

*Kearney, Nebraska
September 24, 2013
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 September 24, 2013, 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 Jonathan Nikkila. Absent: Bob Lammers. Wendell Wessels, Acting City Manager/Director of Finance; Michael Tye, City Attorney; Suzanne Brodine, Assistant City Manager/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Bruce Lefler, Carrie Hardage, Stan Dart, Michael Vail, 10 UNK students, Steve Altmaier from KGFW Radio, Adam Konruff 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 silence.

PLEDGE OF ALLEGIANCE

Boy Scout Jay Longfellow 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 on the wall of the Council Chambers.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONING 1/2 MILE EAST OF COTTONMILL AVENUE AND 56TH STREET

Mayor Clouse stated the applicant had previously requested to postpone the application to rezone property located 1/2 mile east of Cottonmill Avenue and 56th Street until October 8, 2013. Therefore, no action was taken at this time.

FINAL PLAT FOR D.R. NELSON SUBDIVISION; 1/2 MILE EAST OF COTTONMILL AVENUE AND 56TH STREET

Mayor Clouse stated the applicant had previously requested to postpone the application for the final plat for D.R. Nelson Subdivision until October 8, 2013. Therefore, no action was taken at this time.

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held September 10, 2013.

2. Approve the following Claims:

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

4Imprint \$1,038.26 smcs; 911 Custom \$1,985.99 co; AT&T \$233.45 smcs; A-1 Refrigeration \$329.13 smcs; ABC Seamless \$19,160.00 smcs; Ace Eaton Metals \$70.00 smcs; Ace Hardware \$16.65 smcs; Advance Auto Parts \$11.96 smcs; Agent Fee \$20.00 smcs; Agrium Advanced Tech \$1,407.12 smcs; Alamar Uniforms \$4,022.36 smcs; Alamo Rent-A-Car \$217.90 smcs; Al-Jon Mfg \$226.87 smcs; All Makes Auto \$1,990.16 smcs; Amazon \$1,820.16 smcs,co; American \$74.31 smcs,co; Amer First Aid \$29.18 smcs; Amer Library Assn \$28.00 smcs; Ampco Parking Eppley \$30.00 smcs; Amsan \$1,199.08 smcs; Anaconda Sports \$293.56 smcs; Andersen,B \$77.80 smcs; Anderson Bros \$9,472.25 smcs; Anderson,B \$496.00 smcs; Anderson,S \$43.98 smcs; Antelope Bookstore \$50.00 smcs; Apple \$13,079.00 co; Apple Market \$19.12 smcs; ARC Services \$405.00 smcs; Arctic Refrigeration \$184.00 smcs; Ask Supply \$1,843.69 smcs; Associated Bag \$1,464.15 smcs; Aunt Jo's Home Appliance \$19.95 smcs; Aurora Coop \$54.40 smcs; Awards Plus \$98.70 smcs; Axtell,E \$87.77 smcs; BabbittsOnlineCom \$115.25 smcs; Barco Municipal \$706.95 smcs; BBW Environmental \$200.00 smcs; Bells Construction \$400.00 co; Best Western Inn \$191.32 smcs; Big Red Custom Rocks \$2,240.00 co; Bishop,K \$31.00 smcs; Blackburn Mfg \$454.60 smcs; Blue26 Security \$2,284.93 smcs; BlueCross BlueShield \$145,075.54 smcs; BMI \$294.30 smcs; Bober,M \$16.90 smcs; Book Page \$960.00 smcs; Bosselman

\$28,575.47 smcs; Brabec,R \$4,455.70 smcs,co; Brackett,A \$70.00 smcs; Broadfoot's \$1,038.50 smcs; Bruha,S \$490.00 smcs; BSN Sports \$996.94 smcs; Buffalo Co Reg Deeds \$182.00 smcs; Buffalo Co Sheriff \$199.00 smcs; Buffalo Co Treasurer \$18,766.00 smcs; Buffalo Outdoor \$225.69 smcs; Builders Warehouse \$2,779.10 smcs,co; Bullhorn Graphics \$3,264.00 ps; Butler,B \$100.00 smcs; C3 Softworks \$1,795.00 smcs; Capital Business Systems \$339.55 smcs; Carquest \$4,799.11 smcs; Casey's \$102.69 smcs; Cash-Wa \$4,124.27 smcs; CDW Govt \$9,743.76 smcs,co; Central Community College \$1,000.00 smcs; Central Fire & Safety \$7,501.00 smcs; Central Hydraulic \$160.01 smcs; Central NE Bobcat \$7,830.56 smcs,co; Certified Power \$15,500.00 co; Charter \$240.15 smcs; Chemsearch \$670.29 smcs; Chesterman \$2,778.95 smcs; Chicken Coop \$40.00 smcs; Chief Supply \$135.18 smcs; Chisholm,R \$24.91 smcs; CHS Agri Service \$4,492.90 smcs; City of Ky \$468,752.38 smcs,co; City of Ky \$9,276.49 ps; Coach Master's \$949.34 smcs; Compass Tools \$295.00 smcs; CompassCom \$50.00 smcs; Conseco Life Ins \$19.00 ps; Consolidated Management \$171.25 smcs; Construction Rental \$1,312.52 smcs,co; Cook,J \$55.00 smcs; Cooperative Pro \$482.73 smcs; Copycat Printing \$568.71 smcs; Crossroads Ford \$279.58 smcs; Culligan \$217.00 smcs; Cummins Central Power \$1,024.23 smcs; Curbit \$3,590.00 smcs,co; D&S Lighting \$83.12 smcs; Dan Roeder Concrete \$29,062.52 co; Danko Emergency \$398.68 smcs; Davis Equipment \$1,818.03 smcs; Davis,E \$38.52 smcs; Davis,J \$250.00 smcs; Dawson PPD \$42,917.16 smcs; Days Inns Inner Harbor \$868.30 smcs; Delight Donuts \$57.57 smcs; Dell \$21,535.55 smcs,co; Delta Air \$25.00 smcs; Deterdings \$2,504.51 smcs; Diamond Vogel \$145.20 smcs; Dish \$143.64 smcs; Displays2GoCom \$458.41 smcs; Diversified \$139.00 smcs; Dmilaco \$1,087.34 smcs; Dog Poop Bags \$132.22 smcs; Dowhy Towing \$100.00 smcs; DPC Industries \$12,395.58 smcs; Drury Inn Greensboro \$855.70 smcs; Dutton-Lainson \$39.54 smcs; Eakes \$7,146.87 smcs,co; Ebsco \$2,865.00 smcs; Edson,W \$33.34 smcs; Eileen's Colossal Cookies \$39.50 smcs; Elliott Equipment \$620.10 smcs; Ellison,P \$45.65 smcs; Envirotech Services \$35,579.29 smcs; Eustis Body Shop \$300.00 smcs; Fairbanks \$858.21 co; Falcon Technologies \$81.47 smcs; Fastenal \$409.10 smcs; Feind,L \$54.00 smcs; Fiddelke \$1,424.63 smcs; Fireguard \$29,120.80 smcs; Fools of OZ \$105.00 smcs; Foradori,A \$94.99 smcs; Fort Ky Shooting \$6,750.00 smcs; Frontier \$9,362.62 smcs; Fyr-Tek \$2,346.42 smcs; Gale \$2,648.04 smcs; Galls \$385.54 smcs; Gametime \$3,769.41 co; Garrett Tires \$14,093.83 smcs; GD Construction \$35,325.00 co; Gear for Sports \$1,480.36 smcs; Gelpro \$270.82 smcs; Gibbs,L \$15.55 smcs; Gilg,A \$840.00 smcs; Global Industrial \$706.40 smcs; Go! Calendars \$58.83 co; GoDaddyCom \$479.10 smcs; Goodwiin Tucker \$86.00 smcs; Graham Tire \$5,646.44 smcs; Grainger \$2,818.07 smcs; Granite City Tool \$86.72 smcs; Great Plains Safety \$1,192.00 smcs; Grey House Publishing \$228.95 smcs; Grones Outdoor Power \$65.96 smcs; H&H Distributing \$581.40 smcs; H2 Golf Company \$382.95 smcs; Hach \$4,720.94 smcs; Hain,A \$23.29 smcs; Harder,R \$237.19 smcs; Harrison,R \$152.00 smcs; Hauling,I \$15.41 smcs; HD Supply \$5,669.61 smcs; Heliger,J \$32.64 smcs; Hertz Rent-A-Car \$190.73 smcs; Hillyard-Des Moines \$49.66 smcs; HOA Solutions \$13,414.97 co; Hobby-Lobby \$26.84 smcs; Holiday Inn \$231.00 smcs,co; Holmes Plumbing \$281.64 smcs; Hornady \$7,294.00 smcs; HotelsCom \$579.55 co; Hotsy Equipment \$3,995.00 co; Howard Tech \$378.00 smcs; Humphrey,D \$32.10 co; ICMA Internet \$700.00 smcs; ICMA RC \$3,972.36 ps; IRS \$125,638.12 ps; Int'l Assn of Elec \$102.00 smcs; Isaac,B \$496.00 smcs; ISG Infrasy \$9,355.00 co; ISS-FCUSA \$1,829.95 smcs; J&A Traffic Products \$7,062.50 smcs; Jack Lederman \$830.49 smcs,co; James,D \$60.00 smcs; JC Construction \$19.54 smcs;

John Deere Landscapes \$127.72 smcs; Johnson,D \$19.01 smcs; Johnstone Supply \$172.06 smcs; K&K Parts \$2,406.83 smcs; Kart-Man \$999.48 smcs; Ky Concrete \$1,677.38 co; Ky Crete & Block \$222.08 smcs; Ky Cross Fit \$36.93 smcs; Ky Hub \$9,249.82 smcs,co; Ky Humane Society \$6,825.00 smcs; Ky Towing \$285.00 smcs; Ky Warehouse \$1,323.34 smcs; Ky Winlectirc \$246.29 smcs; Ky Winnelson \$174.50 smcs; Kelly Supply \$225.60 smcs; Keough,J \$21.39 smcs; KGFW \$52.00 smcs; Killion Motors \$216.35 smcs; Kimball Midwest \$152.51 smcs; Konica Minolta \$924.54 smcs; Krueger,D \$196.00 smcs; Landmark Implement \$3,360.35 smcs; Lautenschlager-Stroud,J \$38.52 smcs; Lawn Builders \$883.93 co; Lincoln Airport Parking \$23.75 smcs; Lips Printing \$108.90 smcs; Little Caesars \$42.00 smcs; Lockmobile \$110.40 smcs; Logan Contractors \$923.78 smcs; Londer,P \$49.05 smcs; L-Tron \$5,247.00 co; Luke,D \$22.22 smcs; Lundeen-Isaacson \$2,688.00 ps; Lynch,D \$1,561.32 smcs; Machines & Media \$137.00 smcs; Magic Cleaning \$6,900.00 smcs; Mail Express \$7,140.13 smcs; Marlatt Machine Shop \$6,122.54 smcs,co; Marlow,J \$5.04 smcs; Mason Motors \$950.00 co; Matheson Tri-Gas \$697.05 smcs; Maul,E \$543.50 smcs; McBride,T \$14.08 smcs; McCarty,D \$406.34 smcs; McClanahan,R \$40.51 smcs; McLaughlin,P \$198.53 smcs; Mellen & Associates \$9,444.56 co; Menards \$1,795.35 smcs; Mendlik,M \$39.02 smcs; Metal Doors \$251.07 smcs; Microfilm Imaging \$12,367.00 smcs,co; Mid Amer Signal \$9,998.00 smcs; Mid-NE Aggregate \$5,425.00 co; Mid-Plains Equipment \$2,450.00 co; Mid-States Organized Crime \$150.00 smcs; Midway Chrysler \$235.20 smcs; Midwest Striping \$16,387.00 smcs; Midwest Turf \$2,651.45 smcs; Midwest Turf Omaha \$189.72 smcs; Mieth,T \$41.95 smcs; Miller & Associates \$231,690.61 co; Miller Signs \$90.00 smcs; Mobile Pro Shop \$597.63 smcs; Mohawks Lifts \$38,609.15 co; Morgan,M \$62.39 smcs; Morris Press \$97.76 smcs; Mostek Electric \$1,050.00 co; Motion Picture Licensing \$219.15 smcs; Mullen Lawn Service \$3,250.00 co; Municipal Emergency Serv. \$483.75 smcs; Municipal Supply \$1,871.22 smcs; Murphy Tractor Equipment \$74.48 smcs; NACO Planning & Zoning \$50.00 smcs; Name Badges Int'l \$139.59 smcs; Nanfito,H \$30.14 smcs; National League of Cities \$3,258.00 smcs; NCOA \$145.00 smcs,co; NCS Equipment \$676.89 smcs; NE Arborists Assn \$140.00 smcs; NE Child Support \$2,284.66 ps; NE Machinery \$136.86 smcs,co; NE Prof. Licensing \$47.87 smcs; NE Rural Water Assn \$50.00 smcs; NE Safety \$87.00 smcs; NE Statewide Arboretum \$130.00 smcs; NE Truck & Equipment \$1,121.13 smcs; NE Truck Center \$427.13 smcs; NEland Distributors \$533.55 smcs; NeLEIN \$150.00 smcs; Nofitke,M \$45.07 smcs; Norm's Plumbing \$8,376.44 smcs,co; Northwestern Energy \$3,608.83 smcs; Nova Fitness Equipment \$7,936.00 ps; Novus \$35.00 smcs; NP Realty \$752.00 co; NSA/POAN Conference \$525.00 smcs; Office Max \$729.91 smcs; Officenet \$100.58 smcs; O'Hara Lindsay & Assoc \$1,500.00 smcs; O'Reilly Automotive \$828.66 smcs; Orscheln \$781.71 smcs; Overhead Door \$745.00 smcs; Paddle Wheeler \$5,172.64 co; Panowicz,M \$496.00 smcs; Paramount \$206.24 smcs; Party America \$107.91 smcs; Pat's Plumbing \$625.00 smcs; Payflex Systems \$4.25 smcs; Paypal \$74.99 smcs; PBD Ala-Graph Editions \$96.00 co; PC Mall Gove \$2,620.00 co; Peerless Machine \$25,328.95 smcs; Pen Well \$846.90 smcs; Pep Co \$56.34 smcs; Perle Systems \$196.54 smcs; Pex Supply \$205.43 smcs; PF Pettibone \$533.75 smcs; Pictomery Intelligent Images \$375.00 co; Pinpros \$212.00 co; Pioneer Mfg \$507.50 smcs; Platte Valley Comm \$15,939.23 smcs,co; Platte Valley State Bank \$65.00 smcs; Postage Refill \$900.00 smcs; Presto-X \$398.61 smcs; PricelineCom \$134.48 smcs; Prime Communications \$31,477.46 co; Provantage \$1,569.76 smcs; Pulliam,R \$505.80 smcs; Qisoft \$1,712.00 co; Quill \$609.82 co; R.W. Sorensen Construction \$2,700.00 smcs; RakutenCom \$42.37 smcs; Rasmussen Mechanical \$151.75 smcs; Ready Mixed

Concrete \$31,386.58 smcs,co; Reams \$283.27 smcs; Recognition Unlimited \$186.97 smcs; Resource Management \$640.32 smcs; Restaurant Equippers \$103.90 smcs; Rheome Tree \$7,260.00 smcs; Riverside Mfg \$34.02 ps; Roemmich,H \$15.00 smcs; Rylind Mfg \$41,121.00 co; S&B Heating \$457.35 smcs; Safelite Autoglass \$176.90 smcs; Sage,P \$58.85 smcs; Sahling Kenworth \$344.96 smcs; Sanitation Products \$443.34 smcs; Sapp Bros \$32,067.99 smcs; Sargent Drilling \$1,125.00 smcs; Schneider,T \$500.00 co; Schwans Home Service \$490.50 smcs; Schwartz,B \$35.85 smcs; Seneca Companies \$378,057.60 co; Serv-U \$481.77 co; Sheldon,B \$13.99 smcs; Sherwin Williams \$3,133.50 smcs; Siddons-Martin Emergency \$158.36 smcs; Sirchie Finger \$1,178.35 smcs; Sirius \$6,000.00 co; Sixel Construction \$5,900.00 smcs; Smartsign \$174.70 smcs; SOS Portable Toilets \$105.00 smcs; Springer Roofing \$9,427.95 co; Steinbrink Landscaping \$3,629.50 smcs,co; Stott,D \$21.41 smcs; Stover,A \$30.04 smcs; Strategic Materials \$387.16 smcs; Streakwave Wireless \$197.88 smcs; Suburban Fire Protection \$23,653.96 smcs; Sun Life Financial \$61,938.90 smcs; Sunmart \$37.73 smcs; Superior Signals \$118.00 smcs; Sutphen \$981,358.62 smcs,co; Trans Iowa Equipment \$796.59 smcs; Target \$743.77 smcs; The Big Rack Shack \$94.58 smcs ;Thompson,D \$43.26 smcs; Thompson,J \$552.14 smcs; Tielke's Sandwiches \$148.65 smcs; Titleist \$233.90 smcs; Todd Valley \$885.00 smcs; Tractor-Supply \$726.30 smcs; Traffic Controls \$1,075.00 smcs; Traffix Devices \$1,975.00 smcs; Tri City Outdoor Power \$172.70 smcs; Turkey Creek Garden \$3,025.98 co; Turner Body Shop \$335.00 smcs; Ultramax \$7,562.00 smcs; Union Bank & Trust \$57,662.64 ps; United \$1,357.30 smcs; United Seeds \$1,675.12 smcs; UNK-Human Performance \$620.00 ps; UPS Store \$77.64 smcs; USA Blue Book \$178.79 smcs; USPS \$262.21 smcs; Van Diest Supply \$3,704.72 smcs; Vasquez,C \$245.80 smcs; Verizon Wireless \$20.04 smcs; Video Service of America \$2,066.00 smcs; Vulcan Signs \$14,749.18 smcs; Walgreens \$6.41 smcs; Wallwey,G \$100.00 smcs; Wal-mart \$3,456.09 smcs; Walters Electric \$7,692.68 smcs; Walton,T \$196.00 smcs; Warped Sports \$119.84 smcs; Wellman,P \$36.29 smcs; West Villa Animal \$168.32 smcs; WhenToWork \$100.00 smcs; Wicks Sterling Trucks \$126.43 smcs; Wiegand Security \$90.00 smcs; Wilder,J \$120.00 smcs; Wilke's True Value \$201.91 smcs; Wilkins Hinrichs Stober \$5,396.94 co ;WPCI \$267.50 ps; Yanda's Music \$206.49 smcs; Yellow Pages USY \$458.00 smcs; Ziemba Roofing \$187.00 co; Payroll Ending 9-7-2013 -- \$360,798.49 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 October 8, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2013-185** approving the following T-Hangar Lease Agreements at the Kearney Regional Airport: Little Note Enterprises, Thrifty Car Rental (3), Roger Carlson, Darrel Albers, Premier Aviation Training & Management (4), Richard Fiese, Randal Klinginsmith, John Goodbrake Exec Direct, David Huebner, David Benavides, Brandon Potter, Harold Sindt, Ed Spillman, Acme Aero, JD Air, Rodger's Helicopter, Roger Townsend, Mark Markes, Saadat Hosseini, Norman Hand, John Schulte, Dennis McGowan (2), E.J. Webber.

RESOLUTION NO. 2013-185

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the following T-Hangar Lease Agreements, on behalf of the City of Kearney, Nebraska:

A-01 – Little Note Enterprises	B-09 – Phil Jossi-Premier Aviation
A-02 – Thrifty Car Rental	B-10 – JD Air LLC
A-03 – Roger Carlson	BB Garage – Thrifty
A-04 – Darrel Albers	BB – Thrifty
A-05 – Kearney Aviation	C-01 – Rodger’s Helicopter Services
A-06 – Richard Fiese	C-02 – Roger Townsend
A-07 – Randal Klinginsmith	C-03 – Mark Markes
B-01 – John Goodbrake	C-04 – Saadat Hosseini
B-02 – David Huebner	C-05 – Dennis McGowan
B-03 – Phil Jossi-Premier Aviation	C-06 – Phil Jossi
B-04 – David Benavides	C-07 Norman Hand
B-05 – Brandon Potter	C-08 – John Schulte
B-06/BA – Harold Sindt	C-09 – E.J. Webber
B-07 – Ed Spillman	C-10 – Dennis McGowan
B-08 – Acme Aero, Inc.	

The Agreements, marked Exhibits 1 through 29 inclusive, are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2013-186** approving the Lease Agreement at the Kearney Regional Airport between the City of Kearney and Bosselman Energy.

RESOLUTION NO. 2013-186

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 Lease Agreement on behalf of the City of Kearney with Bosselman Energy. The Agreement, marked Exhibit “1”, is attached hereto and made a part hereof by reference

PASSED AND APPROVED THIS 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt **Resolution No. 2013-187** approving Application and Certificate for Payment No. 3 in the amount of \$421,260.17 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 6 Improvements; Phase 2 consisting of Paving

Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue.

RESOLUTION NO. 2013-187

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements – Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$421,260.17, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$683,092.30
Change Order No. 1 (5-21-2013)	+ 27,602.00
Change Order No. 2 (7-23-2013)	<u>+ 2,852.50</u>
Contract Sum To Date	713,546.80
Gross Amount Due	647,258.45
Retainage	64,725.85
Amount Due to Date	582,532.61
Less Previous Certificates for Payment	<u>161,272.44</u>
Current Payment Due	\$421,260.17

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 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt **Resolution No. 2013-188** approving Application and Certificate for Payment No. 1 in the amount of \$23,385.00 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson School Area.

RESOLUTION NO. 2013-188

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 9 Improvements; CDBG Sidewalks in the Emerson School Area, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$23,385.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$290,885.23</u>
Contract Sum To Date	290,885.23
Gross Amount Due	23,385.00
Retainage	.00
Amount Due to Date	23,385.00

Less Previous Certificates for Payment	.00
Current Payment Due	<u>\$23,385.00</u>

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 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building (alternate location is Exhibit Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 19, 2013 from 6:00 p.m. until 1:00 a.m. for a dance.

9. 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 inside the KRAve Underground located in the Kaufmann Center, 2202 Central Avenue on October 12, 2013 from 5:00 p.m. until 1:00 a.m. for a reception.

10. 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 inside the KRAve Underground located in the Kaufmann Center, 2202 Central Avenue on October 19, 2013 from 6:00 p.m. until 1:00 a.m. for a reception.

11. Adopt **Resolution No. 2013-189** approving the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Alex Brush and Joshua Paczosa.

RESOLUTION NO. 2013-189

WHEREAS, Terry Eirich, Chief of the Kearney Volunteer Fire Department, has forwarded several names of individuals desiring to serve as volunteers in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Eirich, the City Council of the City of Kearney, Nebraska hereby finds and determines that said persons listed are fully capable and qualified to serve a membership in the Kearney Volunteer Fire Department; and

WHEREAS, in order to be qualified for benefits in accordance with Sections 48-115, et seq. of the Nebraska Revised Statutes, said volunteer firefighters acting outside the corporate limits of the City must be officially directed to do so in order to be eligible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that those persons recommended by the Chief of the Kearney Volunteer Fire Department for membership in the Kearney Volunteer Fire Department as set forth on

the attached letter of recommendation, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby confirmed as members of the Kearney Volunteer Fire Department for the purposes of and in accordance with Section 48-115 of the Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

BE IT FURTHER RESOLVED that all of said volunteer firefighters named on Exhibit "A" are hereby specifically authorized and directed to serve outside the corporate limits of the municipality under the direction, orders and authority of the Chief of the Kearney Volunteer Fire Department in accordance with Section 4-204 of the Kearney City Code.

PASSED AND APPROVED THIS 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Amend **Resolution No. 2013-167** removing the reference of Facility Plan as stated in paragraph 3 of said Resolution and replace with repair and improvement of portions of the City public water supply system.

RESOLUTION NO. 2013-167A

WHEREAS, the City of Kearney, Nebraska recognizes that a properly functioning public water system is necessary to the health and welfare of the citizens of Kearney, Nebraska; and

WHEREAS, the Mayor and City Council have determined that portions of the City public water system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the City public water system may be obtained by loan from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that they should execute the contract for loan between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska designated as Project No. D311579, incorporated by reference into this Resolution as if fully set forth.

BE IT FURTHER RESOLVED that the Mayor is hereby directed to execute the contract and all other documents necessary to facilitate the loan from the Nebraska Department of Environmental Quality to the City of Kearney, Nebraska for the purpose of repairing and improving the City public water system.

BE IT FURTHER RESOLVED that the Finance Director be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Accept the bids received for the 2013 Part 3 Improvements consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly; Water District No. 2012-568 in Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg Road and terminating at a point 250 feet east of the of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly and adopt **Resolution No. 2013-190** awarding the bid to Midlands Contracting in the amount of \$366,415.00 for water and sanitary sewer and to Blessing Construction in the amount of \$542,906.65 for paving.

RESOLUTION NO. 2013-190

WHEREAS, the City of Kearney has reviewed the sealed bids which were opened on September 3, 2013 at 2:00 p.m. for the 2013 Part 3 Improvements consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly; Water District No. 2012-568 in Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg Road and terminating at a point 250 feet east of the of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$1,050,000.00; and

WHEREAS, the City has recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the amount of \$366,415.00 for Bid A (Water and Sanitary Sewer) be accepted as the lowest responsible bid for the 2013 Part 3 Improvements – Bid A consisting of Water District No. 2012-568 in Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg

Road and terminating at a point 250 feet east of the of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly; and

WHEREAS, the City has recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$542,906.65 for Bid B (Paving) be accepted as the lowest responsible bid for the 2013 Part 3 Improvements – Bid B consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Midlands Contracting be and is the lowest responsible bidder for the 2013 Part 3 Improvements – Bid A (Water and Sanitary Sewer) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting in the amount of \$366,415.00 be and is hereby accepted.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Blessing Construction be and is the lowest responsible bidder for the 2013 Part 3 Improvements – Bid B (Paving and Storm Sewer) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$542,906.65 be and is hereby accepted.

BE IT FURTHER RESOLVED the City Engineer's Opinion of Probable Construction Cost for in the amount of \$1,050,000.00 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 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Adopt **Resolution No. 2013-191** granting a Permit to ATC Acquisition, LLC for a railroad spur line across a portion of a utility easement which lies in Lot 1, Kearney Industrial Park Second Subdivision.

RESOLUTION NO. 2013-191

WHEREAS, on July 8, 1997 the Council approved Resolution No. 97-106 granting a Permit to Cross Utility Easement with Triangle Metals to construct a railroad spur line across a portion of a utility easement which lies in Lot 1, Kearney Industrial Park Second Subdivision; and

WHEREAS, in 2011 an Agreement to Extend the Permit was granted allowing Triangle Metals LLC to construct and install an auto shredder on the said property; and

WHEREAS, Triangle Metals, LLC underwent a reorganization and reformed to Columbus Metal Industries – Kearney, LLC and the Permit needed to reflect the name change; and

WHEREAS, on July 24, 2012 the Council approved Resolution No. 2012-125 approving the Agreement to Extend Permit in order to reflect the name change from Triangle Metals LLC to Columbus Metal Industries – Kearney, LLC; and

WHEREAS, ATC Acquisition LLC has purchased the business and wants to continue to have access to the rail line for transporting large quantities of metals and other recyclables.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, the Permit between the City of Kearney and ATC Acquisition LLC to continue to operate a salvage and recycling operation and to continue to have access to the rail line for transporting large quantities of metals and other recyclables. The Permit, marked as Exhibit “A” is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that Resolution No. 97-106 dated July 8, 1997 and Resolution No. 2012-125 dated July 24, 2012 be and are hereby repealed.

PASSED AND APPROVED THIS 24TH DAY OF SEPTEMBER, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. 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 in the Extension Building located at the Buffalo County Fairgrounds, 1400 East 34th Street, on October 19, 2013 from 3:00 p.m. until 12:00 a.m. for a dance.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7840 EXTENDING THE PERMIT TO ATC ACQUISITION TO CONTINUE SALVAGE AND RECYCLING OPERATION AT 4211 EAST 43RD STREET PLACE

Columbus Metals, LLC operates a salvage and recycling operation at 4211 East 43rd Street which is not within the city limits of the City of Kearney but is within the City's extraterritorial jurisdiction. Prior to Columbus Metals operating at this location, it was owned by Triangle Metals and they operated a similar type of business. City code requires that this type of business have a Conditional Use Permit. The City has also granted a rail permit to both Triangle Metals and Columbus Metals so that they would have access to the rail line for transporting large quantities of metals and other recyclables. Columbus Metals is now in the process of selling their business to ATC Acquisition, LLC. ATC intends to continue to use the property in a similar fashion to the prior owners and wishes to be granted a Conditional Use Permit with the same conditions as were applicable to Columbus Metals. They are also requesting that the rail permit be extended as well. Conditional Use Permits are not assignable but must be reviewed and approved by City Council once a new owner acquires the business. The

new owner has filed an application with City staff indicating that they will accept and abide by all of the conditions as set forth in the prior CUP and they will abide to City code as it applies to this type of business.

Council Member Buschkoetter introduced Ordinance No. 7840, being Subsection 1 of Agenda Item V extending the Permit to ATC Acquisition, LLC to continue to conduct a salvage and recycling operation on property zoned District M-1, Limited Industrial District and described as Lot 1, Kearney Industrial Park Second Subdivision and located at 4211 East 43rd Street, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers 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. 7840 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7840 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7840 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

REDEMPTION OF 2008 VARIOUS PURPOSE GENERAL OBLIGATION BONDS

Items 1 and 2 of the Regular Agenda were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of the General Obligation Various Purpose Bonds, Series 2008 in the amount of \$3,740,000 and to consider Resolution No. 2013-192.

The City of Kearney currently has Various Purpose General Obligation (G.O.) Bonds Series 2008 outstanding. The outstanding Series 2008 Bonds have an interest coupon rate ranging from 3.20 percent to 4.20 percent and mature on July 1, 2028. After monitoring the municipal bond market over the past several months, it appears that the City of Kearney could save considerable interest costs by refinancing the Series 2008 Bonds. It is estimated that the Various Purpose G.O. Refunding Bonds Series 2013 will have an interest rate ranging from 0.45 percent to 3.90 percent and will mature on July 1, 2028. Actual interest rates will not be known until September 10, 2013. The City of

Kearney has an opportunity to save approximately \$275,000 over the term of the Series 2013 Bonds by refinancing the Series 2008 Bonds.

Bruce Lefler from Ameritas presented this matter to the Council. He stated the Series 2008 G.O. Bonds are callable by the City currently at no pre-payment penalty. The redemption of those bonds according to the term and the issuance of the 2013 G.O. Refunding Bonds result in the reduction and the interest rate. The interest rate on the outstanding debt is 4.07 percent; the interest rate on the new refunding bonds is about 3.2 percent which is a reduction of .9 percent. The gross savings available to the City from the refinancing is approximately \$285,000 over the remaining term.

Moved by Lear seconded by Buschkoetter to adopt **Resolution No. 2013-192** calling for the redemption of the General Obligation Various Purpose Bonds, Series 2008 in the amount of \$3,740,000. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

ORDINANCE NO. 7841 ISSUING 2013 VARIOUS PURPOSE GENERAL OBLIGATION REFUNDING BONDS

Items 1 and 2 of the Regular Agenda were discussed together but voted on separately.

Council Member Buschkoetter introduced Ordinance No. 7841, being Subsection 2 of Agenda Item VI authorizing the issuance of General Obligation Refunding Bonds of the City of Kearney in the principal amount of \$3,840,000 for the purpose of providing funds which will pay and redeem \$3,740,000 of the City's outstanding General Obligation Various Purpose Bonds, Series 2008, date of original issue – July 1, 2008; directing the application of the proceeds of said Bonds; prescribing the form of said Bonds; providing for the levy and collection of taxes to pay the same; providing for the sale of the Bonds; and authorizing the delivery of the bonds to the purchaser, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Lammers 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. 7841 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Nikkila that Ordinance No. 7841 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7841 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.

REDEMPTION OF 2008 HIGHWAY ALLOCATION FUND PLEDGE BONDS

Items 3 and 4 of the Regular Agenda were discussed together but voted on separately.

Mayor Clouse opened for discussion the calling for the redemption of the Highway Allocation Fund Pledge Bonds, Series 2008 in the amount of \$1,045,000 and to consider Resolution No. 2013-193.

The City of Kearney currently has Highway Allocation Fund Pledge Bonds Series 2008 outstanding. The outstanding Series 2008 Bonds have an interest coupon rate ranging from 3.25 percent to 4.65 percent and mature on June 15, 2028.

After monitoring the municipal bond market over the past several months, it appears that the City of Kearney could save considerable interest costs by refinancing the Series 2008 Bonds. It is estimated that the Highway Allocation Fund Refunding Bonds Series 2013 will have an interest rate ranging from 0.45 percent to 4.00 percent and will mature on June 15, 2028. Actual interest rates will not be known until September 10, 2013. The City of Kearney has an opportunity to save approximately \$105,000 over the term of the Series 2013 Bonds by refinancing the Series 2008 Bonds.

Bruce Lefler from Ameritas presented this matter to the Council. He stated the refinancing of the Series 2008 Highway Allocation Bonds is very similar to the previous action on the General Obligation Bonds. The 2008 Allocation Bonds are currently outstanding with an interest rate of 4.44 percent. The 2013 Refunding Bonds will have an interest rate of 3.20 percent and the amortizations of those bonds go out through June 15, 2028 and the amortization on the Refunding Bonds will be on the same term. So it is simply a reduction of the interest rate and the overall payments by the refinancing of these bonds, and the City will save \$111,586 over the remaining term of these Bonds. As a combined issue between the two actions by the Council, the saving is approximately \$400,000 over the next 15 years.

Moved by Nikkila seconded by Lear to adopt **Resolution No. 2013-193** calling for the redemption of the Highway Allocation Fund Pledge Bonds, Series 2008 in the amount of \$1,045,000. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

ORDINANCE NO. 7842 ISSUING 2013 HIGHWAY ALLOCATION FUND REFUNDING BONDS

Items 3 and 4 of the Regular Agenda were discussed together but voted on separately.

Council Member Lear introduced Ordinance No. 7842, being Subsection 4 of Agenda Item VI authorizing the issuance of Highway Allocation Fund Pledge Refunding Bonds, Series 2013 of the City of Kearney in the principal amount of \$1,075,000 for the purpose of paying and redeeming the City's Highway Allocation Fund Pledge Bonds, Series 2008, dated May 27, 2008, presently outstanding in the principal amount of \$1,045,000;

prescribing the form of said bonds; pledging funds to be received by the City from the State of Nebraska Highway Allocation Fund for the payment of said bonds; providing for the levy and collection of taxes to pay the same if necessary; authorizing the delivery of the bonds to the purchaser; and providing for the disposition of bond proceeds, 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 Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers 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. 7842 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7842 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7842 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.

RED LOBSTER LIQUOR LICENSE MANAGER APPLICATION

Mayor Clouse opened for discussion the manager application for Jennifer Scheribel submitted by GMRI, Inc., dba Red Lobster in connection with their Class I-032484 liquor license located at 121 2nd Avenue East.

Jennifer Scheribel presented this matter to the Council. She is the General Manager for Red Lobster. She was just recently promoted and applied for the liquor license to be transferred to her name from the last General Manager. She has been with Red Lobster for 13 years, in three different states and is familiar with selling liquor. They provide training upon hiring in other states and have done TIPS. But recently, they have been in charge of training online for the Certificates of Training through the Nebraska Liquor Control Commission. They also do ongoing training throughout their employment; they do daily shift training twice a day with people who are working everyday as far as the correct age and who can serve.

Council Member Lear asked what the policy was for employees who do serve minors. Ms. Scheribel stated they will no longer be employed.

Moved by Clouse seconded by Nikkila to recommend approval to the Liquor Commission the manager application for Jennifer Scheribel submitted by GMRI, Inc., dba Red Lobster in connection with their Class I-032484 liquor license located at 121

2nd Avenue East. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

KEARNEY HOUSING AGENCY ANNUAL REPORT

Mayor Clouse opened for discussion the Kearney Housing Agency Annual Report.

Carrie Hardage, Executive Director, presented this matter to the Council. She handed out the annual report for the Kearney Housing Agency to the Council. This also includes the annual reports for the Gibbon, Minden and Shelton Housing Authorities which are managed by the Kearney Housing Agency. The Kearney Housing Agency is responsible for 322 physical units, which include apartments and single family homes. They do annual inspections of 100 percent of those 322 units between their maintenance staff and housing programs staff. In addition to those 322, they have managed 183 housing choice vouchers over the last year. 103 of those have no designation regarding age, disability status etc. 30 of those are targeted just to non-elderly persons with disabilities, and another 50 of those are ones that Hastings was unable to use and through the portability options of that program they were able to use them here in Kearney.

The need for those vouchers is great. Their waiting list stands at about 450 and will be closing that wait list October 1st because they do not anticipate being able to help them for a couple of years. The Kearney Housing Agency manages Gibbon Housing Agency which is 40 apartments, Minden Housing Agency which is 28, Shelton Housing Agency which is 19 and they also manage Autumn Village which is a 15-unit apartment complex just north of the fairgrounds for seniors at risk of becoming frail.

With regard to staff, over the last year there was the retirement of Elaine Wiseman who took 22 years of experience and she was promoted to her position soon after that. They also recognized three different staff members for their longevity, two of which have had 15 years and their maintenance supervisor which has 20 years. They also instituted last fiscal year an internship program with UNK so they were able to get two UNK students through an internship. They are now able to make that a paid internship who works with their family self-sufficiency participants.

Kearney Housing Agency received almost \$300,000 in operating subsidy from housing and urban development the last fiscal year. The annual report will reflect they did not receive any capital funds for the reason they received their 2013 capital funds in March of 2012, and were obligated and expended and audited on the 2012 audit. Rental income for those 322 apartments was \$583,576 for the year. Looking into their main programs, their housing choice voucher program received approximately \$417,000 from HUD for housing assistance payments. Their USDA project, which is Plaza Boulevard Apartments, received \$137,000 in rental subsidies. Their operation subsidy is just shy of \$300,000 and their Resident Opportunity and Self-Sufficiency Grant came in at \$47,863.

The housing choice voucher program paid out \$703,719.95 to landlords in Buffalo County and Minden on behalf of its residents who are participants in their program. Their Elderly Supportive Services Program, which is their congregate meals falls under, was originally started with grant funding and that funding is no longer available but they are able to keep that up and is self-sufficient. They served 15,463 meals last year for an average daily meal of 52.

The Family Self-Sufficiency Program also had some success stories this year. The participants claimed \$49,361.65 in escrow funds. What that is when a resident comes onto the Self-Sufficiency Program they look at what their rent is at that time and as their rent increases, they continue to pay their rent but that difference goes into an escrow account for them and when they graduate that program and become self-sufficient and independent of the need of welfare housing assistance then that escrow is there for them to earn. They gave out their highest escrow check in KHA history, one person alone left with \$28,906 so really good success stories in our Family Self-Sufficiency Program.

Moved by Nikkila seconded by Lear to accept the Kearney Housing Agency Annual Report. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

VERTICAL AXIS WIND TURBINES IN RESIDENTIAL DISTRICTS

Mayor Clouse opened for consideration whether to amend the City Code to provide regulations for Vertical Axis Wind Turbines in residential districts.

Assistant City Manager/Development Services Director Suzanne Brodine presented this matter. Over the last year there was some discussion about Vertical Axis Wind Turbines to a residential use type of turbine. They are designed for power generation on a much smaller scale for small commercial businesses for residential homes. As Planning Commission and staff discussed this item they talked about a lot of different options with it; where would it be appropriate, was it appropriate in the community, what type of regulations would be necessary for this. There were a lot of questions that came up so they wanted to bring this to Council to determine if the Council wanted them to pursue residential wind turbines in the community.

Code already has a provision to allow large scale wind turbines, the propeller style of generation turbines, but this is really geared towards a smaller style, anywhere from 25-45 feet they are really designed for urban settings. The larger scale size, the height requirement is it has to be set back from the property lines with the height of the pole and the diameter of the rotors, the diameter of the blade. These are all required to be engineered; the City requires engineering documents for any type whether it be large or small. It became less of a question about engineering, more of a question of whether or not it was appropriate for the residential lots in Kearney. They allow the large turbines in town and are restricted to certain zoning types but they do have setback requirements, engineering requirements and a variety of other things.

Mayor Clouse asked why these were viewed differently. Assistant City Manager stated partly because of the design of the rotor style there is less concern for ice that would fall off the blades and drop on to nearby properties and things like that. There are much smaller in scale than what you would see from a generation type facility that an LES or NPPD would install, they are designed for residential setting and they have had citizens within the City's jurisdiction request permission to install this type of structure.

Council Member Buschkoetter stated theoretically a person could put these in their backyard if they had the right size. Assistant City Manager stated not under today's Code but yes if the Code was amended.

Council Member Nikkila asked what were some of the Planning Commission's concerns with not just passing on the code but whether or not they wanted to present it. Assistant City Manager stated as they started talking about would the City allow these under what conditions, what should the setback be, how close should it be to the neighboring house if they were to install it, how big does a person's property have to be if they are going to install something like this, should there be sound level restrictions, a whole variety of things. The Planning Commission had different opinions on whether to pursue this or not.

Council Member Nikkila asked was there interest in the Planning Commission to allow propeller style turbines in residential areas. Assistant City Manager stated they only looked at the Vertical Axis Wind Turbine; staff did not bring forward a discussion as to the propeller style. Council Member Buschkoetter stated those would probably be too large. Mayor Clouse stated not necessarily; the one by UNK is a fairly small unit.

Council Member Nikkila stated it seems like the biggest issue is people just do not want a big white pole in their neighbor's backyard, is that the biggest concern from a City perspective. Mayor Clouse stated it is basically appearance. The vertical wind turbines have a size a person is going to see in residential. You can set guidelines such as height and other restrictions as to setbacks.

Council Member Buschkoetter stated obviously sound is one of the things you have to look at. So with that discussion will obviously be the height because the closer to the ground you have the more obstructed the wind is and the less efficient it is.

Mayor Clouse stated also there is a turbine located at Pramac. They had talked about small vertical axis turbines on light poles on the bike path to light the path up but they are fairly expensive.

Assistant City Manager stated there are manufacturers that make rooftop units. Mayor Clouse stated there are probably specifications on decibels for sound if someone wanted to put one in their backyard. A few people he talked to raised the fact they are not even effective or efficient and so why invest the money and his answer would be that is the homeowner's choice. If they vote to pass that advice onto Planning Commission, the height question needs to be looked at really hard because a person might have to go even higher than the 45 feet to get the more efficient models but even less appealing to neighbors if you have a 60 or 80 foot structure sticking out over the neighborhood.

Council Member Lear stated he understood that a taller tower probably makes more efficient generation but the problem is in an urban setting and the extent that the tower does not stay contained on a person's property is a bit of an issue. It is one thing when you regulate the engineering of structures that are relatively infrequent because they are large and commercially owned. It is another thing when it is opened up for every home owner to have one.

Council Member Nikkila questioned what if they are not in active operation. Council Member Lear stated that is another issue. A unit that is no longer being used either because the property owner has failed to maintain it or it becomes uneconomical to continue to use can there be some way to require its removal. Mayor Clouse agreed with that; this would be one of the bigger issues. Somebody could come in and put these rooftop units in.

Council Member Lear stated power generation lines are agnostic to how the power is generated it could be wind generated power that is transmitted over those lines. Mayor Clouse stated the reality is they are going to see more and more people want those types of things, solar, pricing is dropping in solar panels.

Stan Dart, member of the Planning Commission, stated with regard to the concern of everyone having one, these are small wind systems, less than 50 kilowatts. He did not know what the standards are in other communities but that seems to be something he sees going through a variety of different ordinances. The reality is that the individual who puts one of these up knows to put it in a place where the wind blows and not to put something up as a hobby. A person is going to invest between \$15,000-\$40,000 and the return in a lifetime, unless the rates go up substantially, is not going to be that great. The practical side of it is that there are height limitations and one would suppose that 45 feet in the residential area is appropriate. There are limitations as to the availability of good wind or appropriate wind so that is going to limit them.

One of the things that is a common misconception is that if you read the ordinances from other communities where wind is written into their ordinances you will frequently see that the setback has to be equivalent to the height of the pole and sometimes the height of the pole plus some additional increment. For instance, if you are doing a horizontal access with rotary system on that it has to be the total height of the tower and the blade at its highest dead center position and the setback has to be that much. Somehow that is based on the erroneous assumption that this wind facility is going to be one of the first things that blows down in a high wind which is not really at all the case. Well engineered and the City can specify what the loads should be on the base and the structure. The City can identify the load that is necessary; a 3-second gust at 90 miles an hour, 10-second blow at 125 miles an hour. Any of those but under those circumstances it is more likely that a roof will end up on a neighbor's house than the wind generator. So the setbacks become not an issue of what is going to happen when the tower falls down, the setbacks become an issue as to being appropriate for the neighborhood. His recommendation is that wind generation be allowed in all zones and the setbacks be appropriate to any other use in those zones with some latitude being given in the RR-1 and RR-2 areas outside the City.

Council Member Nikkila asked if this would require City staff get additional education so they can evaluate these structures. Assistant City Manager stated they were initially looking at is very similar to what they do for communications towers or other mono pole designs and that they require stamped engineered drawings so the City does inspect that to a certain extent but it rests on the professional engineers license who stamps those drawings to insure that structure is designed and built to the standards that it needs. Mayor Clouse stated depending on what they want to use it for they have a

process that they go through with NPPD. They need to be tied into the grid and it requires engineering certification and electrician to do the installation.

Assistant City Manager stated typically in a system like this the only thing the City would really be inspecting is the fitting foundation; how it is bolted to that or secured to that based on the engineer's manufacturer.

Mr. Dart stated a well maintained system like this does not get much more than 50 decibels 20 feet away. Fifty decibels is quieter than background and when the wind is blowing, the wind is more than 50 decibels. In terms of abandonment, it probably would not be any different than somebody who has a decrepit garage or an unmaintained property but if it represents a hazard it is like anything else the City would deal with.

Council Member Buschkoetter stated rather than relying on the nuisance provisions in code; if there is a concern that somebody would have a wind turbine that is no longer in service then there should be a condition to require it to come down and that should be put in the code section specifically. The inspection and maintenance is something the City might need to deal with.

Assistant City Manager stated for most designs a permit would be required for the foundation or footing for this pole. Anything above the footing would be secured safe on the engineered stamp on those design documents. This is the same process the City uses for communication towers or mono pole signs.

Council Member Buschkoetter stated the City is looking at something that might be 60-80 feet in the air and he does not want some company to build a few of these, take advantage of the citizens by doing shoddy work and not having a recourse besides them obviously suing the manufacturer or the construction company.

Mr. Dart stated among the requirements could be a building permit must be obtained for installation and it has to show property lines, physical dimensions of the property, location, dimensions and other major structures on property, location of the proposed small wind conversion system, right-of-way on public roads at a contiguous, any overhead utility lines, current aerial photography, small wind specifications including the manufacturing, model, rotter diameter, tower height, tower type, free standing or guide, engineering certification of foundation and tower loading demonstrated, capabilities of withstanding instantaneous wind gusts of no less than 80 miles an hour. It should be up to the City to go out and inspect it before they issue a permit to occupy.

Moved by Clouse seconded by Nikkila to direct the Planning Commission and staff provide amendments to the City Code regulating Vertical Axis Wind Turbines in residential districts. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$102,604.35

Moved by Nikkila seconded by Lear that the Open Account Claim in the amount of \$102,604.35 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained and Lammers absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Lear seconded by Buschkoetter that Council adjourn at 7:48 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**