereby approved and accepted. The Agreement (Acquisition of Permanent and Temporary Water Main Easement), marked as Exhibit 1, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lammers seconded by Lear that Subsections 1 through 13 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 14, 2012.
2. Approve the following Claims:

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

AT&T \$429.50 smcs; A-1 Refrigeration \$120.00 smcs; ABC Seamless \$349.00 smcs; Ace Hardware \$96.76 smcs; Advance Auto Parts \$36.00 smcs; Agri Coop \$2,108.18 smcs; Alfred Benesch \$8,451.94 co; Alfredson,D \$21.34 smcs; All Partitions \$38.00 smcs; Allied Electronics \$231.04 smcs; Ally B Designs \$400.00 smcs; Amazon \$492.92 smcs,co; American \$722.69 smcs,co; Amer First Aid \$297.11 smcs; Amer Legion Emblem \$157.82 smcs; Amer Sealants \$171.19 smcs; Amsan \$923.06 smcs; Analytical Services \$750.00 smcs; Andersen Wrecking \$65.00 smcs; Anderson Bros \$142.26 smcs; Anderson,C \$28.63 smcs; Apple Itunes Store \$6.40 smcs; Apple Market \$12.72 smcs; Applied Industrial \$84.56 smcs; Ask Supply \$516.40 smcs; Aurora Coop \$558.56 smcs; Awards Plus \$74.75 smcs; Awards Unlimited \$228.85 smcs; Baird Holm \$325.00 smcs; Baker & Taylor Books \$4,827.84 smcs; Bamford \$2,586.48 smcs; Barco Municipal Products \$1,213.86 smcs; Barnes,B \$27.61 smcs; Bells Construction \$1,610.00 co; Big Apple \$42.50 smcs; Big Dally's Deli \$653.24 smcs; Bike Nashbar \$721.57 co; Blackstone Audiobooks \$480.00 smcs; Bluecross Blueshield \$122,736.57 smcs; Boogaarts \$4.56 smcs; Bosselman Energy \$5,165.91 smcs; Broadfoot's \$1,431.50 smcs; Bruha,S \$490.00 smcs; Buffalo Outdoor Power \$1,475.35 smcs,co; Builders \$2,693.69 smcs; Burmood,D \$19.14 smcs; Cabela's \$120.43 smcs; Calamus Outfitters \$255.00 smcs; Capital Business Systems \$73.78 smcs; Carmichael Business \$2,300.00 smcs; Carquest \$151.07 smcs; Cash-Wa \$3,963.47 smcs; CDW Govt \$1,613.41 smcs,co; Center Point Large Print \$98.27 smcs; Central Eye Care \$13.00 smcs; Central Fire & Safety \$59.25 smcs; Central Hydraulic Systems \$313.70 smcs; Central NE Bobcat \$553.68 smcs; Centurion Technologies \$123.90 co; Charter \$54.99 smcs; Chemsearch \$658.13 smcs; Chesterman \$3,279.00 smcs; Chief Supply \$76.87 smcs; Circle D Boot Saddle \$21.00 smcs; City Glass \$73.58 smcs; City of Ky \$9,432.27 smcs,ps; Classic Car Collection \$35.00 smcs; Cold Spring Granite \$386.00 smcs; Community Action Partner \$2,896.83 smcs,co; Conesco Life Ins \$19.00 ps; Construction Rental \$62.91 smcs; Copycat Printing \$108.00 smcs; Country Neighborhood \$41.50 smcs; Crossroads Ford \$441.17 smcs; Crown Awards \$418.32 smcs; Crystal Clean \$388.00 smcs; Culligan \$249.50 smcs; Culver's \$30.00 smcs; Cummins Central Power \$863.43 smcs; CVI Kearney \$1,877.50 smcs; Diamond Shamrock \$80.50 smcs; Dawson PPD \$43,722.42 smcs; Daylight Donuts \$219.75 smcs; Dell \$12,013.80 smcs,co; Demco \$641.00 smcs; Depository Trust \$127,625.00 ds; Deterdings \$169.09 smcs; Diamond Vogel Paint \$380.03 smcs; Dish \$64.36 smcs; Displays2gocom \$266.65 smcs; Dmilaco \$71.96 smcs; Dolezal,D \$43.72 smcs; Dollar-General \$60.46 smcs; DPC Industries \$6,195.14 smcs; DPI Graphics \$450.00 smcs; Dugan Business Forms \$642.16 smcs; Dultmeier Sales \$937.87 smcs; Dutton-Lainson \$219.46 smcs; Eakes \$1,589.95 smcs; Earl May Seed \$136.39 smcs; Early Advantage \$34.95 smcs; Eirich,D \$53.28 smcs; Elliott Equipment \$749.26 smcs; Epley,G \$52.48 smcs; Fairbanks \$191.45 smcs; Farmers Union Coop \$27.00 smcs; Fastenal \$1,465.92 smcs; Fedex \$97.50 smcs; Fleetpride \$2,216.88 smcs; Footjoy \$407.20 smcs; Fremont Dinner Train \$1,243.96 smcs; Frontier \$9,615.71 smcs; Full Source \$46.65 smcs; Galls \$128.07 smcs; Gangwish Turf \$36.00 smcs; Garrett Tires \$15,880.99 smcs; GE Money Bank \$2,603.16 smcs; Gear For Sports \$2,461.17 smcs; General Traffic Controls

\$278.90 smcs; George Fountain Supply \$462.43 smcs; Glowwithuscom \$27.50 smcs; Golf Couse Superintendent \$170.00 smcs; Google Logmein \$29.99 co; Graham Tire \$1,170.16 smcs; Grainger \$1,941.77 smcs,co; Grombacher,K \$300.00 smcs; H&H Distributing \$1,512.10 smcs; Hach \$595.58 smcs; Hazlett,D \$11.71 smcs; HD Supply \$4,451.76 smcs; Heartland Services \$65.00 smcs; Highsmith \$404.90 smcs; HOA Solutions \$266.00 smcs; Hobby-Lobby \$278.53 smcs; Holmes Plumbing \$229.48 smcs,co; Huber,V \$82.41 smcs; ICMA RC \$3,855.35 ps; Interactive Study \$989.95 smcs; IRS \$116,281.28 ps; Intl Code Council \$50.00 smcs; ITX I.T. Xchange \$784.00 co; J.J.Keller \$250.50 smcs; Jack Lederman \$185.37 smcs; James,D \$2,161.10 smcs; John Deere Landscapes \$2,808.01 smcs,co; John E. Reid & Associates \$840.00 smcs; Johnson Controls \$1,237.52 smcs; Johnson Imperial \$11.18 smcs; Johnson Service \$2,880.00 smcs; K&K Parts \$31.71 smcs; Kasten,K \$7.00 smcs; Ky Ampride \$113.37 smcs; Ky Concrete \$572.50 smcs; Ky Crete & Block \$1,249.55 smcs; Ky Glass \$88.53 smcs; Ky Hub \$2,750.74 smcs; Ky Implement \$639.05 smcs; Ky Winlectric \$5.28 smcs; Ky Winnelson \$43.62 smcs; Kehl Tree Service \$1,600.00 smcs; Kelly Supply \$662.25 smcs; Keystone Materials \$300.00 smcs; Killion Motors \$338.34 smcs; Kimball Midwest \$249.90 smcs; Kirkham Michael \$2,150.00 smcs; Kmart \$58.44 smcs; Koeppel,J \$50.00 smcs; Koetters,J \$21.74 smcs; Konica Minolta \$1,152.75 smcs; Lands End \$82.36 smcs; Lawson Products \$416.42 smcs; Lifeguard Stores \$139.50 smcs; Lincoln Tent \$225.00 smcs; Linder,S \$279.03 smcs; Lockmobile \$19.50 smcs; Magic Cleaning \$6,250.00 smcs; Mail Express \$1,514.18 smcs; Malone,D \$385.43 co; Marlatt Machine Shop \$37.55 smcs; Masters Leasing \$246.17 smcs; Matheson \$129.94 smcs; McDonald's \$103.09 smcs; Menards \$2,177.41 smcs,co; Meusch Construction \$82.12 smcs; Microfilm Imaging \$10,012.00 smcs; Mid-Plains Equipment \$2,216.85 smcs; Midwest Mailing \$295.00 smcs; Miller & Associates \$10,426.70 smcs,co; Minitex \$563.00 smcs; Mitchell 1 \$1,608.00 smcs; Motion Picture Licensing \$215.49 smcs; Municipal Supply \$5,696.97 smcs; Murphy Tractor \$262.00 smcs; Nanfite,H \$19.80 smcs; Napa All Makes \$541.53 smcs; NASC \$60.00 smcs; Natl MS Society \$55.00 smcs; Naval Surface Warfare \$1,800.00 smcs; NCHsoftwarecom \$249.75 co; NCS Equipment \$494.59 smcs; NE Child Support \$2,471.59 ps; NE Dept of Revenue \$66,496.03 smcs; NE Dept of Environmental \$7,232,695.70 smcs,ds; NE Dept of Roads \$15.00 smcs; NE Golf Assn \$3,578.53 smcs; NE Liquor Control Comm \$20.00 smcs; NE Public Health \$1,493.00 smcs; NE Sec of State \$30.00 smcs; NE Truck & Equipment \$54.08 smcs; NE Truck Center \$113,981.00 smcs,co; NE Turfgrass \$40.00 smcs; NEland Distributors \$1,647.48 smcs; New World Systems \$1,753.85 co; Neweggcom \$618.90 co; NIEC \$150.00 smcs; Nivel Parts \$438.97 smcs; NMC Exchange \$1,568.36 smcs; Nordhues,B \$36.33 smcs; Northwest Electric \$1,724.73 smcs; Northwestern Energy \$575.36 smcs; OCLC \$605.44 smcs; Office Max \$1,091.76 smcs; Officenet \$415.73 smcs; O'Reilly Auto \$9.99 smcs; Orscheln \$403.37 smcs; Outdoor Recreation \$800.00 smcs; Overdrive \$7,500.00 smcs; Pabian,L \$10.19 smcs; Paramount \$82.28 smcs; Party America \$49.70 smcs; PCS Mobile \$16,006.00 co; Pep Co \$53.66 smcs; Pioneer \$731.25 smcs; Pioneer Research \$787.95 smcs; Pioneer Revere \$75.61 smcs; Pizza Hut \$169.26 smcs; Platte Valley Comm \$808.68 smcs; Presto-X \$42.00 smcs; Price Point Mail Order \$614.36 smcs,co; Professional Collection \$24.92 smcs; Pro-Tint \$353.00 smcs; Provantage \$1,039.17 smcs,co; Random House \$447.75 smcs; RBM \$70.09 smcs; Ready Mixed Concrete \$913.00 smcs; Reams \$1,127.59 smcs,co; Recognition Unlimited \$90.70 smcs; Recorded Books \$675.77 smcs; Red Wing \$100.00 smcs; Reinke's Heating \$555.84 smcs; Reliable Printing \$260.00 smcs; Reserve Account \$750.00 smcs; Rick's Sod Farm \$860.00 smcs;

Riverside Mfg \$64.13 ps; RNDC-Eagle Division \$391.60 smcs; RNDC-Falcon Division \$210.33 smcs; Roesler,A \$73.42 smcs; Rolanka Intl \$936.33 smcs; Roper's Radiator \$40.00 smcs; S&B Heating \$558.85 smcs; Safelite Autoglass \$503.80 smcs; Safety Vision \$66.63 smcs; Sahling Kenworth \$57.55 smcs; Salina Blueprint \$49.14 smcs; Salter,J \$279.50 smcs; Sapp Bros \$31,493.13 smcs; Schwans \$2,739.42 smcs; Sherwin Williams \$3,494.25 smcs; Shopper \$1,217.47 smcs; Shore Power \$118.33 smcs; Snap-On Tools \$79.95 smcs; Softchoice \$1,758.50 co; Sonetics Corporation \$58.79 smcs; Stanley Works \$855.02 smcs; Steinbrink Landscaping \$668.57 smcs; Sterling Distributing \$836.00 smcs; Strategic Materials \$333.26 smcs; Sunmart \$131.57 smcs; Target \$96.94 smcs; TCBY \$50.00 smcs; Team Effort \$965.77 smcs; Thompson Co \$58.16 smcs; Tielke's Sandwiches \$54.77 smcs; Tigerdirectcom \$9.93 co; Tighton Fasteners \$6,487.25 co; Titleist \$237.00 smcs; Tool Doctor \$91.90 smcs; Torrey,A \$134.00 smcs; Tractor-Supply \$997.91 smcs; Trans Iowa Equipment \$390.42 smcs; Tri City Outdoor Power \$288.65 smcs; Tri-County Glass \$965.00 smcs; Turner Body Shop \$110.00 smcs; Ullman,M \$300.00 smcs; Ultimate Office Solution \$196.00 smcs; Union Bank & Trust \$53,852.14 ps; Unique Management \$340.10 smcs; UNK-Board of Regents \$337.69 ps; UNK-Finance Office \$3,000.00 smcs; UPS Store \$125.61 smcs; USA Blue Book \$376.56 smcs; USPS \$270.59 smcs,co; Vadewalle,M \$36.58 smcs; Van Diest Supply \$2,933.64 smcs; Verizon Wireless \$119.96 smcs; Wal-mart \$1,959.31 smcs; Ward Labs \$52.00 smcs; Warren-T Plumbing \$57.00 smcs; Wicks Sterling Trucks \$545.82 smcs; Wilke's True Value \$580.64 smcs,co; Wittek Golf Supply \$336.66 smcs; WPCI \$157.00 ps; Yanda's Music \$868.00 co; Yant Equipment \$205.00 smcs; Payroll Ending 8-11-2012 -- \$385,878.35. 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 September 11, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Accept the bids received for the 2012 Part 4 Improvements; Harmon Park Tennis Court Lighting and adopt **Resolution No. 2012-140** awarding the bid to Ardent Lighting Group, LLC in the amount of \$117,749.00 which includes Alternates #1 and #2.

RESOLUTION NO. 2012-140

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on August 16, 2012 at 2:00 p.m. for the 2012 Part 4 Improvements; Harmon Park Tennis Court Lighting; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$147,700.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Ardent Lighting Group, LLC of Knoxville, Iowa in the sum of \$117,749.00 be accepted as the lowest responsible bid for 2012 Part 4 Improvements; Harmon Park Tennis Court Lighting which includes Alternates #1 and #2.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Ardent Lighting Group, LLC of Knoxville, Iowa be and is the lowest responsible bidder for the 2012 Part 4 Improvements; Harmon Park Tennis Court Lighting which includes Alternates #1 and #2 to be constructed in accordance with the

plans and specifications on file with the City Clerk and that the bid of Ardent Lighting Group, LLC in the sum of \$117,749.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$147,700.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the dining room at the Great Platte River Archway located at 3060 East 1st Street on September 22, 2012 from 5:30 p.m. until 9:30 p.m. for a reception.

6. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits in the Extension Building at the Buffalo County Fairgrounds located at 3807 Avenue N on September 22, 2012 from 5:00 p.m. until 1:00 a.m. for a reception.

7. Adopt **Resolution No. 2012-141** approving the Agreement between the City of Kearney and Joseph and Angela Bourland to connect to a water main located at 1300 East 11th Street.

RESOLUTION NO. 2012-141

WHEREAS, Joseph and Angela Bourland are the property owners of a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of said Section 6; thence easterly on the South line of said Section a distance of 760.8 feet to the ACTUAL PLACE OF BEGINNING; thence continuing on the afore described course a distance of 150.0 feet; thence with a deflection angle to the left and running in a northerly direction 89° 32' a distance of 333.45 feet; thence westerly a distance of 150 feet to a point on the East line of Andersen Park 1st Subdivision, a subdivision to the City of Kearney Buffalo County Nebraska; thence southerly on the aforesaid East line a distance of 333.3 feet to the place of beginning, all in Buffalo County, Nebraska, said property located at 1300 East 11th Street is outside but contiguous to the corporate limits; and

WHEREAS, the Bourlands desire to connect the existing residence located on the previously described property to a water main owned and maintained by the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, to approve the Agreement between the City of Kearney and Joseph

and Angela Bourland allowing them to connect their residence located at 1300 East 11th Street to a water main owned and maintained by the City of Kearney.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file said Agreement with the Buffalo County Register of Deeds. The Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt **Resolution No. 2012-142** approving Application and Certificate for Payment No. 2 in the amount of \$122,737.69 submitted by Midlands Contract, Inc. and approved by Miller & Associates for the 2011 Part 6 Improvements – Bid A consisting of 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.

RESOLUTION NO. 2012-142

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2011 Part 6 Improvements – Bid A consisting of 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 the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$122,737.69, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$231,818.00
Contract Sum To Date	231,818.00
Gross Amount Due	197,519.18
Retainage	9,875.96
Amount Due to Date	187,643.22
Less Previous Certificates for Payment	<u>64,905.53</u>
Current Payment Due	\$122,737.69

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

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt Resolution No. 2012-143 approving Application and Certificate for Payment No. 1 in the amount of \$63,634.71 submitted by Paulsen, Inc. and approved by Miller & Associates for the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac.

RESOLUTION NO. 2012-143

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$63,634.71, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$407,796.50
Contract Sum To Date	407,796.50
Gross Amount Due	70,705.23
Retainage	7,070.52
Amount Due to Date	63,634.71
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 63,634.71

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

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Adopt Resolution No. 2012-144 approving Application and Certificate for Payment No. 3 in the amount of \$200,689.43 submitted by Blessing, LLC and approved by Miller & Associates for the 2011 Part 9 Improvements consisting of Paving Improvement District No. 2011-949 for 50th Street from 17th Avenue west to the west line of Hoehner Estates Third Addition, Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66± feet, Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 in 50th Street from the east line of 17th Avenue west 627.11± feet.

RESOLUTION NO. 2012-144

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2011 Part 9 Improvements consisting of Paving Improvement District No. 2011-949 for 50th Street from 17th Avenue west to the west line of Hoehner Estates Third Addition, Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66± feet, Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 in 50th Street from the east line of 17th Avenue west 627.11± feet, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$200,689.43, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$662,615.50
Contract Sum To Date	662,615.50
Gross Amount Due	542,559.75
Retainage	54,255.98
Amount Due to Date	488,303.78
Less Previous Certificates for Payment	<u>287,614.35</u>
Current Payment Due	\$200,689.43

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 3, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Adopt **Resolution No. 2012-145** repealing Resolution No. 2007-67 and approving Fountain Hills Addition Outlot A Development Agreement between the City of Kearney and Grand West, LLC for the development of Outlot A.

RESOLUTION NO. 2012-145

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the agreement entitled "Fountain Hills Addition Outlot A Development Agreement" between the City of Kearney and Grand West, LLC, a Nebraska Limited Liability Company for the development of Outlot A within Fountain Hills Addition, an addition to the City of Kearney, Buffalo County, Nebraska subject to compliance of the conditions set forth in the said Agreement be and is hereby accepted and approved. The Agreement marked as Exhibit 1 is attached hereto and made a part hereof by reference.

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.

BE IT FURTHER RESOLVED that Resolution No. 2007-67 passed and approved on April 10, 2007 be and is hereby repealed.

PASSED AND APPROVED THIS 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt **Resolution No. 2012-146** approving the Grant Agreement between the City of Kearney and F.A.A. for the construction of the Terminal Apron Sealcoat, Miscellaneous Airfield Marking & Repairs at the Kearney Regional Airport (Project No. 3-31-0045-027-2012).

RESOLUTION NO. 2012-146

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR PROJECT NO. 3-31-0045-027-2012 FOR THE REHABILITATE APRON (SEAL COAT) FOR THE KEARNEY REGIONAL AIRPORT

WHEREAS, the City of Kearney, Nebraska has submitted a project application to the Federal Aviation Administration for Project No. 3-31-0045-027-2012 for the construction of the Terminal Apron Sealcoat, Miscellaneous Airfield Marking & Repairs at 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. 3-31-0045-027-2012 for the purpose of obtaining federal assistance for the construction of the Terminal Apron Sealcoat, Miscellaneous Airfield Marking & Repairs at the Kearney Regional Airport. The 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 28TH DAY OF AUGUST, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. 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 located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 29, 2012 from 2:00 p.m. until 12:00 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

MANAGER APPLICATION FOR PUMP & PANTRY #27, 4311 2ND AVENUE

Regular Agenda Items 1, 2 and 3 were discussed together but voted on together.

Mayor Clouse opened for discussion the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #27 located at 4311 2nd Avenue in connection with their Class D-25700 liquor license.

A background was conducted by the Police Department on Brian Fausch as the applicant for Manager for the above listed Pump & Pantry locations and nothing was found that would prohibit Mr. Fausch from functioning as the manager. According to the records at the Liquor Commission, the Pump & Pantry #40 had a violation for Selling to Minors in 2009. On August 6 the City received from the Liquor Commission an addendum to the manager application which was submitted by Brian Fausch on two charges that were omitted on his application. Both charges were misdemeanor criminal charges – Disturbing the Peace in 1999 and Open Container in 2006.

The City Council adopted a Liquor License Policy on March 22, 2011 and the form entitled “Liquor License Training Compliance” requires applicants to document and verify training compliance of their employees. Mr. Fausch has returned the form along with a copy of his Certificate of Training. Copies, and any updates, of their Certificates of Training for their employees have been filed with the City Clerk.

Brian Fausch presented this matter to the Council. He is the Chief Operating Officer and is in the process of being the manager of 37 Pump & Pantries in Nebraska. All their employees participate in the Bosselman Cares Program. It requires clerks to card people age 40 and under. Their cash registers require the clerks to input the purchaser’s birth date prior to ensure the person is over 21. Failure to properly sell alcohol will result in immediate termination.

Moved by Lear seconded by Buschkoetter to approve the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #27 located at 4311 2nd Avenue in connection with their Class D-25700 liquor license.. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

MANAGER APPLICATION FOR PUMP & PANTRY #40, 1616 2ND AVENUE

Regular Agenda Items 1, 2 and 3 were discussed together but voted on together.

Mayor Clouse opened for discussion the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #40 located at 1616 2nd Avenue in connection with their Class B-79434 liquor license.

Moved by Buschkoetter seconded by Clouse to approve the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #40 located at 1616

2nd Avenue in connection with their Class B-79434 liquor license. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

MANAGER APPLICATION FOR PUMP & PANTRY #41, 1212 EAST 56TH STREET

Regular Agenda Items 1, 2 and 3 were discussed together but voted on together.

Mayor Clouse opened for discussion the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #41 located at 1212 East 56th Street in connection with their Class B-79474 liquor license.

Moved by Clouse seconded by Kearney to approve the manager application for Brian Fausch submitted by Bosselman, Inc., dba Pump & Pantry #41 located at 1212 East 56th Street in connection with their Class B-79474 liquor license. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$98,086.90

Moved by Kearney seconded by Lammers that the Open Account Claim in the amount of \$98,086.90 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Kearney, Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:11 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**