

*Kearney, Nebraska
July 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 July 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, Bruce Lear, and Bob Lammers. Absent: Don Kearney. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Rod Wiederspan, Director of Public Works; Chief of Police, Dan Lynch; City Planner, Lance Lang; and Management Assistant, Luke Olson were also present. Some of the citizens present in the audience included: Rhoda Brown, Tim Sorensen, Mitch Humphrey, Bob Bradley, Greg Barney, Ken Tracy, Gisel Theis, Terry Eirich, Brad Isaac, Jerry Thompson, approximately 30 members of the Kearney Volunteer Fire Department and Auxiliary, Sara Giboney from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

With the absence of a representative from the Kearney Ministerial Association, there was a moment of silent prayer.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

RECOGNITION – KVFD FIREFIGHTERS SERVICE AWARDS

Mayor Clouse and Council Members recognized the following volunteer firefighters who have given many hours of their time in responding to fire/rescue emergencies, firefighter training, assisting with public fire prevention and safety education programs, serving as fire department officers, and serving on various types of committees: Don Jobman (30 years), Teresa Whitney (15 years), Don Whetstone (10 years), Max Gintzler (10 years). Fire Chief Jerry Thompson presented each firefighter with an award.

PROCLAMATION FOR KVFD QUASQUICENTENNIAL CELEBRATION

Mayor Clouse read and presented a Proclamation recognizing the Kearney Volunteer Fire Department's Quasquicentennial Celebration.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

AMENDMENTS TO CHAPTER 50 OF THE CITY CODE

Moved by Lammers seconded by Lear to remove from the table Public Hearing 1 on the proposed amendments to Chapter 50, "Sign Regulations" of the City Code. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

Mayor Clouse opened the public hearing on the Application from City of Kearney Public Works Department to amend Chapter 50, "Sign Regulations" of the Code of the City of Kearney as follows: Section 50-102 "Definition of Terms" to delete the definition of Computerized Message Posting Sign; to delete the sentence "Signs whose information is limited to time and temperature are not considered electronic information signs" from subparagraph O "Electronic Information Signs"; to delete the sentence "This definition specifically excludes electronic information signs" from subparagraph R "Flashing Sign"; to provide a definition for Numeric Display Signs; to amend Section 50-103 "General Sign and Street Graphics Regulations" to delete subparagraph 3 pertaining to banners, balloons and posters; to require illumination levels controlling brightness and minimum required hold time for electronic information signs shall comply with Section 50-104 of Chapter 50; to allow political campaign signs to be placed no sooner than 45 days prior to an election; to provide requirements for inflatable balloons, posters, pennants, ribbons, streamers, spinners; to amend Section 50-104 "General Regulations; Basic Design Elements for Signs" to delete the requirement that no electronic information sign shall be located within 500 feet of another electronic information line, measured from the points of the 2 signs nearest each other; to provide no more than one electronic information sign is permitted per property; to provide requirements regarding programming and illumination of electronic information signs; to provide electronic information signs shall be deducted from the total sign budget allowed for the premises; and to provide requirements for numeric display signs.

City Planner Lance Lang presented this matter to the Council. This item has been amended due to concerns raised at the June 10, 2008 City Council meeting. The proposed change simplifies the brightness standards and places the responsibility of compliance on the sign owner and installer rather than City staff. This item was tabled at the June 10 and June 24, 2008 City Council meetings.

The applicant was before the Planning Commission in April with a request to amend Chapter 50 of the Unified Land Development Ordinance to allow electronic display gasoline pricing within 75 feet of an intersection. The applicant's reasoning is that "time and temperature display" signs are exempt from the 75 foot setback required for other electronic information signs. Numeric fuel price is very similar to time and temperature as all three examples consists of numbers only. The applicant requested that fuel display signs also be exempted. Staff was concerned that an exemption of the sign would exempt it from all regulations that would otherwise regulate electronic information signs. The request was continued for one month to allow Staff some time to research the issue and develop a proposal.

For a brief review of the history of this application, the applicant had previously applied for a sign permit, but the application was denied. An appeal was filed with the Board of Adjustment. The Board apparently did not feel comfortable with granting a variance for the sign since the Code is very specific regarding the exemption for "display of time and temperature" only. The Board advised the applicant to pursue a Code amendment to include fuel prices in the exemption.

Staff has developed a proposal that will hopefully meet the needs of the applicant while addressing some other broader objectives within Chapter 50. Staff is proposing a new category of signs to be known as "Numeric Display" signs that would include time, temperature, and fuel price display. These signs can thereby be regulated separately from the other electronic information signs. Although Staff does not wish to regulate the color of the sign display, Staff would like to insure that signs do not blink or flash excessively thereby posing a potential distraction to motorists. Staff has researched electronic signs with an eye towards regulation of the blinking aspects and the brightness of the lighting. In reviewing the Sign Code, some additional changes are proposed for other types of signs as well. In summary the proposed Code amendment addresses the following issues:

- 1) Removes the definition for "Computerized Message Posting Sign" as such signs are obsolete given the computerized LED technology available today.
- 2) Definitions distinguish between "electronic information signs" and "electronic changeable message signs." (on-premise and off-premise)
- 3) Removes reference to exemption of time and temperature display from the electronic information sign definition.
- 4) Removes reference to electronic information signs from exclusion as "flashing signs" since the flashing aspects will now be regulated.
- 5) Creates a new sign category in definitions for a "Numeric Display Sign" that will include time, temperature, and fuel price display.
- 6) Moves "Banners, Balloons, and Posters" from "Prohibited Signs" to "Attached Temporary Signs" since there are occasions when specialty signs are used, such as the Duck Race using the giant inflatable duck. These signs are needed for special occasions and therefore are temporary in nature.
- 7) Under "Flashing Signs" specifies that ambient light levels after dusk and hold time for blinking lights shall conform to new standards in section 50-104.
- 8) Under "Political Campaign Signs" establishes a time limit for placing such signs, no sooner than 45 days prior to Election Day (time limit to collect signs within 10 days after election date is already established).

- 9) Establishes additional regulations for on-premise electronic information signs limiting them to one per property, requiring specified hold time to regulate the degree of blinking or flashing allowed, requiring control of the brightness of the sign tied to ambient light levels after dusk, and a note recognizing that such signs shall be deducted from the total sign budget allowed for the premises.
- 10) Establishes a new sign type known as "Numeric Display Signs" and establishes regulations for this type of sign including setback requirements, maximum size requirements, hold times for image changes, conformance with the brightness/ambient light requirements after dusk, and a note recognizing that such signs shall be deducted from the total sign budget allowed for the premises.

The other issues that came out of that meeting that caused it to be tabled at the last session of the Council meeting dealt with blinking aspects and ambient light levels. City staff has done some research on those and have simplified the requirements. They no longer have a sliding scale that ties it to ambient light levels. They simply picked a number based on their research for maximum brightness during the day and maximum brightness during the night. The blink time remains at no quicker than four seconds. It is not the City's goal to be the "light police". They found from talking to sign companies that they can preset the blink time and the intensity. The requirements for those particular signs would be a letter of certification from the sign installer or manufacturer that those standards are met. That is the way the amendment will be set up in the Code.

Brian Hand owner of Love Signs in Grand Island stated he received information from the Small Business Administration's website which was very good in addressing electronic message centers. He works in a variety of communities and deal with a wide variety of codes. Overall, Kearney's current sign code is very good. There is a bit of a myth about electronic message centers that people believe that blinking causes a safety issue. Federal and state research has proven that not to be true. That information is available on the SBA's website. It has actually been found during these studies to have the opposite affect; they have seen accidents reduced. The federal government and our highway department choose to use electronic message centers as a form of communicating with motorists during road construction, freeway applications, amber alerts, etc. They have also deemed that a proper change time for electronic message center is one to two seconds. He believed with changing the code to four and ten second hold time virtually renders that product useless. You can read a lot more information in one to two seconds; four seconds is not required. Due to the viewing distance of these sign, there is only six to eight seconds worth of viewing time. If we limit that information, we are limiting the business opportunity to market itself.

He understood there was an issue with the proximity of displays not being closer than 500 feet. Mr. Morgan clarified that some of what Mr. Hand was referring to has already been done and not up for discussion. The 10-second hold on the billboard has been approved for sometime. This discussion is for 80 feet or less. Mr. Morgan clarified that the blinking is not just a safety issue because if all the signs in town blinked one to two seconds that would have a visual impact.

Mayor Clouse stated that in his notes, the 10-second hold was set according to the Department of Roads. City Manager stated the billboard question has been resolved for some time and is fairly standard. The distance between signs and the hold time is set by the Department of Roads. It is the same throughout the State of Nebraska and there is nothing that can be changed. The 80 square foot or less requirement is the only thing that could be changed.

Greg Barney, 704 West 25th Street, stated he did not object to the 10-second hold time with respect to the billboard issue. He commended staff for simplifying the lighting requirements with respect to the premises signs. He continues to disagree with the 80-square foot restriction for the 4-second hold versus 10-second hold only with respect to the premises signs. Mr. Barney believes that what is fair for one is fair for all. There should either be 20-second hold times or not be restricted to four, or 10-second hold times. The ability that the City already has with controlling the signage issues, given the budget allowance for 200 square foot for premises signs, gives the City the ability to control what would be utilized with respect to digital media. He believed that the 80-foot limitation protects the sign owners that currently have digital signs that are utilizing the technology with 4-second holds and flashing, scrolling and video. That 80-square foot limitation would prevent those who might wish to have a somewhat larger sign, but be in accordance with the 200-foot budget requirement would prevent them from having the same type of technology that is currently being used.

Mr. Barney stated he sees that as a discrimination issue. Mr. Barney pointed out that if the Council chose to approve no limitations in regard to 4-second hold, scrolling, etc., but simply limited by the 200-square foot existing requirement for premises signs that none of the Council members would have any conflict of interest. On the other hand, if they choose to restrict and thus protect those existing sign owners that have signs that are utilizing scrolling, flashing and video with less than 80-square feet, then there could be a conflict of interest. He hoped the Council would consider allowing the 200-square foot maximum sign budget to govern what is utilized with respect to digital signs would be appropriate.

City Manager stated that the scrolling is not prohibited and falls under a different category than a flashing sign. He asked for clarification regarding Mr. Barney's comments about the 200-square foot signs. Mr. Barney responded his concern was with respect to the rules that are being proposed regarding signs that are 80 square feet and less and must have four second hold times, but can utilize scrolling, flashing and video. Signs that are greater than 80 square feet are limited to ten second hold times and are prohibited from using scrolling, flashing or video. He believed that is an inappropriate exclusion.

City Planner stated the issue from the staff's perspective is that if a 200-foot pole sign is allowed that Mr. Barney is referring to and allow that to be full animation that is getting pretty large especially when you compare it to a billboard which is only 100 square feet bigger. The proposal was based on the extensive research done by Lincoln that uses the 80-square foot threshold. Anything less than 80 square feet would be treated differently than the larger signs which require the 10-second hold. Kearney does not have any 200 square foot on premises electronic information signs at this time. Generally, there are larger premises identification signs which are a fixed sign and

maybe a smaller electronic sign that sends special messages.

City Manager stated just as billboards must be a certain size and subject to certain rules, these signs fewer than 80 square feet or less will have certain rules. The Planning Commission did a lot of research on it and agreed to leave it at 80 square feet. Unless, it would go to 200 square feet, it would not address Mr. Barney's concern. Mr. Barney stated that at the last meeting, he indicated that he mentioned 8 x 16 or somewhat larger than 80 but less than 200. He again stated that the 80 square foot is convenient in protecting all of those businesses that already have existing signs that utilize this technology. It would prevent folks from utilizing more square footage in the future. City Manager stated that it would not prevent Mr. Barney from doing the same as everyone else. Everyone would be treated the same.

Council member Buschkoetter wanted clarification about whether the scrolling would be allowed for signs less than 80 square feet. City Manager stated because the technology has changed, there are many types of scrolling. The capability of the electronic signs has changed since the code was written so that is where some of the concerns came in. The Planning Commission intentionally limited the informational signs to 80 square foot. The businesses today that have the electronic signs are able to meet the requirements or can adjust to those requirements. The exception would possibly be an 80 square foot sign with a video and that would be allowed by this proposal. Anytime a new requirement is added, you are always going to have to decide where to draw the line. Planning Commission looked at 80 and staff recommended 80.

City Planner stated that reasonable limitations have been placed on the brightness of the lights at night whether they are scrolling, blinking or static. Mr. Hand stated the issue that is being seen regarding the brightness is there are some products in Kearney that do not have automatic dimming. They are running at 100 percent bright every hour they are going. The net input is very difficult to manage; however, if products were forced to have automatic dimming they would police themselves. There are a lot of products out there with 16 different levels of dimming to accommodate day, night, cloudy and sunny days. A message center is no different than any sign; it has a function and it has got to read. That brightness level has a big value to it.

City Manager stated the goal of the proposal with the changes was to propose something that was easier for people to do and handle on a complaint basis. If we see an issue, we will contact the company and the sign owner and ask them to correct it or perhaps they can prove that it is within the standards. Mr. Barney gave some excellent suggestions at the last Council meeting and we incorporated many of those regarding the ambient lighting. In the past, one could have argued whether electronic signs were allowed at all. The City Code was not clear and inconsistent and also did not take into consideration the new types of information signs. The original intent was to clarify that. City Planner stated the question is, what are the standards for the on premises signs.

Council member Lear stated that he did not perceive any conflict, but asked the City Attorney for clarification because his employer, Platte Valley State Bank, does have a sign on 2nd Avenue. City Attorney Tye stated as he understands how that sign currently functions is in compliance with what the new requirements would be. The sign in place is a slowly changing message which would be in compliance with both the old

and new code requirements.

Mr. Barney stated his comment was that Council would be voting on limiting people in the future that might wish to do a larger sign than 80 square feet and prevent them from using the technology that is available and currently being used by entities that are 80 square feet or less. He gave an example of why he is interested in the difference between four seconds and ten seconds concerning on-premise signs. He has been considering doing newer on-premise signs at his office location that would be utilized for providing messages for occupants of his premises. Several advertising producers have given him suggestions for a particular message format in which they use a primary message followed by a secondary message. For example, four seconds with the primary message and the secondary message coming up for four seconds to answer the primary. That is something that in a 10-second interval can be observed in a typical drive by situation and could be very useful. That particular methodology is not provided under the current code unless the area of the sign is less than 80 square feet. He wants to do a larger sign than that so they are being prevented from doing that methodology.

Mayor Clouse stated the question remains where do we draw the line is it 80, 100 or 110? Council member Buschkoetter stated that it is a very competitive industry and it is an arms race. Everyone wants to build a faster, bigger or brighter sign. It is up to the Council to determine where the line will be. City Manager stated during the Planning Commission's discussion it was their intent to limit the size.

Mr. Hand stated that square footage is not as important with electronics as a variety of other items. The desired resolution of the board, the pixel spacing can create different character sizing. Eighty square feet functions very well for a good portion of the community. However, if he owned a business out by the interstate and in order to have good readability the sign needed to be 40 feet in the air with this display, a sign of 80 square feet is going to look like a postage stamp. It would be totally ineffective.

City Manager commented there are other types of signage that they could use, not just the electronic version. It is not the intent of the sign ordinance to allow signs from a longer distance to be viewed. There is a McDonald's sign in our community that caused quite a fight years ago that is fairly high and would not be allowed today.

Mr. Hand stated that overall he did not have as much problem with the 80 square feet as he does with the 4-second hold time. He confirmed with the City Planner that there is not a sign in Kearney that has a 4-second hold time. He thought most probably are 1 or 1½ seconds in between changes. Taking it from that timing to four seconds does not render it useless, but close to it. Static ads for billboards are fine, but not for selling hamburgers. City Manager stated that stationary signs have been used for years. It is just a matter of wanting to use a media that is clearly more effective and twice as fast. To say that a 4-second hold time would be useless would render all the other stationary signs in town useless as well. It is just a matter of what effectiveness is trying to be achieved and trying to balance the community with that flash concept.

Mayor Clouse stated that if they approve this, would they have to go back to those that are less than that to comply. City Manager stated they would not be grandfathered

because the original code was not clear about whether they would be allowed in the first place, plus they have the capability to reduce that time to four seconds. As long as they have the ability to produce a 4-second display, they have lost nothing. If they do not have that capability, that raises another question. In the research they have done, it is believed that most do have that capability. Mr. Hand agreed that the vast majority do have that ability to do it.

Mr. Barney addressed the 4-second hold versus the 10-second hold regarding the video currently being used in an inappropriate manner and stated that he supports their ability to continue to use it. He wants those who are willing to invest in on-premise signs to be able to use the same technology. City Manager stated the video question has been discussed and the video issue is different than the hold issue because the video time cannot be adjusted. The video would potentially be a question for a different panel and Council could choose (although the Planning Commission did not feel that way) to allow video and eliminate that question all together by amending the proposal to allow video.

Mr. Hand stated there are a great number of videos in Kearney that are in color and have the ability to put text over video. Since it is built into the software, he asked how that would be policed since it is text with video running in the background? City Planner stated that video was discussed at Planning Commission and if that technology is available and the investment has been made in that technology, it could be considered a taking if we say it cannot be used. He suggested that it might be wise to exclude that technology or allow 4-second text followed by a 4-second video.

Council member Lammers said since the average hold is 1 to 1½ seconds does that bring up a legal issue by taking that away although the Code was grey in that area. City Attorney Tye stated the question is whether it can be easily adjusted. If a sign owner has the ability to adjust without any substantial cost or change in their current position, it is less likely that is a taking than if they are not capable of doing it. City Manager stated they can run an audit and determine if all the sign companies got the proper permits and certifications. The local sign companies have been involved in this discussion for months, but the issues presented at this meeting have not been brought up before. It would be possible to go back and inventory and try to determine the signs that would fit into that 80-square foot premises and evaluate those with the current sign companies in the community and see where we are.

Council member Lear asked if someone has a permitted sign and the code is changed to this new standard are they grandfathered. City Manager stated if the sign were legally permitted, they would lose nothing if the sign could be adjusted because it would fall within the ordinance. If they do not have the ability to adjust the sign, that is another issue and that is where the audit comes in to allow staff to evaluate and report. Council member Lear stated if the sign was not properly permitted, the issue would be mute. We invest a lot of respect in the Planning Commission and take their recommendations very seriously. This is an item that they have specifically discussed and proposed as an appropriate step and he found it difficult to disagree with it.

Council member Buschkoetter stated that for there to be a new standard, the Council has to pass a new standard. The possibility exists that something out there does not fit and could be grandfathered. If there is a problem later on, we would deal with it at that

time. Council member Lammers stated that if someone did not have the ability to adjust, it appeared to him that it would be necessary for them to be in a grandfathered situation to avoid potential litigation. City Manager stated that we have excellent sign companies that would be willing to work with the City and tell staff what is out there. If the Council was more comfortable making a decision based on that information, this matter could be continued. It would be more efficient to do more homework up front and to get better information on which to base a decision.

Moved by Lear seconded by Buschkoetter to table until July 22, 2008 the hearing to amend Chapter 50, "Sign Regulations" of the Code of the City of Kearney. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

REZONING 1723 AVENUE G

Mayor Clouse opened the public hearing on the Application submitted by Robert V. Bradley (Applicant and Owner) to rezone from "District R-1, Urban Residential Single-Family District (Low Density)" to "District R-2, Urban Residential Mixed-Density District" property described as the north half of Lot 1026 and all of Lot 1027, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1723 Avenue G). Planning Commission recommended approval.

The applicant is requesting approval to rezone property from R-1, Urban Residential Single-Family District (Low Density) to R-2, Urban Residential Mixed Density District. The property is located at the southeast corner of Avenue G and 18th Street. The owner would like to build a duplex on this property. The single-family house that previously occupied this lot has been removed and the lot is vacant. The property has been previously subdivided by a Minor Subdivision to include the 50-foot lot on the corner and half of the 50-foot lot to the south, for a total lot width of 75 feet x 130 feet. A minimum of 70 feet is required for duplex development so there is adequate lot area to construct a duplex.

The properties to the north of this lot across 18th Street are currently zoned R-2; however, the lots south of 18th Street, including this one, are all zoned R-1. If this rezoning is approved it will allow this lot more density than the other surrounding lots south of 18th Street. Staff suggested that the owner talk with neighbors who are currently zoned R-1 to see if they would be receptive to R-2 zoning at this location. The land use designation for this area on the Future Land Use Map of the Comprehensive Development Plan is "Low Density Residential." Both R-1 and R-2 zoning districts are acceptable in this land use category.

The applicant has talked with the majority of the neighboring property owners about his plans to construct a duplex. No one was present in opposition at the Planning Commission meeting. If the rezoning is approved, each dwelling unit of the duplex must be separately connected to municipal water and sanitary sewer.

Robert Bradley was present to answer any questions from the Council.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Robert V. Bradley (Applicant and Owner) to rezone from "District R-1, Urban Residential Single-Family District (Low Density)" to "District R-2, Urban Residential Mixed-Density District" property described as the north half of Lot 1026 and all of Lot 1027, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1723 Avenue G). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

SORENSEN CONSTRUCTION – CONDITIONAL USE PERMIT FOR GRAVEL PUMPING OPERATION, 11 CENTRAL AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Sorensen Construction Co. (Applicant) for Patrick and Elizabeth Merrifield (Owner) for a Conditional Use Permit to locate a gravel pumping operation on property zoned "District AG, Agricultural District" and "District R-1, Urban Residential Single-Family District (Low Density) and described as tracts of land and accretions located in Government Lots 5, 6, 7, and 9 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and tracts of land and accretions located in Government Lots 1, 2, 4, 5, and also accretion land lying south of Government Lot 5, 6, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a strip of land along the north bank of the Platte River in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a tract of land located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; the south 77 feet of Lot 3, all of Lot 7 of Block 2, Lot 22 of Block 3; Lots 1, 2, 3, 4, 13, 14 of Block 4; Lots 1, 2, 3 of Block 5; Lots 1, 2, 3, 4 of Block 6, all in Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska (11 Central Avenue). Planning Commission recommend approval of this CUP application subject to the following conditions: (1) CUP is issued for a five-year time period for the CUP, renewable thereafter by Planning Commission and City Council, if required. (2) Proposed hours of operation are Monday through Friday, 8:00 a.m. to 6:00 p.m. and no Holidays. (3) The haul road to the west shall be modified to use the existing driveway connecting to Highway 44 through Whitney Sand and Gravel and will not use Platte Road. (4) Lake shall be dredged starting on the west end and progressing eastward. (5) The west bin shall be relocated south and east to make it less intrusive to the neighbors. (6) Height of material stockpiled at the bin sites shall not exceed 20 feet. (7) Staff requested copies of the Army Corps of Engineers approval letter and any other Federal or State agencies required to perform this work.

The applicant is requesting a Conditional Use Permit (CUP) for dredging and sand/gravel pumping to clean out the existing sandpit lake east of Grandpa's Steakhouse and to modify the existing shape somewhat, filling in certain areas and expanding the lake further to the east. Some of the material will be used on-site and some will be trucked off-site. The applicant has submitted a site plan and a list of proposed conditions. Staff has reviewed this information and offers the following comments:

a) The applicant is requesting a five-year time period for the CUP, renewable thereafter by Planning Commission and City Council, if required.

b) Proposed hours of operation are Monday through Friday, 8:00 a.m. to 6:00 p.m. and no Holidays.

c) The site plan shows proposed haul roads and bin locations where the dredged material will be screened, sorted and stockpiled. Staff requests that the haul road to the west be modified to use the existing driveway connecting to Highway 44 through Whitney Sand and Gravel and not use Platte Road. This will provide less disruption to the residents who must use Platte Road while insuring good access to the highway for the gravel operation.

d) Lake shall be dredged starting on the west end and progressing eastward. Areas to be filled are shown. Please approximate areas to be dredged especially any "new" areas resulting from eastward expansion of the existing lake.

e) Staff requests that the west bin be relocated south and east to make it less intrusive to the neighbors.

f) Height of material stockpiled at the bin sites shall not exceed 20 feet.

g) Staff requests copies of the Army Corps of Engineers approval letter and any other Federal or State agencies required to perform this work.

The applicant agreed to these conditions at the Planning Commission meeting.

Tim Sorensen, 5165 Long Island Road, Kearney, presented this matter to the Council. He did not anticipate any problems with the Army Corp of Engineers, but they have not started that process because they came to the City to first get approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the Application submitted by Sorensen Construction Co. (Applicant) for Patrick and Elizabeth Merrifield (Owner) for a Conditional Use Permit to locate a gravel pumping operation on property zoned "District AG, Agricultural District" and "District R-1, Urban Residential Single-Family District (Low Density) and described as tracts of land and accretions located in Government Lots 5, 6, 7, and 9 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and tracts of land and accretions located in Government Lots 1, 2, 4, 5, and also accretion land lying south of Government Lot 5, 6, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a strip of land along the north bank of the Platte River in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a tract of land located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; the south 77 feet of Lot 3, all of Lot 7 of Block 2, Lot 22 of Block 3; Lots 1, 2, 3, 4, 13, 14 of Block 4; Lots 1, 2, 3 of Block 5; Lots 1, 2, 3, 4 of Block 6, all in Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska (11 Central Avenue) subject to compliance with the following conditions: Said Permit is approved for a period of 5 years and may be renewed thereafter by the Planning Commission and City Council. (2) Hours of operation shall be Monday through Friday, 8:00 a.m. until 6:00 p.m. and not on holidays. (3) The haul road to the west shall be modified to use the existing driveway connecting to Highway 44 through Whitney Sand and Gravel and shall not use Platte Road. (4) The lake shall be dredged starting on the west end and progressing eastward. (5) The west bin shall be relocated south and east to make it less intrusive to the neighbors. (6) The height of material stockpiled at the bin sites shall not exceed 20 feet. (7) Copies of the

Army Corps of Engineers approval letter and any other federal or state agencies required to perform this work shall be submitted to the City. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

FINAL PLAT FOR GLANDON ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Gary and Susan Glandon (Owner) for the Final Plat for "Glandon Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of Government Lot 4 located in the East Half of Section 11, Township 8 North, Range 16 West of the 6th P.M., containing 0.34 acres, more or less, Buffalo County, Nebraska (310 3rd Avenue) and to consider approval of Resolution No. 2008-107. Planning Commission recommended approval.

The applicant has applied to the City for a building addition to the Stagecoach located at 310 3rd Avenue. During this process it was determined that this property has never been formally subdivided as required by State law. The building addition triggers the Preliminary and Final Platting of this property since it is less than ten acres in size. The single lot subdivision contains 0.34 acres and will be known as Glandon Addition. The Preliminary Plat for Glandon Addition was approved at the June 20, 2008 Planning Commission meeting. All necessary utilities to serve the site are in place; therefore, no Public Works Plan is required. A Subdivision Agreement is not required either.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. He stated this is to clean up some paperwork. The Glandon's own a lot that their business, the Stage Coach, sits on for a number of years.

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 by Mitch Humphrey from Buffalo Surveying (Applicant) for Gary and Susan Glandon (Owner) for the Final Plat for "Glandon Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of Government Lot 4 located in the East Half of Section 11, Township 8 North, Range 16 West of the 6th P.M., containing 0.34 acres, more or less, Buffalo County, Nebraska (310 3rd Avenue) and approve **Resolution No. 2008-107**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

RESOLUTION NO. 2008-107

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "GLANDON ADDITION" an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 4 which is located in the East Half of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Beginning at a point which is 90 feet west and 212.5 feet south of the East Quarter corner of said Section 11, said point being also on the west line of 3rd Avenue in the City of Kearney, thence continuing southerly on said west line a distance of 100.0 feet;

thence right 89°45' and parallel with the East-West Quarter Section line of said Section 11 a distance of 150.0 feet; thence northerly parallel with the east line of said tract a distance of 100.0 feet; thence easterly parallel with the East-West Quarter Section line of said Section 11 a distance of 150.0 feet to the place of beginning, containing 0.34 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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 JULY, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING WEST OF 6TH AVENUE AND 4TH STREET

Mayor Clouse stated Public Hearings 5, 6, 7 and 8 pertain to the development of Cash-Wa Second, property located west of 6th Avenue and 4th Street. The City received a letter from the applicant requesting this matter be tabled until July 22, 2008.

Moved by Lear seconded by Buschkoetter to table until July 22, 2008 the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Cash-Wa Distributing Company of Kearney, Inc. (Owner) to rezone from "District R-1, Urban Residential Single-Family District (Low Density)" to "District M-1/PD, Limited Industrial/Planned Development Overlay District" property described as part of Government Lot 3 and accretions located in Section 11, Township 8 North, Range 16 West of 6th P.M., and part of 6th Avenue (to be vacated), containing 24.34 acres, more or less, Buffalo County, Nebraska (west of 6th Avenue and 4th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

FINAL PLAT AND SUBDIVISION AGREEMENT FOR CASH-WA SECOND ADDITION

Mayor Clouse stated Public Hearings 5, 6, 7 and 8 pertain to the development of Cash-Wa Second, property located west of 6th Avenue and 4th Street. The City received a letter from the applicant requesting this matter be tabled until July 22, 2008.

Moved by Lear seconded by Buschkoetter to table until July 22, 2008 the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Cash-Wa Distributing Company of Kearney, Inc. (Owner) for the Final Plat and Subdivision Agreement for "Cash-Wa Second Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of Government Lot 3

and accretions located in Section 11, Township 8 North, Range 16 West of 6th P.M., and part of 6th Avenue (to be vacated), containing 24.34 acres, more or less, Buffalo County, Nebraska (west of 6th Avenue and 4th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

ANNEXATION OF CASH-WA SECOND ADDITION

Mayor Clouse stated Public Hearings 5, 6, 7 and 8 pertain to the development of Cash-Wa Second, property located west of 6th Avenue and 4th Street. The City received a letter from the applicant requesting this matter be tabled until July 22, 2008.

Moved by Lear seconded by Buschkoetter to table until July 22, 2008 the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Cash-Wa Distributing Company of Kearney, Inc. (Owner) for the annexation of "Cash-Wa Second Addition", an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of Government Lot 3 and accretions located in Section 11, Township 8 North, Range 16 West of 6th P.M., and part of 6th Avenue (to be vacated), containing 13.42 acres, more or less, Buffalo County, Nebraska (west of 6th Avenue and 4th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

DEVELOPMENT PLANS FOR WEST OF 6TH AVENUE AND 4TH STREET

Mayor Clouse stated Public Hearings 5, 6, 7 and 8 pertain to the development of Cash-Wa Second, property located west of 6th Avenue and 4th Street. The City received a letter from the applicant requesting this matter be tabled until July 22, 2008.

Moved by Lear seconded by Buschkoetter to table until July 22, 2008 the public hearing on the Application submitted by Paul Brungardt from Brungardt Engineering (Applicant) for Cash-Wa Distributing Company of Kearney, Inc. (Owner) for Planned District Development Plan Approval for the construction of cold storage facility and a parking lot on property to be zoned "District M-1/PD, Limited Industrial/Planned Development Overlay District" and described as part of Government Lot 3 and accretions located in Section 11, Township 8 North, Range 16 West of 6th P.M., and part of 6th Avenue (to be vacated), containing 24.34 acres, more or less, Buffalo County, Nebraska (west of 6th Avenue and 4th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 14 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held June 24, 2008.
2. Approve the following Claims:

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

A New Day Counseling \$48.74 smcs; Ace Hardware \$373.93 smcs; Admiral Flag Poles \$51.21 smcs; Advance Auto Parts \$65.93 smcs; Adventure Glass \$628.39 smcs; Aflac \$2,783.88 ps; Alamar Uniform \$149.50 ps; Alertshirt \$704.35 smcs; Allied Electronics \$379.42 smcs; Alltel \$1,270.55 smcs; Amax Contracting \$465.61 smcs; Amer Electric \$506.10 smcs,co; Amer Legion \$259.35 smcs; Amsan \$451.55 smcs; Andersen Wrecking \$110.00 smcs; Anderson Brothers \$158.20 smcs; Antigua Credit Dept \$1,160.18 smcs; Apple Online Store \$32.09 smcs; Ashworth \$804.77 smcs; Ask Supply \$2,814.39 smcs,co; Austin Hardware \$76.74 smcs; Auto Glass Center \$184.59 smcs; Baker & Taylor Books \$7,217.93 smcs; Bally's Hotel \$562.44 smcs; Bennett,T \$532.50 smcs; Benson,G \$7.58 smcs; Big O Tires \$28.00 smcs; Blackburn Mfg \$154.62 smcs; Blessing \$16,443.52 smcs,co; Blevins,D \$158.40 smcs; BlueCross Blueshield \$66,889.19 smcs; Boogaarts \$12.50 smcs; Bosselman \$42,083.98 smcs; Branstitier,T \$37.98 smcs; Brisbin,H \$35.00 smcs; Buckle Screenprint \$676.50 smcs; Buerer Computer Consulting \$55.86 smcs; Buffalo Co Court \$192.19 ps; Buffalo Co Economic \$50,000.00 smcs; Buffalo Co Reg Deeds \$267.00 smcs; Buffalo Co Treasurer \$28.00 co; Builders Warehouse \$2,143.07 smcs,co; Bumblebees \$19.98 smcs; Burton,L \$18.30 smcs; Business Office Systems \$377.40 smcs; Cabela's \$422.39 smcs; Camera Doctor \$108.00 smcs; Carnes,H \$599.25 smcs; Carquest \$2,529.03 smcs; Casey's \$23.25 smcs; Cash-Wa \$532.10 smcs; CDW Gov't \$1,307.31 smcs,co; Central Fire \$60.25 smcs; Central Hydraulic Systems \$516.84 smcs; Central NE Bobcat \$3,368.82 smcs,co; CH Diagnostic \$445.00 smcs; Chandler Well Service \$1,191.38 co; Charter \$46.99 smcs; Christianbookcom \$120.85 smcs; City of Glass \$38.00 smcs; City of Ky \$183,749.98 smcs,ps; CK Realty \$19.13 smcs; Cold Spring Granite \$392.40 smcs; College Savings Plan of NE \$75.00 ps; Commontime \$388.80 smcs; Compubizent \$337.94 co; Computer Pros \$65.00 smcs; Conseco Life Ins \$24.00 ps; Construction Rental \$1,225.12 smcs,co; Content Management \$310.00 smcs; Continental Engines \$87.40 smcs; Control Tech \$477.12 smcs; Cool Tech Commercial \$105.00 smcs; Copycat Printing \$1,925.11 smcs,co; Cornwell,T \$300.00 smcs; Courtyard by Marriott \$314.62 smcs; Cracker Barrel \$40.60 smcs; Creative Teacher \$15.96 smcs; Crossroads Ford \$278.96 smcs; Culligan \$134.14 smcs; Cummins Central Power \$2,959.00 smcs; Dandee Concrete \$610.00 co; Danko Emergency \$8,520.00 co; Dell \$1,251.80 smcs,co; Depository Trust \$192,336.25 ds; Diamond Vogel Paint \$33.67 smcs; Divotech Golf \$417.17 smcs; Dollar-General \$19.53 smcs; Double M Farms \$2,000.00 smcs; DPC Industries \$4,813.40 smcs; Dultmeier Sales \$28.52 smcs; Eakes \$997.38 smcs,co; Earl May \$64.98 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$40,615.82 smcs,co; Elliott,R \$122.50 smcs; Emblem Enterprises \$228.00 ps; Envirocert Int'l \$81.95 smcs; Eustis Body Shop \$75.00 smcs; Excel Systems \$4,670.00 co; Fairbanks Int'l \$1,625.63 smcs; Farm Plan \$27.75 smcs; Fast Mart \$58.39 smcs; Fastenal \$796.17 smcs; Fearnely,M \$292.00 smcs; Fedex \$105.08 smcs; Fiddelke Heating \$632.08 smcs; Fireguard \$14,484.29 smcs,co; Fleet Pride \$2,028.50 smcs; FOP Lodge #18 \$250.00 smcs; Foremost Promotions \$1,104.81 smcs; Fox Print \$440.00 smcs; Frisbees \$65.50 smcs; FYR-Tek \$308.71 smcs; Gale \$432.83 smcs; Galeton Gloves \$667.70 smcs; Galls \$213.62 smcs; Gamma Sports \$362.39 smcs;

Gangwish Turf \$92.38 smcs; Garrett Tires & Treads \$546.42 smcs; GE Money Bank \$1,199.58 smcs; Gealy's Greenhouse \$5,307.05 smcs; Golfsmith \$388.50 smcs; Gooch Brake \$840.23 smcs; Gopher Sport \$262.08 smcs; Gordon's Small Engine \$24.33 smcs; Graham Tire \$134.81 smcs; Grainger \$861.68 smcs; Grand Central IGA \$83.58 smcs; GI Independent \$207.29 smcs; Great Plains Safety \$1,170.00 smcs; Great Platte River Archway \$371.45 smcs; Greg Larson Sports \$542.62 smcs; Grimes,J \$55.41 smcs; Gronewoller,S \$48.13 smcs; Guideposts \$33.88 smcs; H&H Distributing \$2,227.00 smcs; Hach \$619.04 smcs; Harkins Safety \$56.03 smcs; Hart,S \$18.95 smcs; HD Supply \$6,982.09 smcs; Heiman Fire Equipment \$110.15 smcs; Herbergers \$8.80 smcs; Highsmith \$37.95 smcs; Hobby-Lobby \$201.27 smcs; Holiday \$164.29 smcs; Holiday Inn Express \$545.32 smcs; Holmes Plumbing \$892.39 smcs; Hometown Leasing \$248.23 smcs; Hooker Brothers \$239.36 smcs; HP Services \$30.38 smcs; Hydrologic \$1,029.55 smcs; ICMA RC \$2,952.48 ps; IIA/CPCU Institute \$150.48 smcs; IRS \$115,385.09 ps; Int'l Electrical \$180.00 smcs; Int'l Erosion \$170.00 smcs; Jack Lederman \$213.12 smcs; Jamar Technologies \$98.57 smcs; Johnson,K \$27.45 smcs; Johnson,S \$50.00 smcs; JRs Western \$111.96 smcs; Judd Brothers Construction \$204,516.00 co; Jump-A-Roo \$200.00 smcs; K&K Parts \$575.02 smcs; Ky Concrete \$1,662.50 smcs; Ky Crete \$153.00 smcs; Ky Floral \$48.70 smcs; Ky Hub \$751.00 smcs; Ky Implement \$2,270.56 smcs; Ky Towing \$676.00 smcs; Ky United Way \$561.90 ps; Ky Visitors Bureau \$23,042.97 smcs; Ky Warehouse \$411.25 smcs; Ky Winlectric \$14.53 smcs; Ky Winnelson \$24.90 smcs; Ky Yamaha \$1,925.05 smcs; Kelly Supply \$350.62 smcs; Killion Motors \$642.68 smcs; Kipp Brothers \$96.30 smcs; Kirkham Michael \$11,901.83 co; Kmart \$14.47 smcs; Kolar,J \$7.04 smcs; Konica Minolta \$16.24 smcs; Kowalek,G \$130.70 smcs; Kuhn,B \$2.57 smcs; Kum & Go \$24.04 smcs; Labsafe \$773.38 smcs; Land,R \$49.64 smcs; Lastingsentimentscom \$69.00 smcs; Lawson Products \$386.62 smcs; LARM \$6,000.00 smcs; League of NE Municipalities \$553.00 smcs; Lesco \$191.53 smcs; Lifeguard Store \$151.40 smcs; Lincoln Journal Star \$229.21 smcs; Linweld \$718.99 smcs; Lips Printing \$141.83 smcs; Liquidation Central \$101.96 smcs; Little Caesars \$55.00 smcs; Lockmobile \$45.00 smcs; Luke & Jakes \$15.00 smcs; Luke,D \$7.58 smcs; Machines & Media \$183.00 smcs; Magic Cleaning \$250.00 smcs; Mail Express \$185.32 smcs; Mammoth Wholesale \$910.18 smcs; Marlatt Machine Shop \$847.86 smcs; Martenson,K \$24.00 smcs; McConnell,K \$19.00 smcs; McNeilus Truck \$210,750.00 co; Menards \$991.46 smcs,co; Metlife \$5,937.22 ps; Midlands Contracting \$103,352.40 co; Midway Chevrolet \$68.00 smcs; Midway Chrysler \$3.44 smcs; Midwest Striping \$13,870.00 smcs; Midwest Turf \$15,849.72 smcs,co; Miller & Associates \$106,152.49 smcs,co; Miller Signs \$225.00 smcs; Miller,L \$40.00 smcs; Miracle Recreation \$957.38 co; Mirror Image \$6.50 smcs; Moonlight Embroidery \$165.00 smcs; Motion Industries \$385.97 smcs; Municipal Emergency \$1,596.00 smcs; Napa All Makes \$2,028.55 smcs; Nathan's Curb Grinding \$361.00 co; National Alliance \$150.00 smcs; National Diamond \$341.97 co; National Fire Protection \$1,115.00 smcs; Nature Watch \$187.28 smcs; NE Child Support \$2,707.13 ps; NE Dept of Revenue \$66,178.12 smcs,ps; NE Library Comm \$5,000.00 smcs; NE Machinery \$448.51 smcs; NE St Library \$25.20 smcs; NEland Distributors \$1,850.40 smcs; Neopost \$8,000.00 smcs; Newegg \$560.15 smcs,co; Newman Signs \$215.23 smcs; Newman's Sharpening \$7.49 smcs; Norco Boise \$164.70 smcs; North Platte Telegraph \$208.62 smcs; Northgate Veterinary \$20.75 smcs; Northern Safety \$32.30 smcs; Northwestern Energy \$8,247.18 smcs; Office Depot \$476.33 smcs; Officemax \$1,774.90 smcs,co; Officenet \$475.99 smcs; Olson,J \$12.59 smcs; O'Reilly Auto \$1,002.74 smcs; Oriental Trading \$296.67 smcs;

Orscheln \$1,923.67 smcs,co; Overhead Door \$3,690.97 smcs; Oxford University Press \$86.89 smcs; Payflex Systems \$476.00 ps; Pet Pick-Ups \$550.15 smcs; Peterson,B \$15.00 smcs; Platte Valley Comm \$1,110.60 smcs; Power Plan \$1,431.09 smcs; Presto-X \$136.00 smcs; QT 236 \$46.96 smcs; Quill \$521.44 smcs; RA Radiator Service \$2.07 smcs; Rainbow Racing System \$144.50 smcs; Random House \$98.00 smcs; Reams \$2,066.54 smcs,co; Recorded Books \$1,289.03 smcs; Recreonics \$361.32 smcs; Rhode Island Novelty \$165.20 smcs; Riessland,B \$36.00 smcs; Riverside Manufacturing \$300.06 ps; Roper's Radiator \$30.00 smcs; RT Corp \$285.00 smcs;S&S Worldwide \$440.42 smcs; SA Foster Lumber \$551.69 smcs; Sage,P \$61.14 smcs; Sahling Kenworth \$452.31 smcs; Salem Press \$335.00 smcs; Sandpiper Media \$55.45 smcs; Sanitation Products \$240.78 smcs; Sara Lee Bakery \$19.06 smcs; Schall,J \$31.25 smcs; Schanou,J \$40.12 smcs; Schaub,G \$75.00 smcs; Schwan's \$661.07 smcs; Sears \$129.99 smcs; Select Sprayers \$70.76 smcs; Sheldon,C \$16.50 smcs; Shell Oil \$44.30 smcs; Sherwin Williams \$85.68 smcs; Shiers,M \$24.00 smcs; Sittner,K \$60.00 smcs; Sixth Street Self Storage \$82.50 smcs; Smith,J \$52.49 smcs; Snap-On Tools \$265.90 smcs; Softchoice \$342.53 co; Starostka Group \$350,007.89 co; St of NE/AS Central \$4,037.61 smcs; St of NE/DAS Comm \$18.51 smcs; Steinbrinks Landscaping \$2,983.78 smcs; Stott,D \$35.10 smcs; String Beans \$630.00 smcs; Subway \$20.00 smcs; Sun Life Financial \$24,446.57 smcs; Sunmart \$37.63 smcs; SWANA \$171.00 smcs; Sydow,J \$40.00 smcs; Target \$285.23 smcs; Tucker,M \$50.00 smcs; Theis,J \$30.00 smcs; Thirsty's West \$42.02 smcs; Thompson West \$566.04 smcs; Thompson,J \$16.66 smcs; Tobiassen,C \$2.77 smcs; Todd's Feed & Supply \$1,035.86 co; Toner,L \$250.00 smcs; Tractor & Supply \$2,522.43 smcs,co; Tri City Outdoor Power \$418.69 smcs; TruGreen ChemLawn \$172.00 smcs; Turner Body Shop \$2,589.58 smcs; Tye & Rademacher \$10,975.02 smcs; U Stop 12 \$82.61 smcs; UAP \$557.45 smcs; U-Haul \$55.09 smcs; Underwriters Lab \$3,338.10 smcs; UPPR \$200.00 er; United Seeds \$1,691.00 smcs; US Treasury \$1,476.76 smcs; University Directories \$400.00 smcs; UPS \$230.69 smcs; US Toy Co \$97.15 smcs; USPS \$541.08 smcs; Vanderbilt's \$594.00 smcs; Vega Group \$90.00 smcs; Village Uniform \$508.50 smcs; Volleyball USA \$20.00 smcs; Vontz Paving \$51,925.45 co; WT Cox Subscriptions \$8,508.02 smcs; Wade Corp \$444.00 smcs; Wal-Mart \$2,118.68 smcs; Walters Electric \$904.14 smcs; Warrington,D \$345.58 smcs; Water Products \$465.45 smcs; Wicks Sterling Trucks \$74.58 smcs; Wiebe,D \$325.00 smcs; Wilke Donovans \$205.57 smcs; Wooden,T \$280.46 smcs; World Herald \$1,488.57 smcs; Worley Monument \$1,000.00 co; www101phonescom \$249.99 smcs; Wyndahm Garden \$288.80 smcs; Yanda's Music \$59.45 smcs; Zimmerman Printers \$824.64 smcs; Payroll Ending 6-21-2008 -- \$350,795.74. 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 Application and Certificate for Payment No. 1 in the amount of \$85,293.00 submitted by Paulsen, Inc. and approved by Kirkham Michael for the construction of the Airport Road Relocation Project and approve **Resolution No. 2008-111**.

RESOLUTION NO. 2008-111

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the construction of the Airport Road Relocation Project, and the City's

engineer, Kirkham Michael, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$85,293.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$1,501,718.55</u>
Contract Sum to Date	1,501,718.55
Total Completed and Stored to Date	94,770.00
Retainage	9,477.00
Amount Due to Date	85,293.00
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 85,293.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Approve the Certificate of Substantial Completion submitted by Central Contracting Corporation and approved by Wilkins Hinrichs Stober Architects for the Kearney Volunteer Fire Department Station 1 Improvements Project and approve **Resolution No. 2008-112.**

RESOLUTION NO. 2008-112

WHEREAS, Central Contracting, Inc. of Kearney, Nebraska has performed services in connection with the Kearney Volunteer Fire Department Station 1 Improvements Project, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk the Certificate of Substantial Completion certifying the work is completed as of March 3, 2008 as shown on Exhibit "A" attached hereto and made a part hereof by reference.

Original Contract Sum	\$193,904.00
Change Order No. 1 (10-9-2007) and an additional 41 working days to the contract time	<u>+ 14,770.00</u>
Contract Sum to Date	\$208,674.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion, as shown on Exhibit "A", be and is hereby accepted and approved.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 5. Approve the Releaf Kearney Program and approve **Resolution No. 2008-113.**

RESOLUTION NO. 2008-113

WHEREAS, the City of Kearney has adopted a "Community Tree Plan" providing guidelines for the planting, maintaining and removal of trees and ornamental plantings along the public ways within the City of Kearney; and

WHEREAS, Kearney's forest has been diminished by several storms and the ravages of time; and

WHEREAS, the City of Kearney will take applications from property owners for the planting of street trees from the City of Kearney's approved street tree list and will work with the property owners for the proper location of the planting and the reimbursement of one half the cost of the tree purpose with a maximum not to exceed Fifty Dollars (\$50.00); and

WHEREAS, the City has set aside funds in the amount of \$25,000.00 to be used towards the replacement of trees along the public right-of-ways.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the "Releaf Kearney" program that has been developed for the City of Kearney be and is hereby adopted and approved.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 6. Approve the Employment Agreement between the City of Kearney and Michael W. Morgan and approve **Resolution No. 2008-114.**

RESOLUTION NO. 2008-114

WHEREAS, the City Council of the City of Kearney, Nebraska, do hereby fix, prescribe and limit salary and wages to be paid by this City to the City Manager, pursuant to the authority granted in Section 1-301 of the Code of the City of Kearney, Nebraska, and Section 19-620 of the Nebraska Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be paid an annual salary of One Hundred Thirty-eight Thousand Nine Hundred Forty-seven Dollars (\$138,947.00) effective July 1, 2008; said salary to be paid bi-weekly from any City funds in such proportionate amounts as the City Manager may determine.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the Employment Agreement.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 7. Approve the request submitted by the Downtown Improvement Board to occupy the sidewalks in the downtown area and to block off Central Avenue from Railroad

Street to 25th Street, excluding the intersections, on July 24, 2008 from 8:00 a.m. until 8:00 p.m. and on July 25 and 26, 2008 from 8:00 a.m. until 6:00 p.m. for Sidewalks Sales; and to close the West Railroad parking lot on July 26, 2008 from 8:00 a.m. to 6:00 p.m. for a bicycle decorating competition.

8. Approve **Resolution No. 2008-90A** correcting the legal description for the final plat of Fountain Hills Third Addition to the City of Kearney, Buffalo County, Nebraska for property described as part of the Northeast Quarter of the Southwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of 6th P.M., containing 19.89 acres, more or less, Buffalo County, Nebraska (north and south of 48th Street, east of 11th Avenue and 48th Street).

RESOLUTION NO. 2008-90A

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "FOUNTAIN HILLS THIRD ADDITION" an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northeast Quarter of the Southwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Beginning at the Northeast corner of the Southwest Quarter of said Section 26 and assuming the east line of said Southwest Quarter as bearing $S0^{\circ}21'57''E$ and all bearings contained herein are relative thereto; thence $S0^{\circ}21'57''E$ and on said east line a distance of 480.98 feet to the Northeast corner of Lot 1, Block One, Fountain Hills Addition to the City of Kearney, Buffalo County, Nebraska; thence $N77^{\circ}42'53''W$ on the North line of said Addition a distance of 66.55 feet; thence $N58^{\circ}14'27''W$ and continuing on said North line a distance of 541.19 feet; thence $N84^{\circ}00'48''W$ and continuing on said North line a distance of 199.76 feet to the Northwest Corner of Lot 9, Block One of said Addition and the East line of Outlot 'A' of said Addition; thence $N05^{\circ}59'12''E$ on said East line a distance of 158.05 feet to the Northeast Corner of said Outlot 'A'; thence Westerly and Northwesterly along a non-tangent curve to the right having a central angle of $33^{\circ}05'33''$, a radius of 533.00 feet, an arc length of 307.85 feet and a chord bearing of $N65^{\circ}02'05''W$; thence $S41^{\circ}42'27''E$ a distance of 92.55 feet; thence Southwesterly along a curve to the left having a central angle of $14^{\circ}29'23''$, a radius of 217.00 feet, and an arc length of 54.88 feet to the North line of said Fountain Hills Addition; thence Northeasterly along a non-tangent curve to the right parallel and concentric to the previously described curve, having a central angle of $21^{\circ}08'18''$, a radius of 283.00 feet, and an arc length of 105.29 feet; thence $N41^{\circ}42'27''E$ a distance of 502.37 feet; thence Northerly along a tangent curve to the left having a central angle of $67^{\circ}54'14''$, a radius of 267.00 feet, and an arc length of 316.43 feet; thence $N26^{\circ}11'46''W$ tangent to said curve a distance of 16.81 feet; thence $N66^{\circ}43'37''E$ a distance of 167.52 feet; thence $S89^{\circ}23'32''E$ a distance of 222.13 feet; thence $S72^{\circ}38'54''E$ a distance of 390.98 feet to the East line of said Northwest Quarter; thence $S0^{\circ}16'12''E$ on said East line a distance of 685.94 feet to the place of beginning, containing 19.89 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said

City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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 JULY, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve **Resolution No. 2008-91A** correcting the legal description for the annexation of Fountain Hills Third Addition to the City of Kearney, Buffalo County, Nebraska for property described as part of the Northeast Quarter of the Southwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of 6th P.M., containing 19.89 acres, more or less, Buffalo County, Nebraska (north and south of 48th Street, east of 11th Avenue and 48th Street).

RESOLUTION NO. 2008-91A

WHEREAS, an Application has been submitted by Craig Bennett from Miller & Associates (Applicant) for Grand West, LLC (Owner) for the inclusion of "Fountain Hills Third Addition" an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Northeast Quarter of the Southwest Quarter and part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: Beginning at the Northeast corner of the Southwest Quarter of said Section 26 and assuming the east line of said Southwest Quarter as bearing S0°21'57"E and all bearings contained herein are relative thereto; thence S0°21'57"E and on said east line a distance of 480.98 feet to the Northeast corner of Lot 1, Block One, Fountain Hills Addition to the City of Kearney, Buffalo County, Nebraska; thence N77°42'53"W on the North line of said Addition a distance of 66.55 feet; thence N58°14'27"W and continuing on said North line a distance of 541.19 feet; thence N84°00'48"W and continuing on said North line a distance of 199.76 feet to the Northwest Corner of Lot 9, Block One of said Addition and the East line of Outlot 'A' of said Addition; thence N05°59'12"E on said East line a distance of 158.05 feet to the Northeast Corner of said Outlot 'A'; thence Westerly and Northwesterly along a non-tangent curve to the right having a central angle of 33°05'33", a radius of 533.00 feet, an arc length of 307.85 feet and a chord bearing of N65°02'05"W; thence S41°42'27"E a distance of 92.55 feet; thence Southwesterly along a curve to the left having a central angle of 14°29'23", a radius of 217.00 feet, and an arc length of 54.88 feet to the North line of said Fountain Hills Addition; thence

Northeasterly along a non-tangent curve to the right parallel and concentric to the previously described curve, having a central angle of 21°08'18", a radius of 283.00 feet, and an arc length of 105.29 feet; thence N41°42'27"E a distance of 502.37 feet; thence Northerly along a tangent curve to the left having a central angle of 67°54'14", a radius of 267.00 feet, and an arc length of 316.43 feet; thence N26°11'46"W tangent to said curve a distance of 16.81 feet; thence N66°43'37"E a distance of 167.52 feet; thence S89°23'32"E a distance of 222.13 feet; thence S72°38'54"E a distance of 390.98 feet to the East line of said Northwest Quarter; thence S0°16'12"E on said East line a distance of 685.94 feet to the place of beginning, containing 19.89 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on May 16, 2008 on the inclusion of "Fountain Hills Third Addition" within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as "Fountain Hills Third Addition" an addition to the City of Kearney, Buffalo County, Nebraska;

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on June 10, 2008 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as "Fountain Hills Third Addition" shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of "Fountain Hills Third Addition" within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Award the negotiated bid received from Wilke Contracting for the construction of the 2007 Part V Improvements (bridge work on 4th Street between 2nd Avenue and 3rd Avenue) and approve **Resolution No. 2008-115**.

RESOLUTION NO. 2008-115

WHEREAS, on June 3, 2008, at 2:00 p.m. the City received two bids for the 2007 Part V Improvements (bridge work on 4th Street between 2nd Avenue and 3rd Avenue); and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the project was \$264,060.50 and the low bid received from Wilke Contracting was in the amount of \$335,787.48 which exceeded the Engineer's Opinion of Probable Construction Cost and the projected budget; and

WHEREAS, on June 10, 2008 the Kearney City Council passed and approved Resolution No. 2008-98 authorizing the City Manager to negotiate a contract for services, material or labor to construct the 2007 Part V Improvements (bridge work on 4th Street between 2nd Avenue and 3rd Avenue) at a cost commensurate with the Engineer’s Estimate; and

WHEREAS, City staff and the City’s engineer, Miller & Associates, have worked with Wilke Contracting and recommend accepting the bid submitted by Wilke Contracting of Kearney, Nebraska subject to the following items being reduced and/or omitted from the contract for a decrease in the amount of \$25,640.00, as follows:

<u>Items with a reduction in the unit price</u>	
Build integral curb was reduced	\$ 6,500.00
<u>Items deleted from the contract</u>	
Reduce the amount of pavement on City right-of-way	\$ 7,200.00
Reduce the over excavate and re-compact quantity	\$ 2,900.00
<u>Items removed from the contract to be performed by the City</u>	
Remove the seeding and sodding	<u>\$ 9,040.00</u>
Total reductions in the contract cost	\$25,640.00

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 Wilke Contracting of Kearney, Nebraska be and is the lowest responsible bidder for the 2007 Part V Improvements (bridge work on 4th Street between 2nd Avenue and 3rd Avenue) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Wilke Contracting of Kearney, Nebraska in the negotiated sum of \$310,147.48 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer’s Opinion of Probable Construction Cost for the 2007 Part V Improvements (bridge work on 4th Street between 2nd Avenue and 3rd Avenue) in the amount of \$264,060.50 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 JULY, 2008.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Approve the application for a Special Designated License submitted by TIMOTHY SMITH, dba “Back Nine Club House” in connection with their Class I-40252 liquor license to dispense beer, wine and distilled spirits in The Great Platte River Road Archway Monument, 3060 East 1st Street, on August 16, 2008 from 4:00 p.m. until 1:00 a.m. for a wedding reception.

12. Approve the bids received for the 2008 Part 8 Improvements consisting of Paving Improvement District No. 2008-927 for 62nd Street, Avenue S, Avenue T and

Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2 of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; Water District No. 2008-551 for 62nd Street, Avenue S Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2 of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; and Sanitary Sewer District No. 2008-493 for 62nd Street, Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4 of Block 2; Lots 1 and 2 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth and approve **Resolution No. 2008-116** awarding the bid to Midlands Contracting for Bid A (Water and Sewer) in the amount of \$153,572.00 and to Dan Roeder Concrete for Bid B (Paving) in the amount of \$304,210.00.

RESOLUTION NO. 2008-116

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on July 1, 2007, at 2:00 p.m. for the 2008 Part 8 Improvements consisting Paving Improvement District No. 2008-927 for 62nd Street, Avenue S, Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2 of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; Water District No. 2008-551 for 62nd Street, Avenue S Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2 of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; and Sanitary Sewer District No. 2008-493 for 62nd Street, Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4 of Block 2; Lots 1 and 2 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$144,342.50 for Bid A (Water and Sewer) and \$360,555.00 for Bid B (Paving); and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting of Kearney, Nebraska in the sum of \$153,572.00 for Bid A (Water and Sewer), and Dan Roeder Concrete Inc. of Kearney, Nebraska in the sum of \$304,210.00 for Bid B (Paving) be accepted as the lowest responsible bids.

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 of Kearney, Nebraska be and is the lowest responsible bidder for the 2008 Part 8 Improvements consisting Water District No. 2008-551 for 62nd Street, Avenue S Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2 of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth; and Sanitary Sewer District No. 2008-493 for 62nd Street, Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4 of Block 2; Lots 1 and 2 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting of Kearney, Nebraska in the sum of \$153,572.00 be and is hereby accepted for Bid A (Water and Sewer).

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete Inc. of Kearney, Nebraska be and is the lowest responsible bidder for the 2008 Part 8 Improvements consisting Paving Improvement District No. 2008-927 for 62nd Street, Avenue S, Avenue T and Avenue U as said streets abut Lots 1 and 2 of Block 1; Lots 1, 2, 3, 4, 5, 6, and 7 of Block 2; Lots 1 and 2

of Block 3; Lots 1, 2, 3 of Block 4; Lot 1 of Block 5, all in Eastbrooke Tenth to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete Inc. of Kearney, Nebraska in the sum of \$304,210.00 be and is hereby accepted for Bid B (Paving).

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost for 2008 Part 8 Improvements for Bid A (Water and Sewer) in the amount of \$144,342.50 and for Bid B (Paving) in the amount of \$360,555.00 be and is hereby accepted.

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

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the Consultant Agreement between the City of Kearney and Kirkham Michael of Omaha, Nebraska for basic services in connection with Airport Project No. 3-31-0045-19 (Airport Master Plan/Airport Layout Plan) and approve **Resolution No. 2008-117.**

RESOLUTION NO. 2008-117

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the Consultant's Agreement with Kirkham Michael & Associates for Airport Improvement Project No. 3-31-0045-19 for updating the Master Plan/Airport Layout Plan for the Kearney Regional Airport. A copy of the Consultant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the request from the Police Department to the temporarily close Avenue B from Railroad Street to 21st Street on July 12, 2007 from 8:00 a.m. until 5:00 p.m. for the annual auction.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7449 – AMEND CHAPTER 1 OF THE CITY CODE

On April 26, 2005, the City Council approved Article 15 "Purchasing" to Chapter 1 the Code of the City of Kearney. This Article currently requires that all Departments procuring supplies, equipment, contractual services, or professional services exceeding \$20,000 follow a formal Request for Proposals (RFP) procedure as required by state

statute. During this year's legislative session, the Legislature and the Governor approved Legislative Bill 947 which increased the \$20,000 threshold to \$30,000. The proposed change to Article 15 would simply make the City's purchasing policy match what is required pursuant to state law.

Another recommendation by Administration is to change the mileage reimbursement rate provided in Section 1-1510 of the City Code to not exceed ½ of the State of Nebraska mileage reimbursement rate, unless otherwise approved by the City Manager.

Council Member Clouse introduced Ordinance No. 7449, being Subsection 1 of Agenda Item V to amend Section 1-1505 "Formal Contract Procedure", Section 1-1506 "Informal Purchasing" and Section 1-1507 "Professional Services" of Article 15 "Purchasing" of Chapter 1 "Administration" of the Code of the City of Kearney to increase the minimum bidding amount requirements to \$30,000.00 established by state law; to amend Section 1-1510 "Miscellaneous Expenditures" of Article 15 "Purchasing" of Chapter 1 "Administration" of the Code of the City of Kearney to establish the mileage rate at which elected and appointed officials, employees or volunteers may be reimbursed, 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, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7449 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7449 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7449 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. 7450 – REPEAL ORDINANCE NO. 7447 AND VACATE A PORTION OF 15TH STREET

On June 10, 2008 the County came before the City Council requesting to vacate the 20-foot wide north-south alley that was platted between 15th Street and 16th Street and part of 15th Street. The courthouse building covers a majority of the platted alley between 15th Street and 16th Street and it is unclear why the alley was never previously vacated when the building was built over it. Part of 15th Street was

previously vacated at this location, but an L-shaped portion remains that must be vacated.

When the ordinances were submitted to the Register of Deeds for filing, it was discovered there was an error in the legal description in Ordinance No. 7447 vacating a portion of 15th Street. Therefore, it is necessary to repeal the ordinance and re-vacate that portion of 15th Street as needed by the County.

Council Member Clouse introduced Ordinance No. 7450, being Subsection 2 of Agenda Item V to repeal Ordinance No. 7447 and to vacate a portion of 15th Street lying between 1st Avenue and Central Avenue in the City of Kearney, Buffalo County, Nebraska (1512 Central Avenue), 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, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7450 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7450 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7450 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

ORDINANCE NO. 7445 – AMEND CHAPTER 50 “SIGN REGULATIONS” OF CITY CODE (PERTAINS TO PUBLIC HEARING 1)

Ordinance No. 7445 on the proposed amendments to Chapter 50, “Sign Regulations” of the City Code remained on the table until July 22, 2008.

ORDINANCE NO. 7451 – REZONING 1723 AVENUE G (PERTAINS TO PUBLIC HEARING 2)

Council Member Lear introduced Ordinance No. 7451, being Subsection 2 of Agenda Item VI to rezone from “District R-1, Urban Residential Single-Family District (Low Density)” to “District R-2, Urban Residential Mixed-Density District” property described

as the north half of Lot 1026 and all of Lot 1027, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1723 Avenue G), 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, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7451 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7451 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7451 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. 7452 – CONDITIONAL USE PERMIT FOR GRAVEL PUMPING OPERATION, 11 CENTRAL AVENUE (PERTAINS TO PUBLIC HEARING 3)

Council Member Clouse introduced Ordinance No. 7452, being Subsection 3 of Agenda Item VI to grant a Conditional Use Permit to Sorensen Construction Co. (Applicant) for Patrick and Elizabeth Merrifield (Owner) to locate a gravel pumping operation on property zoned "District AG, Agricultural District" and "District R-1, Urban Residential Single-Family District (Low Density) and described as tracts of land and accretions located in Government Lots 5, 6, 7, and 9 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and tracts of land and accretions located in Government Lots 1, 2, 4, 5, and also accretion land lying south of Government Lot 5, 6, all located in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a strip of land along the north bank of the Platte River in Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; a tract of land located in the Northeast Quarter of Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; the south 77 feet of Lot 3, all of Lot 7 of Block 2, Lot 22 of Block 3; Lots 1, 2, 3, 4, 13, 14 of Block 4; Lots 1, 2, 3 of Block 5; Lots 1, 2, 3, 4 of Block 6, all in Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska (11 Central Avenue) subject to compliance with the following conditions: subject to compliance with the following conditions: Said Permit is approved for a period of 5 years and may be renewed thereafter by the Planning Commission and City Council. (2) Hours of operation shall be Monday through Friday, 8:00 a.m. until 6:00 p.m. and not on holidays. (3) The haul road to the west shall be modified to use the existing driveway connecting to Highway 44 through Whitney Sand

and Gravel and shall not use Platte Road. (4) The lake shall be dredged starting on the west end and progressing eastward. (5) The west bin shall be relocated south and east to make it less intrusive to the neighbors. (6) The height of material stockpiled at the bin sites shall not exceed 20 feet. (7) Copies of the Army Corps of Engineers approval letter and any other federal or state agencies required to perform this work shall be submitted to the City, 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, Buschkoetter, Lear, Lammers. Nay: None. Kearney absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7452 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. Nay: None. Kearney absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7452 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7452 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.

VETERANS FW 759 MANAGER APPLICATION FOR MICHAEL GIFFORD

Mayor Clouse opened for discussion the Manager Application for Michael Gifford submitted by the Veterans FW 759 in connection with their Class C-09025 liquor license located at 2215 1st Avenue.

Michael Gifford presented this matter to the Council. He is the Commander at the VFW. At the present time, he has two people that are intern managers. He applied for the manager position because they do not know who the actual manager is going to be. Since their renewal is coming up in August, he decided to fill the position. At the time of the application they had four full time employees, but now they only have three. Two of his three remaining employees have done and passed the beverage training. The other bartender has completed part one and is working on the second part through the Liquor Commission on their web site.

Moved by Lear seconded by Buschkoetter to approve the Manager Application for Michael Gifford submitted by the Veterans FW 759 in connection with their Class C-09025 liquor license located at 2215 1st Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Kearney absent. Motion carried.

OPEN ACCOUNT CLAIMS: PLATTE VALLEY STATE BANK - \$56,518.92, NPPD -

\$62,858.93, SCHOOL DISTRICT #7 - \$1,134.70

Mayor Clouse stated that with the absence of Council member Kearney and the abstention of Council members Buschkoetter and Lammers, the Open Account Claim for School District #7 will be placed on the July 22, 2008 Council Agenda for consideration.

Moved by Buschkoetter seconded by Lammers that Open Account Claims in the amount of \$62,858.93 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers. Nay: None. Clouse abstained. Kearney absent. Motion carried.

Moved by Clouse seconded by Lammers that Open Account Claim in the amount of \$56,518.92 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear abstained. Kearney absent. Motion carried.

VII. REPORTS**MEETING TO DISCUSS BUDGET**

Mayor Clouse reminded the Council of the meeting to discuss the proposed budget with Administration was scheduled for July 10, 2008 at 7:00 a.m.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 8:11 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Kearney absent. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK