

Kearney, Nebraska
April 8, 2008
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on April 8, 2008 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Police Chief; Lance Lang, Planning Coordinator; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Suzan Wilson, Ken George, Joni Reisinger, Paul Brungardt, Donna Wilson, Richard Wilson, Mitch Humphrey, Ron Hendrickson, Gary Henderson, Mary Jo Henderson, Cindy McNeil, Deb Mowry, Steve Coram, Trent Snow, Craig Bennett, Steve Altmaier from KGFW Radio, Sara Giboney from Kearney Hub, Jake Wasikowski from NTV, approximately 60 people.

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

Reverend Sam Rathod from Faith United Methodist Church provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT – I BELIEVE IN ME RANCH

Moved by Kearney seconded by Lammers to remove from the table Public Hearing 1. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse opened the public hearing to reconsider the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) and Antelope Park Estates, Richard D. Wilson, Trustee, and Donna M. Wilson, Trustee for the I Believe in Me Ranch (Owner) for a Conditional Use Permit to locate a combination of both a primary and secondary educational facility on property zoned "District AG, Agricultural District" and described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., containing 22.113 acres, more or less, of which 1.39 acres, more or less, are presently being used for road purposes on the south and west sides, all in Buffalo County, Nebraska (northeast corner of 92nd Street and Antelope Avenue).

During the past few months a significant amount of time and effort has been put forth by City staff and by representatives of the Neighborhood and the I Believe In Me Ranch to share information regarding the Conditional Use Permit application. Although the parties have strong and different opinions, they have been cooperative and professional during these discussions. In addition to the meetings below there was on-going discussion with representatives of both interests.

Provided below is a timetable of events regarding the discussion of the Conditional Use Permit:

- December 21, 2007 – Planning Commission approves the Conditional Use Permit.
- January 8, 2008 – City Council votes to deny the Conditional Use Permit.
- January 22, 2008 – City Council votes to reconsider the Conditional Use Permit and directs the City Manager as follows: to facilitate the meeting between the neighbors and representatives of the I Believe In Me Ranch and to provide a report as a part of the public hearing.
- February 11, 2008 – City Manager and City Planner met with Neighborhood Representatives to discuss and prepare a list of questions to submit to the Ranch.
- February 20, 2008 – List of questions sent to the Ranch for their response.
- February 22, 2008 – City Manager and City Planner met with Ranch Representatives.
- March 18, 2008 – City Manager and City Planner met with Ranch and Neighborhood Representatives to review additional questions prepared by the Neighborhood and determine conditions acceptable to both parties.
- April 2, 2008 – Neighborhood submits a list of eleven conditions for the City Council to consider as part of the request for reconsideration. Ranch representatives may not be agreeable to all of the conditions proposed.

During this process, the primary concerns expressed by the neighbors included safety, expansion of the CUP, and maintenance of the property. Conditions that both parties seem to agree upon if the CUP is approved, include the following:

- Obtain Chapter 14 accreditation within a specified time period.
- Maintain Workers' Compensation and Liability insurance.
- Limit the Ranch to the site plan and associated conditions approved by City Council.
- Requirement that the entire project be completed within a specific period of time.
- Time requirement for the renewal of the CUP.
- Policies concerning Level I, II, and III sexual offenders.
- Licenses, proof of certification, and accreditation provided to the City.

Also, the Ranch has volunteered the following safety measures:

- Each residence will have working window sensors.
- 24 hour awake staff in both residence halls.
- All buildings will have downward facing lighting.
- Outdoor motion and surveillance system.
- Locking doors on all buildings.
- Privacy fence around the residence hall rear yards.

Although staff was unable to negotiate an agreement between the parties regarding a final list of conditions, staff was able to facilitate communication and sharing of ideas and concerns. During the meetings, staff also suggested conditions that have not been agreed to by either party including:

- Placing an age limit on children enrolled in the residential program.
- An audible siren activated in case of security breach.
- Fencing of the entire residential areas.
- Creation of a committee of area residents and Ranch staff to discuss concerns.

Paul Brungardt, representing the I Believe In Me Ranch stated the mission of the Ranch is to transform the lives of children and adults by providing specialized therapeutic and educational services. Twenty acres will be for the Ranch and the other two acres is designated for future right-of-way for both Antelope Avenue and for 92nd Street. The key features to note here is there are four structures. They are all single story. There is an educational building, an administration building and two residential halls. They will have the appearance of a residence. They have vinyl siding, heritage stone brick facades and pitched roofs. There will be approximately 70,000 square feet of pavement for the both the drive through lane and for driveways. We have approximately 2,655 linear feet of sidewalk located inside the campus. Our proposed entrance is going to come off the paved road of Antelope and circulate through where they can discharge the children for the educational center and pick them up and go out. On the site itself, the campus would be located in approximately the southwest corner of the facility about 138 feet from the edge of the property line into the residential building and almost 300 linear feet off of Antelope Avenue.

Suzan Wilson, CEO and founder at 2140 East 56th Street, stated their ultimate goal is to provide services for children with verified disabilities. Their educational day program serves girls and boys between the ages of 6-18. Their residential program serves boys between the ages of 6-13 with an average of 10 years old. Their goal has always been to be in a homelike country setting as they believe it is the best way for parents and children to heal. They currently provide therapeutic horseback riding on their property presently. They serve kids with cerebral palsy and all other disabilities from 2 years old to adults who have had strokes in their 70's.

Their goal of expansion is to provide better services for children and families. They are in great need for more space for their educational programs. With "no child left behind", their waiting list continues to grow because of the schools in the Kearney and surrounding areas that are not able to provide the services for the children in an educational setting.

They have been in their current location for 12 years with no complaints or concerns on the current Conditional Use Permit in an Ag zone. They have a great positive relationship with their current neighbors and are very supportive. They do provide 24 hour wake staff.

Ms. Wilson presented the Council with a letter from Jack Guilsdorf from the State Department of Education who completed their Chapter 18 Interim School Audit. The letter stated that the audit has been completed and he has approved them for continuation. She also presented a letter from Rick Moses from the State Department of Education stating that the Nebraska Department of Education has received their application for a Chapter 14 school and acknowledged that the process to become approved has begun. She also presented the original conditions that they submitted and agreed to and were approved by the Planning Commission in December of 2007. In addition, on the list is the condition that she agreed to in January 2008 stating that they would work on the process of becoming a Chapter 14 school as well as safety conditions.

Ms. Wilson stated that when the State received their application, they indicated that they could possibly become a Chapter 14 school as early as August 1st. The Ranch has no control over that process.

Council member Lammers stated a major concern of his is the security. Are the locking doors on all the buildings electronic? Do they lock immediately or is there a security card pass? Ms. Wilson replied that at their current facility, they have no complaints or concerns of security with the neighbors. They have not selected the doors they would be using for the new facility. They will have window sensors. When the kids are outside they are staffed. The kids that are there overnight are staffed as well.

Council member Lammers questioned if the kids that are there overnight are between the ages of 6 – 13 with an average of 10. Ms. Wilson stated that are licensed for children 6 – 18 but their focus has always been the younger children because there is no other facility in the center part of the state to service those children. That is why their average is so low because there is not other place except in the east part of the state

that takes 6 and 7 years olds. They have so many 6-7 year olds that it pulls down the average. They have taken 12 – 13 years old.

Ms. Wilson stated they anticipate it will take 36 months to complete the entire facility once the state approves it.

Aaron Bishop, 1928 West 38th Street, represents the interests of a concerned group of Buffalo County citizens as it relates to the I Believe In Me Ranch Conditional Use Permit to be located in the northeast corner of 92nd and Antelope Avenue intersection, north of Kearney. There has been no change since the Council voted against the Conditional Use Permit that the I Believe in Me Ranch has been requesting. If anything the case against this Conditional Use Permit has only gotten worse. He has an additional 27 names that have been signed on to the petition that state they are in opposition to the proposed Conditional Use Permit for the I Believe in Me Ranch. The County changed their zoning regulations so that public and private schools would no longer be a use by right in an Ag district under the county zoning regulations. This was to make sure that any institution holding itself to be a school, such as the I Believe In Me Ranch, would be required to receive a special use permit prior to placing a school in an agricultural district.

He stated there are three important facets of the issues before the Council: First, is their view of what has transpired since the last public hearing and Council meeting which reopened this issue. Secondly, is the reasons why his clients are still of the opinion that the Ranch's Conditional Use Permit does not comply with the City Code. Finally, the proposed conditions prepared by the community members at the request of this Council and their reasoning behind each of these proposed conditions.

At the time this issue was reopened, it was the understanding of his group that the idea was to get everyone in a room together and see if the confusions, differences and points of contention could be resolved and conditions could be found that would remove the opposition. As of this public hearing, that meeting has never happened. The City Manager met with some of the community members to try to come up with a list of questions to present to the Ranch, which he believes were to be used to shape the discussion at an eventual meeting between the parties. After that meeting, the City Manager came away from that meeting feeling that the sides were too far apart or that there would be no additional conditions. This led to a meeting between the parties being cancelled or at least revived the idea of at least getting the two sides together to see if any discussion could lead to progress.

The Ranch answered questions prepared by the City Manager.

- The Ranch indicated that they will only be treating young children. There is no mention of any adult or older children receiving treatment at the Ranch.
- They also indicated that they would be combining the two current facilities; one is used to run a therapeutic riding center that is now absent from the discussion.
- A huge question was raised when asked what the differences were between the 56th Street campus and the proposed Antelope campus. The only differences that were offered were that there is a stand alone education center at the 56th Street campus, but all other services would remain the same which again raises the questions about what the new campus would be used for.

- There was no answer as to the actual ages of the students at the Ranch.
- The Ranch was asked what benefits they provide to the community. By community, their intent was to ascertain what the Ranch would offer to the 92nd and Antelope community in keeping with the Comprehensive Development Plan of the City of Kearney. The response received spoke only to the benefits to Kearney, the City itself, not to the community where the Ranch is proposing to go.
- He prepared questions of unresolved issues and presented to Attorney Ken George who would forward to Ranch representatives but have never received any response. Many of these same questions were at least brought up at a subsequent meeting between Ranch representatives and two members of the community which was recently moderated by the City Manager.

The Council has received his proposed conditions as requested. They would hope if the members of the Council have changed their minds about this application that they would, at the very least, strongly consider the conditions suggested or some form of these conditions.

Mr. Bishop clarified the fact that the community members he represents are not opposed to the idea of the I Believe In Me Ranch in principle. What they do have a problem with is the Ranch being put in an area where it should not go and under plans that have changed numerous times over the past several months. There is no clear indication of how the Ranch will be regulated, what it will be doing and how it will all change over the next several years.

When a use issue does not fit neatly into a category or may adversely impact a community, Conditional Use Permits may be approved by the Council but are designed to allow for extra control over these uses. A brief list of the outstanding issues with the I Believe In Me Ranch as it relates to the Kearney City Code under Chapter 46, Table 46-1 in an agricultural district – group residential, the maximum number of unrelated persons in any living structure is five. Now while the I Believe In Me Ranch may be applying as a primary and secondary school, surely that status does not completely excuse them from these requirements that all other residents of these districts have to abide by.

The proposal indicates two residential units with ten bedrooms each unit. This point brings about the fact that whether or not the I Believe In Me Ranch is a school or not or whether. There would not be much argument against the fact that it could be more closely defined as a group care facility. A group care facility is defined as a facility licensed or approved by the State of Nebraska or other appropriate agency which provides for the care and short or long term continuous multi-day occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic on-going program. A definition of such a facility at least would not place restrictions on the number of unrelated persons who could stay in each room. This, however, leads to Table 14-1 from Chapter 14 where a group care facility is not allowed even with a Conditional Use Permit in agricultural districts.

The following is a list of the conditions that was prepared and delivered to the City Manager:

1. No student/client at the I Believe In Me Ranch will be allowed to leave the Ranch property (defined by the perimeter proposed in the plans delivered to the Council) unattended while they are suppose to be attending the Ranch.
2. The Ranch will provide licensed private security to supervise students during all hours of operation for the I Believe In Me Ranch. It would be at least one security personnel at all times. The fact remains that security issues are one of the main concerns that has been expressed throughout this whole process.
3. The I Believe In Me Ranch will maintain liability insurance for personal or property damage caused by any student/client.
4. Only students/clients of the Chapter 14 Interim school program currently proposed by the I Believe In Me Ranch will receive any form of treatment at the Ranch. Employees or volunteers of the I Believe In Me Ranch, as well as private individuals or entities, will not be able to use office space at the Ranch to conduct private practice therapy or treatment sessions.
5. I Believe In Me Ranch will obtain a Chapter 14 accreditation for both the primary and secondary school by the fall 2008 school year and maintain that status with all the accompanying facilities and licensing necessary for such a facility.
6. The Ranch be limited to the current building proposal issued by the City Council under this Conditional Use Permit. Additional structures, facilities, centers or areas will not be added to the I Believe In Me Ranch campus.
7. The I Believe In Me Ranch will make available upon request a listing, not to disclose any identifying information, that states the current age, gender, diagnosed condition, medication, reasons for placement at the Ranch and admission date of all students/clients. Provide some or all of the following: name, age at admission, date of birth, diagnosed conditions, and medications prescribed, gender, reason for placement at the Ranch, education plan while at the Ranch, therapeutic plan while at the Ranch and both for tenure at the Ranch. It will be the I Believe in Me Ranch's responsibility to get the proper releases signed prior to the admission of a new student/client so that such information can be made available.
8. The I Believe In Me Ranch will disclose prior to approval of the construction matrix suggested for the buildings proposed under the Conditional Use Permit and the contractor for the construction to insure the construction of the buildings on campus conforms to those in the surrounding community.
9. The I Believe In Me Ranch will obtain all proper and necessary funding for the completion of the construction project prior to the issuance of the Conditional Use Permit by the Council.
10. The I Believe In Me Ranch will be required to invest a certain portion of the income of I Believe In Me Ranch or its Board of Directors or whoever is getting the rent on the property that they are proposing that location to the maintenance, upkeep and improvement of appearance of structures and landscaping of the I Believe In Me Ranch each year or in the alternative own the property on which the I Believe In Me Ranch campus sits.
11. Finally, the City will pledge the coverage of any incident involving the I Believe In Me Ranch or its students/clients requiring the involvement of law enforcement to be handled by the Kearney Police Department.

Deb Mowry, 2985 East 92nd Street voiced her opposition to this application. She wanted to draw attention to the following five points:

1. A new reason for relocating was given according to the CEO of the Ranch “the main reason is that she found out a few years ago, she was going to lose the lease on a property they are presently on”. Now they have heard that they have outgrown the facilities, they have a lot of dirt to move, the buildings are dilapidated and falling apart. Now here she has lost a lease on the land and buildings that she owns.
2. The Ranch is confused about the definitions of the primary use on the application.
3. The CEO of the Ranch has concerns about safety.
4. What is a primary use and is that use appropriate in the area? A review of the licenses, employees and past applications indicates that the primary use is not to have a primary or secondary school. Out of approximately 50, only three have teacher certifications which mean that only six percent of the employees are teachers. Even then none are endorsed for a secondary school. Therefore, if education is a primary use, why is 94 percent of the staff not teachers and why is 100 percent of staff not endorsed in areas required by secondary school?
5. If you have three employees that are teachers and the other 47 are not, you are dealing with behavioral issues and that is your primary function – not education.

Police Chief Dan Lynch clarified that the City and County, by mutual aid agreement, respond to calls accordingly. If the County is not close enough to respond in a timely manner, the Kearney Police Department responds. Sometime there are going to be at the extremes of the County and it is going to depend on the type of the call. It is not always convenient, but sometime it takes 30 minutes to get to something because it is not as important as something else that might be going on.

Lisa Smith, 52585 100th Road in Shelton addressed the Council. She has witnessed over the last eight years what the Ranch can do to a child. He attends school there from 8:30 a.m. to 3:30 p.m. – Monday thru Friday year around with a short 2 week vacation for the last 8 years. What I have personally witnessed is that transformation from an unruly 9 year old to a sweet and respectful 17 year old. The Ranch has not only taught him the usual school subjects, but also things like how to help him control his outbursts, manners (such as ladies first), how to care for someone other than himself with the horses, shopping on a budget and other life skills. Attending the Ranch has made home life much easier. He has chores, loads the dishwasher, cleaning his room without being reminded all the time. I am confident in saying that if he had not started going to the Ranch, he would probably be in a detention center of some kind and not getting any help at all. He is on medication and will be for the rest of his life. With the Ranch helping the mom, he can very well become a productive member of society instead of a burden.

She further stated that on another note, she commented on some of the conditions that some of the neighbors were asking. On the private security issue, she personally thought it would be very dangerous and destructive for the kids at the Ranch if the security personnel is not trained in dealing with these kids and with their disorders, they could set a child's progress back or hurt one of the kids over a simple misunderstanding that they were not trained to deal with. The 24 hour awake staff, which the Ranch agreed to have, knows and works with these kids on a daily basis and knows them better than anyone.

She was appalled on the neighbors' condition to have a list of current student and all their private information. This is an invasion of privacy. She wondered if they expected that same list with all the same information on it on all their other neighbors or on all the kids in their kids' classes at school. Their kids spend seven hours a day with these kids at school. Do they even know all their first and last names, let alone all that information on those their child is spending their entire day with? Are they willing to give that same information on their families to the Ranch to protect the kids at the Ranch from someone else moving in that may have problems?

Mary Fisher from Grand Island addressed the Council. It has become very clear to me that the issue is not really about zoning or accreditation or any of those things. It is really about fear. She has a son who attends the day program at the Ranch. He struggles how to deal with kids his own age. He does not know how to interact with kids his own age. He has been attending the Ranch for a little over two years and is one of the older students in the program. He considers the Ranch as his "school". He has a variety of neurological conditions. Even though he is 14 years old, academically he ranges from a first to fourth or fifth grade level, depending upon the subject. Developmentally and behaviorally he is also behind.

When they enrolled their son at the Ranch, they sat with the school, re-evaluated his IEP and they asked what our goals were for our son. She wanted to focus on things that were really going to make him a productive member of society, have life skills and not necessarily how many math problems he could do within three minutes. They really focused on what kinds of social skills they could teach him as well as his academics. So he has both goals in place in his IEP. The school sends home daily behavior reports and quarterly and monthly educational and behavioral reports.

She does not mind sharing her son's background in this forum for this reason. She strongly disagree with the request to make available the diagnosis and medications. There are privacy laws in place for that.

Ms. Fisher continued. There has been a lot of discussion at past meetings, about if a child would leave campus. There is little to no opportunity for a child to walk off by themselves. There is so much more monitoring at this facility than there ever would be at a public school setting. In a public school you could have your child with 250-300 children unmonitored. At the Ranch there are probably 10-15 kids, a special education teacher, a regular teacher, aids for the classroom and so that opportunity just does not present itself. The last thing that she would want is private security coming in. If someone does not know how to interact with her son, she does not want someone just stepping in without that kind of training and trying to deal with him.

These kids already know that they are different. They don't need to be made to feel like they are prisoners. We don't need to treat them that way. There is an emotional issue because of the fear factor. People need to keep an open mind.

Mayor Clouse asked Ms. Wilson if the Ranch allows private practice therapy. Ms. Wilson responded it is no different than any other school where they come in and they have different people come in for groups and that type of thing, not just one specific. For

example, Sunrise Middle and Horizon Middle School have mental health therapists that come in and work with groups of kids. What they really look at is when they have a child that is going to a foster home or going to a grandparent's or aunt and uncle's home, there are adults that are coming in as a part of family therapy. There are foster kids coming in. It is part of the whole transition process. They currently have a child that was in their program three years ago and instead of him transitioning to another therapist, he still comes to their campus and sees that therapist. Their therapist is already in the program. They do not bring in outside people.

Council member Lear asked Ms. Wilson what time frame she is working with. Ms. Wilson responded that is hard to answer because she has no control over the Department of Education or the Department of Health. As soon as the educational center is completed, that everything else should be completed with them. The whole process would be completed.

Scott Brady, 4960 East 92nd Street voiced his concern. He clarified that the residents of the 92nd Street neighborhood do not question the mission of the I Believe in Me Ranch or how they handle their day to day business as far as what they do with their young people. They are not seeking to close down that facility. They oppose the location of the facility. They are interested in having a place that preserves the integrity of an agricultural and residential neighborhood which has brought most of them here. They are interested in preserving their property values and options that may exist in the future. They are perfectly happy if the Ranch wants to stay where they are at or find an area that is zoned for them.

Mildred Nienaber, 8705 Antelope Avenue voiced her concern about safety. She lives alone and is concerned as to what safety features the Ranch will use. She is concerned with the older kids. When those kids get 12 or 13 years old and when they get mad they are hard to handle. She could not protect herself and anyone older than that is unthinkable.

Julie McConnell, 3003 Avenue E addressed the Council. She has a 15 year old who attends the Ranch. He has some behavioral issues. These kids are citizens and they need the same respect that everybody in the room does. They have been treated as criminals, but there are places for criminals; the jail, the Buffalo County Detention Center, YRTC. This is what they are trying to do; they are trying to prevent these kids from going there. They are trying to get them in order. Her son has been there since October and has improved greatly.

Ed Sweet, 100th Street and Cherry Avenue voiced his concern. He was concerned about the sewer system that the Ranch would have to design and will it be approved by the State. He also wanted to know who transports these kids back and forth to the different places.

Paul Brungardt addressed the concern on the sewer system. Their plans will have to go before all the State agencies; the State Fire Marshall, the Department of Environmental Quality, etc. The State has to approve the septic and well locations before a building permit can be issued by the City.

Scott Sweet, 4425 East 100th Street, asked about transporting the kids.

Ms. Wilson responded to the question about transporting the kids. Their staff members have had background checks done on them as required by their accreditation; by the Department of Health and Human Services, Magellen, Mediacade and State Department of Education. They have quite an extensive background check they have to go through. They also teach staff how to drive on gravel. Also they have parents that transport. The kids that just come in during the day are transported by the schools. They are transported by Kearney Public, Gibbon, Wood River, Grand Island, Minden and Hildreth Public Schools. They are transported by van or car.

Scott Sweet also asked who does the background check on the CEO?

Council member Buschkoetter stated there is accreditation. Those issues there are germane to her license and have been fulfilled or otherwise she would not have a license.

Rodney Snider, 4410 East 100th Street, stated the will of the people in the neighborhood should come into account for something. If everything has to come down to a lawyer and a judge then there is not much point in heating this building.

Sue White, 2670 East 92nd Street, stated she has seen a van full of older kids. She was curious as to whether or not they were students. She is concerned because of her close proximity to the Ranch if the kids would break out.

Ms. Wilson stated they do not transport kids on a daily basis from the north campus to the south campus. The only time they come to the main campus is for special activities. On Thursday afternoons, they come for bible study but their van is brown.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) and Antelope Park Estates, Richard D. Wilson, Trustee, and Donna M. Wilson, Trustee for the I Believe in Me Ranch (Owner) for a Conditional Use Permit to locate a combination of both a primary and secondary educational facility on property zoned "District AG, Agricultural District" and described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., containing 22.113 acres, more or less, of which 1.39 acres, more or less, are presently being used for road purposes on the south and west sides, all in Buffalo County, Nebraska (northeast corner of 92nd Street and Antelope Avenue) subject to compliance with the following conditions: (1) the proposed facility will never provide services to a known Level 3 sex offenders on this campus; (2) the facility shall maintain a policy that does not permit any known Level 3 sex offenders on the campus; (3) the facility shall within 24 months from the date it is issued a certificate of occupancy obtain from the Nebraska Department of Education and maintain the designation of the Title 14 school or its equivalent; (4) the City of Kearney may at any time require the implementation of additional security or safety procedures or improvements it deems necessary to protect the public's interests; and (5) this permit shall expire after 36 months from its date of issuance if the project as proposed has not been completed.

Discussion: City Manager stated one thing that needs to be better defined is the site plan. There is an actual site plan that has been proposed and approved and suggested referencing that which should address some of those concerns. The concern about the additional amenities is not included in that site plan, for example the therapeutic riding, the trails, etc. Maybe that site plan needs to be looked at or brought back up. Those were not included in that site plan that was with the CUP application.

Some of the other conditions regarding the insurance and the workers' compensation could be addressed by the City receiving a copy annually of the certificate of insurance for those coverages. They are required to have them by state law. That would be a part of the condition that would be fairly easy to manage. The City should be listed as a certificate holder, that way it would be notified if there was a lapse in coverage. All that is needed is to add a condition stating that the City of Kearney will be listed as a certificate holder for workers' compensation and liability insurance.

The motion was amended and reads as follows: Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) and Antelope Park Estates, Richard D. Wilson, Trustee, and Donna M. Wilson, Trustee for the I Believe in Me Ranch (Owner) for a Conditional Use Permit to locate a combination of both a primary and secondary educational facility on property zoned "District AG, Agricultural District" and described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., containing 22.113 acres, more or less, of which 1.39 acres, more or less, are presently being used for road purposes on the south and west sides, all in Buffalo County, Nebraska (northeast corner of 92nd Street and Antelope Avenue) subject to compliance with the following conditions: (1) The proposed facility will never provide services to a known Level 3 sex offenders on this campus. (2) The facility shall maintain a policy that does not permit any known Level 3 sex offenders on the campus. (3) The facility shall within 24 months from the date it is issued a Certificate of Occupancy obtain from the Nebraska Department of Education and maintain the designation of the Title 14 school or its equivalent. (4) The City of Kearney may, at any time, require the implementation of additional security and/or safety procedures or improvements it deems necessary to protect the public's interests. Permittee shall provide, at a minimum, the following safety measures: (a) all windows shall have working window sensors; (b) all buildings shall have locking doors; and (c) 24-hour awake staff shall be provided in both residence halls. (5) This permit shall expire after 36 months from its date of issuance if the project as proposed has not been completed. (6) The Permit is limited to the site development plan which was submitted as a part of the application for a Conditional Use Permit to the Planning Commission and City Council. The site development plan includes the 300-foot radius map, overall site plan, setback plan, landscaping plan, and building floor plans and elevations for all buildings, including basements. The entire development site plan, as part of the application for a Conditional Use Permit, is on file in the Building and Zoning Division. (7) Permittee shall purchase and maintain Workers' Compensation and Liability insurance and shall furnish annually to the City of Kearney a Certificate of Insurance indicating that there is such insurance coverage. The City of Kearney shall be listed as the Certificate Holder. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

Council member Buschkoetter stated that both he and Council member Kearney voted in favor of this the first time. They are comfortable with the requirements the State already had at that point, but certainly nothing is more important to a person than their domicile, their family and their home. The passions that people in that neighborhood have are not only understandable; they are what we all share. Some of the criticisms that the neighbors have had up there as pointed out, are not really fair because what would the Council do under those same circumstances. No member of the Council ever said those words that were so hurtful and they do not agree with those words that were so hurtful. The Council is trying to do the best they can. At one time though because of the passions, this governing body made a decision that some of them were not very comfortable with. It is not unusual for elected officials to re-evaluate. The system does work. If you get the decision you want, you think the system works really well. The Council has worked long and hard to try to come up with a decision that they can all walk away from and believe they did the very best that they could.

Council member Lammers voiced his concern on the overnight age element. An order child can get very physical. He realizes they have quite a bit of staff during the day, but typically there are not as many people there for overnight staff in that type of situation.

Ms. Wilson stated that it gets to the point where there are not as many 6 and 7 year olds and they have it so that they could take 14 year olds as a business with a \$1.4 million payroll, we would like to see a viable business in this community. They believe that because they do not have any conditions on them at their current site and have had no problems in 12 years in a highly populated area that there is no reason to put one more condition on them. They have three night staff. If they do increase to ten bedrooms in a building, then there would be two in each building, plus a rotating person so that is five people.

Mayor Clouse stated he was the one who made the motion back in January when they had the options of approving, denying or tabling. He made the motion to deny and he probably should have made a motion to table so that they could have had the discussion that has taken place in the last few weeks. Recognizing that this is a very challenging issue, he has learned a lot about a lot of people in these last few months. When he looked at what his role is on the Council, one of them is to protect the adjacent land owners. At the same time, you try to arrange it so that you can promote development and that is one of the purposes of the conditions. They have tried to appease both sides and he does not think that they are going to get there.

The Council has to make a decision and have to move forward. They have a role and a responsibility to play and they have to do it to the best of their effort. They have given it their best shot as far as trying to bring everybody together and provide some conditions, provide some measure of sense of security and protection for the neighborhood. There is a lot of pressure on the Ranch, with the understanding the amount of opposition that is out there. It is not a slam-dunk for the Ranch. There is a lot of pressure there to perform and to prove to be a good neighbor and a good steward.

Council member Lear made the following statements: "In light of the fact that I brought the motion for reconsideration, I did prepare a few remarks just simply because I felt that it was important to clarify why I have done what I've done. For me reconsideration

of the I Believe in Me Conditional Use Permit is about finding the best possible answer to a decidedly complex and emotional issue. It's really not the emotion that makes this decision difficult. It is finding what is the fundamental principle that should guide our decision that is fundamentally difficult. It really doesn't even matter if the Ranch is doing something good or doing something bad. This process is not for passing judgment on the Ranch, its management or its employees. Even if they will save the world, we cannot let them located wherever they want to go. Even if some bad things happen there, we cannot prevent them from happening. What matters is whether or not we are proper and consistent in managing the development of our community.

Although our legal counsel had determined that the Ranch is a school. I personally believe that it is more than a school. I personally would classify its use type as a group care facility. So while it qualifies as a school for this process, I am concerned that this is not the most appropriate classification even if it is a correct one. The Ranch has proposed to build at a location that is not zoned for its proposed use. The Ranch could have chosen to go to any number of other places as a group care facility, without the need to go through this process. They did not make such a choice and therefore, had to apply for a Conditional Use Permit. Conditional Use Permits are unqualified "maybe" in the world of land use development. There are no real standards and few rules that govern their use, which is why I have never been very happy to use them. This is also why they are rarely issued in cases of substantial opposition. The Ranch's proposed \$3 million investment, based on a 2 year original Conditional Use Permit, doesn't seem to be the correct way to govern development. Therefore, I believe it was fundamentally correct to deny the initial proposed Conditional Use Permit.

However, there is a second fundamental principle in this case. This principle requires that we be consistent with our land use planning in a way that makes sense for the long term growth of our community. Every time an opponent thanked me for voting to deny the Conditional Use Permit initially, I was uncomfortable with receiving that thanks. This project does, in my opinion, meet our established land use planning criteria, based on it's location on a paved arterial and pre-existing nearby development. It appears to me that this property could qualify for zoning as high as C-2 and maybe even higher. This means that I would probably have approved rezoning the property and this project could have gone forward without a Conditional Use Permit. Therefore, I would have to conclude that a correct decision created the wrong result. I believe that we achieved the wrong result not just for the Ranch, but also for those who have concerns regarding the Ranch and its operation. While, the initial Conditional Use Permit was in my opinion flawed, the only way we can begin to address concerns raised by the opponents of the project is with the additional conditions available under a Conditional Use Permit.

The primary concerns regarding this project are safety concerns. There have been other issues raised, many of which are not relevant, but safety is the key component. Our City does not regulate the safety of facilities like the I Believe in Me Ranch. We do not regulate the safety of Richard Young Hospital, St. Luke's Nursing Home or Kearney Public Schools. In this case, safety is regulated by other State and Federal agencies. It is simply not within our purview. With a Conditional Use Permit, however, we do have an opportunity to impose certain conditions that will help us address how the Ranch operates in the future, if security issues present themselves or if the nature of their operation changes. With these modifications that we are discussing here today, I

believe that we will have taken appropriate steps to address the key issues that are within our oversight and to do our best to protect the public while allowing an appropriate project to move forward at an appropriate location. Thank you.

FINAL PLAT FOR RICHTER'S 4TH SUBDIVISION

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Lawrence Richter (Owner) for the Final Plat for "Richter's 4th Subdivision", a subdivision in Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., containing 8.28 acres, more or less, Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th Street) and to consider approval of Resolution No. 2008-50. Planning Commission recommended approval.

The applicant is requesting approval to vacate and replat a tract of land that is approximately 8.28 acres to improve the roadway alignment and adjust lot sizes. The property is located approximately 3/10's mile north of 78th Street on the east side of Highway 10, or as many people know it, just north and east of Glenwood Corners. The property is currently platted as Richter's 2nd Subdivision. The subdivision takes access from a street known as Wood River Road, part of which will be vacated to improve the roadway alignment. This property is zoned RR-1, Rural Residential, Rural Standards. The houses are served by individual well and septic systems.

As previously mentioned, a portion of Wood River Road is proposed for vacation. The currently platted road is a backwards "L" shaped piece a distance of 240 feet east from Highway 10 and then north for 200 feet. The actual traveled surface of this rural roadway is not "L" shaped but more of a curve to the east, portions of which lie outside the platted road right-of-way. The backwards "L" shaped piece of Wood River Road is being vacated so that a new curved road alignment more closely following the existing road can be dedicated on the subdivision plat.

Reconfiguration of Wood River Road affects two previously platted lots, Lot 1 and 21 of Richter's 2nd Subdivision. These lots must be vacated and then replatted as Richter's 4th Subdivision. Lot 21 increases in size, while Lot 1 decreases since the revised road right-of-way cuts through it. The resulting Lot 1 is still quite large at 6.72 acres.

The applicant proposes a two-lot subdivision to be known as Richter's 4th Subdivision. The Preliminary Plat was approved by the Planning Commission on March 21, 2008. This subdivision ties into the existing road and lot framework of Richter's 2nd Subdivision. A Subdivision Agreement is not required, nor is a Public Works Plan.

Trenton Snow was present to answer any questions from the Council.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted Trenton Snow (Applicant) for Lawrence Richter (Owner) for the Final Plat for "Richter's 4th Subdivision", a subdivision in Buffalo County, Nebraska for property described as a tract of land being part of the Northwest Quarter of Section 13, Township

9 North, Range 16 West of the 6th P.M., containing 8.28 acres, more or less, Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th Street) and approve **Resolution No. 2008-50**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2008-50

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "RICHTER'S 4TH SUBDIVISION" a subdivision being that property described as Lots 1 and 21, Richter's 2nd Subdivision, Buffalo County, Nebraska (now vacated) and part of Wood River Road (now vacated) located in the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southwest corner of the Northwest Quarter of said Section 13 and assuming the west line of said Northwest Quarter as bearing north and all bearings contained herein are relative thereto; thence north on the aforesaid west line a distance of 1330.18 feet to the south line of said Richter's 2nd Subdivision (if extended westerly); thence east on the south line of said Richter's 2nd Subdivision (if extended westerly) a distance of 33.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the east right-of-way line of Nebraska State Highway No. 10; thence east on the south line of said Richter's 2nd Subdivision a distance of 389.97 feet to the southwest corner of Lot 20, Richter's 2nd Subdivision; thence north on the west line of said Lot 20 a distance of 200.0 feet to the northwest corner of said Lot 20 and being on the south line of Blue Mill Road, a street in Buffalo County, Nebraska; thence west on the south line of said Blue Mill Road a distance of 210.0 feet to the west line of said Wood River Road; thence north on the west line of said Wood River Road a distance of 320.0 feet to the north line of said Wood River Road; thence east on the north line of said Wood River Road a distance of 60.0 feet; thence N50°02'52"E on the line common to Lots 1 and 2 in said Richter's 2nd Subdivision; thence north continuing on said common line a distance of 541.45 feet to the approximate centerline of the Wood River; thence S62°35'24"W on said centerline a distance of 28.0 feet; thence S76°35'15"W continuing on said centerline a distance of 191.22 feet; thence S84°07'08"W continuing on said centerline a distance of 63.25 feet; thence S65°27'23"W continuing on said centerline a distance of 52.64 feet to the east right-of-way line of said Nebraska State Highway No. 10; thence S56°40'05"W on the centerline of said Wood River and the east right-of-way line a distance of 24.63 feet; thence S45°58'48"W on said centerline and the east right-of-way line a distance of 46.64 feet; thence S18°56'30"W on said centerline and the east right-of-way line a distance of 49.53 feet; thence S08°46'29"W on said centerline and the east right-of-way line a distance of 103.15 feet; thence S01°06'59"W on said centerline and the east right-of-way line a distance of 91.74 feet; thence leaving said east right-of-way line S03°08'50"E and continuing on said centerline a distance of 411.43 feet; thence S08°00'04"E continuing on said centerline a distance of 158.95 feet; thence S13°39'15"W continuing on said centerline a distance of 123.79 feet; thence S47°29'38"W continuing on said centerline a distance of 39.84 feet to the east right-of-way line of said Nebraska State Highway No. 10; thence leaving said centerline south on said east right-of-way line a distance of 127.52 feet to the place of beginning, containing 8.28 acres, more or less, all in Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th Street), duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and

requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

DEVELOPMENT PLANS FOR OFFICE ADDITION; 109 EAST 52ND STREET

Mayor Clouse opened the public hearing on the Application submitted by Nicole Straka (Applicant) for Kearney Realty, LLC (Owner) for Planned District Development Plan Approval for the construction of an office addition on property zoned "District C-2/PD, Community Commercial District/Planned Development Overlay District" and described as Lot 1 except the east 125.0 feet thereof of Block 2, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (109 East 52nd Street) and to consider approval of Resolution No. 2008-51. Planning Commission requested that the trash enclosure and dumpster be relocated from the west end of the parking lot to the east end to reduce conflicts with access to parking stalls.

The applicant is requesting approval of Revised Development Plans for a 1,050 square foot building addition on the east side of the existing office building at 109 East 52nd Street. The property is zoned C-2/PD. The building materials for the addition will match the existing building. Adequate parking is proposed at 21 stalls required and 22 provided. Since this is a relatively small addition to an existing developed site the impact to the site is minimal and stormwater detention and landscaping that is in place is acceptable. A trash enclosure is required per the Utilities Department.

Craig Bennett from Miller & Associates presented this matter to the Council. The trash enclosure and dumpster will be located at the east end of the parking lot as requested by the Planning Commission.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Nicole Straka (Applicant) for Kearney Realty, LLC (Owner) for Planned District Development Plan Approval for the construction of an office addition on property zoned "District C-2/PD, Community Commercial District/Planned Development Overlay District" and described as Lot 1 except the east 125.0 feet thereof of Block 2, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (109 East 52nd Street) and approve **Resolution No. 2008-51** subject to compliance with condition that the trash enclosure and dumpster shall be located at the east end of the parking lot to reduce conflicts with access to parking stalls. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-51

WHEREAS, Nicole Straka (Applicant) for Kearney Realty, LLC (Owner) have applied for Planned District Development Plan Approval for the construction of an office addition on property zoned "District C-2/PD, Community Commercial District/Planned Development Overlay District" and described as Lot 1 except the east 125.0 feet thereof of Block 2, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (109 East 52nd Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Nicole Straka (Applicant) for Kearney Realty, LLC (Owner) for Planned District Development Plan Approval for the construction of an office addition on property zoned "District C-2/PD, Community Commercial/Planned Development Overlay District" and described as Lot 1 except the east 125.0 feet thereof of Block 2, Skiview Addition, an addition to the City of Kearney, Buffalo County, Nebraska (109 East 52nd Street) subject to compliance with the condition that the trash enclosure and dumpster shall be located at the east end of the parking lot to reduce conflicts with access to parking stalls.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING SOUTH OF 52ND STREET AND WEST OF 3RD AVENUE

Mayor Clouse stated the City received a letter from the applicant requesting to table until April 22, 2008 the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) to rezone from "District AG, Agricultural District" to "District C-2/PD, Community Commercial District/Planned Development Overlay District" property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue).

Moved by Buschkoetter seconded by Clouse to table until April 22, 2008 the hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) to rezone from "District AG, Agricultural District" to "District C-2/PD, Community Commercial District/Planned Development Overlay District" property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT FOR SORENSEN PARK FIFTH ADDITION

Mayor Clouse stated the City received a letter from the applicant requesting to table until April 22, 2008 the public hearing on the Application submitted Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the Final Plat for

“Sorensen Park Fifth Addition”, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue) and to consider approval of Resolution No. 2008-52.

Moved by Buschkoetter seconded by Clouse to table until April 22, 2008 the hearing on the Application submitted Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the Final Plat for “Sorensen Park Fifth Addition”, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ANNEXATION OF SORENSEN PARK FIFTH ADDITION

Mayor Clouse stated the City received a letter from the applicant requesting to table until April 22, 2008 the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the annexation of “Sorensen Park Fifth Addition”, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue).

Moved by Buschkoetter seconded by Clouse to table until April 22, 2008 the hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Sorensen Acres, LLC (Owner) for the annexation of “Sorensen Park Fifth Addition”, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the East Half of the Northeast Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., containing 3.12 acres, more or less, Buffalo County, Nebraska (south of 52nd Street and west of 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

IV. CONSENT AGENDA

Moved by Clouse seconded by Kearney that Subsections 1 through 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held March 25, 2008.
2. Approve the following Claims:
 - PS - Personnel Services
 - SMCS - Supplies, Materials & Contractual Services

ER - Equipment Rental
 CO - Capital Outlay
 DS - Debt Service

1-800 Mobiles \$18.10 smcs; 3M \$1,400.00 smcs; Accucut \$85.50 smcs; Ace Hardware \$101.94 smcs; Advanced Auto Parts \$10.71 smcs; Aflac \$2,775.18 ps; Agent Fee \$40.00 smcs; Airport Business \$424.00 smcs; Alert Shirt \$2,060.66 smcs; All Star Windshield \$35.00 smcs; Allied Electronics \$373.54 smcs; Alltel \$2,928.73 smcs,co; AM Equipment \$20.99 smcs; Amazon \$393.24 smcs; Amer Electric \$108.43 smcs; Ampride \$43.97 smcs; Amsan \$400.50 smcs; Andersen Wrecking \$85.00 smcs; Avondale Badge \$87.25 smcs; APA-Conference \$792.00 smcs; Apex Battery \$54.85 smcs; ASCAP \$296.92 smcs; Ashworth \$1,555.14 smcs; Auto Glass Center \$187.29 smcs; Ayers Distributing \$199.00 smcs; Baker & Taylor Books \$1,424.93 smcs; Barco Municipal \$1,565.54 smcs; BBC Audiobooks \$100.71 smcs; Beacon Athletics \$7,725.06 smcs; Beckenhauer,T \$10.04 smcs; Blessing \$29,844.73 co; Bluecross Blueshield \$79,497.04 smcs; Bobcat of Omaha \$56.09 smcs; Bosselman \$888.33 smcs; Bowman,M \$27.30 smcs; Bright Pages \$231.00 smcs; Brodine,S \$112.62 smcs; Brown,A \$141.84 smcs; Brungardt Engineering \$4,732.20 co; BSN Collegiate \$58.48 smcs; Buckle \$376.00 smcs; Buffalo Co Court \$231.49 ps; Buffalo Co Sheriff \$114,076.00 smcs; Buffalo Surveying \$197.94 co; Buggy Bath Car Wash \$50.50 smcs; Builders Warehouse \$1,795.64 smcs,co; Byco Fuel \$30.00 smcs; Cabela's \$34.95 smcs; Cantu,B \$14.64 smcs; Capstone Press \$818.50 smcs; Car Quest \$19.26 smcs; Carquest of Kearney \$1,956.07 smcs; Cart Parts \$303.88 smcs; Cash Wa Distributing \$669.55 smcs; CDW Government \$5,414.10 smcs,co; Centaur Enterprises \$418.68 smcs; Central Auto Electric \$1,027.19 smcs; Central Contracting \$36,088.20 co; Central Fire \$81.25 smcs,co; Central Hydraulic Systems \$1,364.94 smcs; Central NE Bobcat \$88.09 smcs; Charter \$220.92 smcs; CISEC \$183.00 smcs; City of Ky \$182,713.67 ps; College Savings Plan of NE \$75.00 ps; Commontime \$281.25 smcs; Computer Warehouse #4 \$44.71 smcs; Consec Life Insurance \$24.00 ps; Construction Rental \$10.48 smcs; Control Masters \$1,862.36 smcs; Copycat Printing \$16.96 smcs; Crossroads Ford \$513.76 smcs; Culligan \$382.00 smcs; Cummins Central Power \$75.91 smcs; Cygnus Business Media \$424.00 smcs; D&M Security \$54.00 smcs; D&S Lighting \$101.66 smcs; Dan Roeder Concrete \$3,950.00 co; Dell \$37.42 smcs; Dent Popper \$200.00 smcs; Dept of the Treasury \$30.55 ps; Diamond Vogel \$410.25 smcs; Didier,A \$35.00 smcs; Double M Farms \$2,000.00 smcs; Dreyer,D \$129.81 smcs; Dutton-Lainson \$26.12 smcs; Eakes \$796.48 smcs; Earl May \$39.98 smcs; EFI Wright \$263.35 smcs; Eileens Colossal Cookies \$16.00 smcs; Eirich,T \$50.00 smcs; Ellis,A \$21.40 smcs; EMC Insurance \$177,982.90 smcs; Eriksen Construction \$37,575.00 co; Everything Displays \$895.00 smcs; Expedia \$5.00 smcs; Expression Wear \$30.00 smcs; Fairbanks Int'l \$2,071.95 smcs; Farmers Union Coop \$749.25 smcs; Fastenal \$1,259.40 smcs; Follett's Bookstore \$54.30 smcs; Foster,D \$32.10 smcs; Fred Pryor/Careertrack \$99.00 smcs; Frontierair \$1,262.47 smcs; Gale \$118.68 smcs; Galeton Gloves \$761.40 smcs; Garrett Tires \$3,226.45 smcs; GE Money Bank \$1,344.31 smcs; Gempler \$1,179.34 smcs; Glendale Industries \$93.00 ps; Gordon's Small Engine \$164.37 smcs; Gotomypccom \$149.00 smcs; Graham Tire \$1,387.94 smcs; Grainger \$1,526.39 smcs,co; Great Plains Safety \$1,140.00 smcs; Guideposts \$16.94 smcs; GWP Park Seed \$125.75 smcs; H&H Distributing \$309.60 smcs; Hach \$795.70 smcs; Happ,L \$31.25 smcs; Harter,A \$676.79 smcs; Hastings \$100.00 smcs; HD Supply \$14,575.59 smcs; Heiman Fire Equipment \$1,401.45 co; Hobby-Lobby \$35.50 smcs; Holmes

Plumbing \$566.49 smcs,co; Hometown Leasing \$248.23 smcs; HP Direct \$3,313.00 smcs; I Got Hit \$1,737.00 smcs; ICMA RC \$2,530.01 ps; INF Polk Directories \$308.50 smcs; Inland Truck Parts \$92.46 smcs; Intermountain Sales \$108.50 smcs; IRS \$97,752.69 ps; Int'l Ass'n Identification \$70.00 smcs; ITC Electronics \$137.46 smcs; ITT Wedeco \$1,000.00 smcs; Iwin2wincom \$27.83 co; JT&A \$929.75 smcs; Jack Lederman \$2,071.36 smcs,co; Jack's Uniforms \$5,700.61 smcs,co; James,D \$18,723.19 smcs; Johnson,S \$50.00 smcs; Johnstone Supply \$54.65 smcs; Jon Schwartz Electric \$40,330.00 co; Jones,A \$22.11 smcs; JR's Western \$103.96 smcs; K&K Parts \$859.80 smcs; Ky Centre Vac \$948.99 smcs; Ky Crete & Block \$29.00 co; Ky Hub \$1,223.10 smcs; Ky Implement \$1,970.72 smcs,co; Ky United Way \$577.90 ps; Ky Warehouse \$2,500.47 smcs; Ky Winlectric \$17.55 smcs; Kirkham Michael \$10,326.17 co; Kmart \$66.82 smcs; Konica Minolta \$86.60 smcs; Kowalek,G \$6.51 smcs; Kussmaul Electronics \$35.24 smcs; Lawn Builders \$514.18 smcs; Lawson Products \$66.72 smcs; LCL Truck Equipment \$207.52 smcs; Library Video \$3,283.30 smcs; Lincoln Lutz,J \$20.36 smcs; Lincoln Truck Center \$573.30 smcs; Lind Electronics \$47.90 smcs; Lindner,S \$71.21 smcs; Linweld \$272.19 smcs; Lockmobile \$56.24 smcs; LT Navigo Wireless \$760.50 co; Mac Tools \$149.99 smcs; Mail Express \$59.72 smcs; Marlatt Machine Shop \$344.80 smcs; Marriott Cornhusker \$108.64 smcs; Maxfield-Hays,D \$395.61 smcs; McCarty,D \$24.57 smcs; MCM One Com \$21.77 co; Menards \$1,604.60 smcs,co; Metlife \$5,888.68 ps; MGS Tech \$18.65 co; Microfilm Imaging \$2,520.00 smcs; Mid-NE Garage Doors \$131.60 smcs; Midwest Turf \$450.09 smcs; Miller & Associates \$88,649.14 co; Miller Signs \$200.00 co; Moonlight Embroidery \$2,071.00 smcs; Municipal Supply \$897.61 smcs; NAAO \$60.00 smcs; Napa All Makes Auto \$1,853.85 smcs; NE Business Banking \$89,720.75 ds; NE Child Support \$3,021.66 ps; NE Concrete Coatings \$741.40 smcs; NE Dept of Revenue \$27,992.51 ps; NE IAI \$50.00 smcs; NE Online \$500.00 smcs; NE Salt & Grain \$14,133.11 smcs; NE Society of CPA's \$110.00 smcs; NE Trails Conference \$80.00 smcs; NE Truck Center \$576.89 smcs; NEland Distributors \$326.00 smcs; Neopost \$8,000.00 smcs; Newegg \$113.84 co; NMC \$182.52 smcs; Northern Tool \$383.03 smcs; Northwest Electric \$571.70 smcs; Northwestern Energy \$5,215.84 smcs; NPZA Treasurer \$105.00 smcs; Office Max \$475.21 smcs; Officenet \$1,970.53 smcs,co; Omaha World-Herald \$75.40 smcs; O'Reilly Auto \$975.92 smcs; Orscheln \$492.32 smcs; Oxford University Press \$76.46 smcs; Paramount Linen \$60.87 smcs; Payflex Systems \$476.00 ps; Pepsi-Cola \$423.82 smcs; Perkins \$180.20 smcs; Platte Valley Comm \$807.35 smcs; Precision Products \$19.93 smcs; Precision Small Engines \$487.00 smcs; Presto-X \$136.00 smcs; Purdy Enterprises \$2,375.00 smcs; Quill \$36.07 smcs; R&R Products \$119.04 smcs; Radioshack \$214.93 smcs; Random House \$682.00 smcs; Ray Allen \$40.45 co; Reams Sprinkler Supply \$153.66 smcs; Recorded Books \$482.80 smcs; Rheome Tree \$280.00 smcs; Roeda Signs \$39.83 smcs; Sahling Kenworth \$143.94 smcs; Salter,J \$6.51 smcs; Sears \$49.99 smcs; See Clear Cleaning \$1,800.00 smcs; Sherwin Williams \$121.93 smcs,co; Sixth Street Self Storage \$82.50 smcs; Snap-On Tools \$991.05 smcs; Softchoice \$3,767.83 co; Solid Waste Agency \$44,151.30 smcs; Sportable Scoreboards \$55.00 smcs; Springer Roofing \$6,503.00 co; Starostka Group \$93,326.14 co; St of NE/AS Central \$116.92 smcs; St of NE/DAS Comm \$18.40 smcs; St of NE/HHS Lab \$1,484.00 smcs; Sunmart \$12.63 smcs; Superior Signals \$920.80 smcs; Sydow,J \$40.00 smcs; Target \$32.09 smcs; Thompson,J \$43.24 smcs; Tico's \$67.54 smcs; Tigerdirect \$582.60 smcs,co; Titleist \$168.46 smcs; Tractor Supply \$947.69 smcs; Tradewell Pallet \$2,090.00 smcs; Travelocity \$7.00 smcs; Tri City Outdoor Power \$1,045.47 smcs; Tri-Cities Group \$491.00 smcs; Turner Body Shop \$75.00 smcs;

Uldrich,M \$31.25 smcs; Underground Construction \$400.00 smcs; United Air \$483.00 smcs; UPS \$9.30 smcs; US Bank \$311,325.00 ds; US Golf Ass'n \$100.00 smcs; USA Blue Book \$483.16 smcs; USPS \$263.46 smcs; Van Diest \$734.00 smcs; Video Service of America \$611.11 smcs; Village Uniform \$309.49 smcs; VS Athletics \$40.00 smcs; Wal-mart \$1,597.93 smcs; Water Products \$2,925.50 smcs; Wells Fargo Century \$242.98 smcs; West Villa Animal Hospital \$236.68 smcs,co; Wiederspan,R \$162.88 smcs; Wilke Donovan's \$198.74 smcs,co; Williams,M \$269.20 smcs; Wilson,D \$38.83 smcs; Wrecker Boyz \$75.00 smcs; Yellow Van Cleaning \$800.15 smcs; Payroll Ending 3-16-2008 -- \$294,210.46. 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. Approve the Request for Proposal submitted by Wilkins Hinrichs Stober Architects for professional services for the design on the Kearney Airport Terminal Facility project and approve **Resolution No. 2008-54** authorizing the Mayor to execute the Agreement.

RESOLUTION NO. 2008-54

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement for design services for the Kearney Airport Terminal Facility project, on behalf of the City of Kearney, with Wilkins Hinrichs Stober Architects, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Approve the Request for Proposal submitted by Wilkins Hinrichs Stober Architects for professional services for the design of an addition to Fire Station #2 project located at 3820 30th Avenue and approve **Resolution No. 2008-55**.

RESOLUTION NO. 2008-55

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement for design services for the addition to Fire Station #2 project located at 3820 30th Avenue, on behalf of the City of Kearney, with Wilkins Hinrichs Stober Architects, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the Agreement submitted by the Central Nebraska Auto Club to block

off Central Avenue from 25th Street to North Railroad Street, 23rd Street from 1st Avenue to Avenue A, the parking lot located west of Cunningham’s Journal, the parking lot located behind City Hall, and the parking lot located north of MONA in conjunction with Cruise Nite 2008 on July 19, 2008 beginning at 10:00 a.m. Parking on these public properties will be prohibited on July 19, 2008 beginning at 2:00 a.m.

- 6. Approve the application for a Special Designated License submitted by JUAN LAZO, dba “El Tropico” in connection with their Class IB-37623 liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 1300 East 34th Street, on May 3, 2008 from 6:00 p.m. until 1:00 a.m. for a Mexican dance.
- 7. Approve the application for a Special Designated License submitted by JUAN LAZO, dba “El Tropico” in connection with their Class IB-37623 liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 1300 East 34th Street, on May 25, 2008 from 6:00 p.m. until 12:00 a.m. for a Mexican dance.
- 8. Approve the request from the Yanney Heritage Park Foundation and the City of Kearney to conduct Yanney Heritage Day on June 14, 2008 (rain date is June 15, 2008) at the E.K. & Mary Yanney Heritage Park which includes a fireworks display.
- 9. Approve Change Order No. 1 showing a decrease in the amount of \$136,500.00 submitted by Blessing, LLC and approved by Brungardt Engineering for the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and approve **Resolution No. 2008-56.**

RESOLUTION NO. 2008-56

WHEREAS, Blessing, LLC has performed services in connection with the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and the City's engineer, Brungardt Engineering, has filed Change Order No. 1 showing a decrease to the contract sum in the amount of \$136,500.00 as shown on Exhibit “A”, attached hereto and made a part hereof by reference:

| | |
|-------------------------------|---------------------|
| Original Contract Sum | \$1,004,396.00 |
| Change Order No. 1 (4-8-2008) | - <u>136,500.00</u> |
| Contract Sum To Date | \$867,896.00 |

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

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

- 10.** Approve the revised Kearney Library Policy Manual and approve **Resolution No. 2008-57.**

RESOLUTION NO. 2008-57

WHEREAS, the "Policy Manual for the Kearney Public Library and Information Center" of the Kearney Public Library and Information Center was adopted on September 12, 2006 by Resolution No. 2006-156; and

WHEREAS, the Library Advisory Board has determined it necessary to revamp the entire policy and has brought forward a new policy.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the recommendation from the Library Advisory Board, on adopting a new Policy Manual for the Kearney Public Library, a copy marked as Exhibit "A", attached hereto and made a part hereof, be and is hereby accepted and approved.

BE IT FURTHER RESOLVED that the revised policy adopted in 2006 by Resolution No. 2006-156 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 11.** Approve the Agreement with the Nebraska Department of Roads for Project No. HSIP-30-4(153) which is a battery backup system for the 25th Street and 2nd Avenue traffic signal and approve **Resolution No. 2008-58.**

RESOLUTION NO. 2008-58

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement between the State of Nebraska Department of Roads and the City of Kearney with regard to Project No. HSIP-30-4(153) for the installation of a battery backup for the traffic signal located at the intersection of 25th Street and 2nd Avenue. A copy of the said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 12.** Approve the bids received for the 2007 Part VI Improvements consisting of Paving Improvement District No. 2008-925, Water District No. 2008-549 and Sanitary Sewer District No. 2008-491 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Paving Improvement District No. 2008-926, Water District No. 2008-550 and Sanitary Sewer District No. 2008-492 for 8th Street from the west line of Block 3, Park View Estates Fourth, to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, south to its terminus being the south line of Park View Estates Fourth an

approve **Resolution No. 2008-59** awarding the bid to Midlands Contracting for Bid A (water and sewer) in the amount of \$202,988.00 and to Blessing, LLC for Bid B (paving) in the amount of \$251,417.50.

RESOLUTION NO. 2008-59

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 1, 2008 at 2:00 p.m. for the 2007 Part VI Improvements consisting of Paving Improvement District No. 2008-925, Water District No. 2008-549 and Sanitary Sewer District No. 2008-491 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Paving Improvement District No. 2008-926, Water District No. 2008-550 and Sanitary Sewer District No. 2008-492 for 8th Street from the west line of Block 3, Park View Estates Fourth, to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, south to its terminus being the south line of Park View Estates Fourth; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$225,260.00 for Bid A (water and sewer) and \$298,472.00 for Bid B (paving); and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$202,988.00 be accepted as the lowest responsible bid for Bid A (water and sewer); and

WHEREAS, the said engineers have recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the sum of \$251,417.50 be accepted as the lowest responsible bid for Bid B (paving).

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 Midlands Contracting, Inc. of Kearney, Nebraska be and is the lowest responsible bidder for the 2007 Part VI Improvements – Bid A – consisting of Water District No. 2008-549 and Sanitary Sewer District No. 2008-491 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Water District No. 2008-550 and Sanitary Sewer District No. 2008-492 for 8th Street from the west line of Block 3, Park View Estates Fourth, to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, south to its terminus being the south line of Park View Estates Fourth to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$202,988.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the Engineers recommendation is hereby accepted and approved, that Blessing, LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2007 Part VI Improvements – Bid B consisting of Paving Improvement District No. 2008-925 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Paving Improvement District No. 2008-926 for 8th Street from the west line of Block 3, Park View Estates Fourth, to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, south to its terminus being the south line of Park View Estates Fourth to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing, LLC of Kearney, Nebraska in the sum of \$251,417.50 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction

Cost in the amount of \$225,260.00 for Bid A (water and sewer) and \$298,472.00 for Bid B (paving) 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 8TH DAY OF APRIL, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the bids received for the 2008 Part III Improvements consisting of Paving Improvement District No. 2007-915 for 14th Street from 6th Avenue to 9th Avenue; Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; Paving Improvement District No. 2007-917 for 9th Avenue from 16th Street to 19th Street and approve **Resolution No. 2008-60** awarding the bid to Blessing, LLC in the amount of \$336,216.00.

RESOLUTION NO. 2008-60

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 1, 2008 at 2:00 p.m. for the 2008 Part III Improvements consisting of Paving Improvement District No. 2007-915 for 14th Street from 6th Avenue to 9th Avenue; Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; Paving Improvement District No. 2007-917 for 9th Avenue from 16th Street to 19th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$354,705.40; and

WHEREAS, the said engineers have recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the sum of \$336,216.00 be accepted as the lowest responsible bid for the 2008 Part III Improvements.

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 Blessing, LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2008 Part III Improvements consisting of Paving Improvement District No. 2007-915 for 14th Street from 6th Avenue to 9th Avenue; Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; Paving Improvement District No. 2007-917 for 9th Avenue from 16th Street to 19th Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing, LLC of Kearney, Nebraska in the sum of \$336,216.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$354,705.40 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 8TH DAY OF APRIL, 2008.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7425 – GRANT A CONDITIONAL USE PERMIT TO I BELIEVE IN ME RANCH (PERTAINS TO PUBLIC HEARING 1)

Council Member Kearney introduced Ordinance No. 7425, being Subsection 1 of Agenda Item VI to grant a Conditional Use Permit to Antelope Park Estates, Richard D. Wilson, Trustee, and Donna M. Wilson, Trustee and the I Believe in Me Ranch for a Conditional Use Permit to locate a combination of both a primary and secondary educational facility on property zoned “District AG, Agricultural District” and described as a tract of land being part of the Southwest Quarter of the Northwest Quarter of Section 8, Township 9 North, Range 15 West of the 6th P.M., containing 22.113 acres, more or less, of which 1.39 acres, more or less, are presently being used for road purposes on the south and west sides, all in Buffalo County, Nebraska (northeast corner of 92nd Street and Antelope Avenue) subject to compliance with the conditions set forth in the Public Hearing, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7425 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7425 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7425 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7426 – VACATE PORTION OF WOOD RIVER ROAD (PERTAINS

TO PUBLIC HEARING 2)

Council Member Lear introduced Ordinance No. 7426, being Subsection 2 of Agenda Item VI to vacate a portion of Wood River Road described as being on the south line of said street from the east right-of-way line of Nebraska State Highway No. 10 easterly a distance of 240.0 feet, thence northerly on the east line of said street a distance of 200.0 feet to the south line of Blue Mill Road of Wood River Road as it abuts Lots 1 and 21, Richter's 2nd Subdivision, Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th 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 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, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7426 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7426 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7426 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7427 – VACATE PORTION OF RICHTER'S 2ND SUBDIVISION (PERTAINS TO PUBLIC HEARING 2)

Council Member Lear introduced Ordinance No. 7427, being Subsection 3 of Agenda Item VI to vacate 1 and 21, Richter's 2nd Subdivision, Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th 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 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, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7427 by number. Roll call of those in favor of the passage of said ordinance on the first reading

resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7427 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7427 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7428 – REZONE SOUTH OF 52ND STREET AND WEST OF 3RD AVENUE (PERTAINS TO PUBLIC HEARING 4)

Mayor Clouse stated the City received a letter from the applicant requesting this matter be tabled until April 22, 2008.

Moved by Clouse seconded by Kearney to table until April 22, 2008 Ordinance No. 7428 rezoning property located south of 52nd Street and west of 3rd Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

OPEN ACCOUNT CLAIMS: STAN CLOUSE - \$220.81, NPPD - \$2,198.61, PLATTE VALLEY STATE BANK - \$44,655.45, SCHOOL DISTRICT #7 - \$2,044.45

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$220.81 payable to Stan Clouse, in the amount of \$44,655.45 payable to Platte Valley State Bank, and in the amount of \$2,198.61 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$2,044.45 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Clouse seconded by Kearney that Council adjourn at 9:33 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**