

Kearney, Nebraska
September 9, 2008
7:00 p.m.

Prior to the regular Council meeting, the Council met as the Board of Directors for the Kearney Area Solid Waste Agency in open and public session at 7:00 p.m. on September 9, 2008 in the Council Chambers at City Hall. This meeting adjourned at 7:07 p.m. A meeting of the City Council of Kearney, Nebraska, was then convened in open and public session at 7:07 p.m. in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; and Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Sherry Morrow, Dick Pierce, Andy Hoffmeister, Tracey Shada, Roger Jasnoch, Brad Kernick, Odee Ingersoll, Paul Younes, Ty Strawhacker, Marvion Reichert, Tammy Jackson, Bruce Grupe, Craig Bennett, Mitch Humphrey, Adam Sandoval, Todd Gottula from Kearney Hub, Sara Gibbony from Kearney Hub, Steve Altmaier from KGFW Radio, NTV.

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

I. ROUTINE BUSINESS

INVOCATION

With the absence of a representative from the Kearney Ministerial Association, the Mayor and Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

RECOGNITION – OUTGOING BOARD MEMBERS

Mayor Clouse and Council Members recognized and presented a Service Award to the following outgoing board members of the Park & Recreation Advisory Board: Julie Anderson and Tracey Shada.

ORAL COMMUNICATIONS – KEARNEY VISITORS BUREAU PRESENTATION

Mayor Clouse stated that the Kearney Visitors Bureau has requested to make a presentation on the imposition of a one percent restaurant occupation tax. This is a presentation only and will not be open for discussion from the floor.

Roger Jasnoch, Director of the Kearney Visitors Bureau, stated that he was representing the hospitality industry which is alive and well in Kearney. They join with five other engines that drive Kearney's economy and have for several years which are retail, health care, University of Nebraska, manufacturing and agriculture. This is done in a number of ways: conventions, special events such as Sandhill Cranes, Cruise Nite, Husker Land Wrestling, volleyball, functions at the Firstier Events Center and Buffalo County Fairgrounds. They have touched a number of people throughout the year. During the last five years, they touched over 800,000 people in special events who include spectators and participants. In the area of group events for conventions, they have touched about 200,000. Through those two groups collectively, they have touched over a million people. This provides important jobs in our community: lodging represents 500 full and part time jobs and restaurants represents over 3,000 people, and going back to the six pillars they represent 16 percent of the workforce.

I-80 is certainly the lifeblood to any community which has 44,000 people go by the front door everyday which calculates to 16 million people going by our community every year. They appreciate all the City has done to make south 2nd Avenue look very inviting and differentiates our community from others and would like to continue the work around the interchange itself. Looking at the total number of sales in terms of food, lodging, retail and gas, the total estimated revenue of that is \$90 million. Over the last five years, the economic impact is over \$1 million which multiplied by the 1.5 percent sales tax equals a \$15 million economic impact on our community. Those sales tax dollars offset the need for increasing personal property taxes. The people at the US Census have reported the \$1 million dollar economic impact represents over 8,400 jobs. Kearney and Buffalo County were one of the very first to implement the lodging tax. Currently, the one percent state tax goes to the State Tourism Department to fund the statewide effort, the two percent lodging tax was passed in 1981 and in 1996 the two percent occupation tax was passed to front the cost of the Archway. Beginning in January 2008, a two percent lodging tax was started in Kearney.

Mr. Jasnoch reported that in regards to competition, Grand Island, Lincoln and North Platte are in our competition area. LaVista just announced their opening of over 50,000 square feet (when it is completed) of new exhibit space and over 600 new sleeping rooms. That is like taking half of Kearney and setting up shop and saying; "We are open for business". We are competing everyday. There was a piece of business that took place in our community every other year over Easter weekend for the past several years. The Visitors Bureau believed that they had a very aggressive bid with the competition being Grand Island and Omaha. Out of nowhere, Hastings came in and took it away. Kearney lost about \$9,000 of economic impact from that piece of business.

If that \$9,000 turned over two and one half times, that piece of business would have equaled about \$2 million that Kearney lost. When it comes up again for bid, Kearney will re-bid it. They have to continually position themselves to add even more dollars to these bids to keep those pieces of business coming back.

Our existing funding comes from the two percent occupation tax and the four percent lodging tax with a \$1 million budget which will basically go into operations. Marketing consists of printing and advertising out of the market to bring people to our community. Group events consist of the Mr. Basketballs, the cross country and the speech debate competition. There is funding for the Arch, Firefighters Museum and the City of Kearney is twofold this year, \$50,000 plus \$25,000 for the 4th Street Project by the Cinema 8 in addition to reserves that allow funding for other projects throughout the year.

The one percent restaurant occupation tax would be on food and soft drinks which have been estimated at \$550,000. If it is more than the \$550,000 (which they think it might be) they would work with the City in terms of building additional softball, baseball, and soccer fields for residents to use and which could also be used to host additional tournaments throughout the year. The tax would not apply to grocery items or alcohol. This would apply only to food served. The dollars would be used to create City-wide events. They want to do everything that can be done with their existing funding to keep what Kearney has; to expand the tournaments that Kearney has and to make sure not to lose any tournaments. They would go out into the market and see what other kinds of City-wide events that Kearney could attract here. They can look for events that are scheduled for particular weeks of the year that might fit with Kearney's schedule and would eliminate the highs and lows.

The budget allows \$200,000 for new events and to create new attractions that would compliment Kearney's existing venue. The goal is to turn a lunch stop into an afternoon stop and an afternoon stop into an overnight stay which would increase the number of lodging, meals and retail activity. According to the data, 52 percent of each dollar comes from existing residents of Kearney and 48 percent comes from outside. Essentially, we are getting help from the outside in paying for half of any of the projects we do. According to the math the US Census has provided, a typical family would pay \$2.00 per month more for the additional tax throughout the year.

Mr. Jasnoch stated this is a general overview of the proposal. As they begin with listening sessions, they will go into more detail with regard to questions. He stated that they are willing to work with the City in scheduling those public listening sessions and alerting the restaurant people in particular.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REVISED DEVELOPMENT PLANS FOR 3311-3317 AVENUE Q

Mayor Clouse opened the public hearing on the Application submitted by Melvin Sandoval from Custom Masonry and Carpentry (Applicant) for Merlin Wehling of Regional Development, LLC (Owner) for Revised Planned District Development Plan Approval for the construction of an 8-garage stall addition on property zoned "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" and described as Lots 3, 4, 5 and the north 20 feet of Lot 6, all in Block 1, Sunny Acres Second Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (3311-3317 Avenue Q) and to consider approval of Resolution No. 2008-148. Planning Commission recommended approval.

The applicant is requesting approval for two garage structures with four stalls in each building. The property is zoned R-3/PD requiring revised development plan approval for any additions or alterations to the site. These garages will be built to provide enclosed parking for two four-plex buildings that currently exist. The existing concrete paving in combination with the proposed garage buildings will meet City parking requirements. The construction materials for the proposed garages will mimic the residential buildings for compatibility. The two garages will be separated by ten feet and will be located on either side of a common lot line so they can be sold separately in the future if the owner so desires. Drainage sheet flows from west to east. There is no landscaping requirement with this project.

Adam Sandoval 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 Melvin Sandoval from Custom Masonry and Carpentry (Applicant) for Merlin Wehling of Regional Development, LLC (Owner) for Revised Planned District Development Plan Approval for the construction of an 8-garage stall addition on property zoned "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" and described as Lots 3, 4, 5 and the north 20 feet of Lot 6, all in Block 1, Sunny Acres Second Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (3311-3317 Avenue Q) and approve **Resolution No. 2008-148**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2008-148

WHEREAS, Melvin Sandoval from Custom Masonry and Carpentry (Applicant) for Merlin Wehling of Regional Development, LLC (Owner) have applied for Revised Planned District Development Plan Approval for the construction of an 8-garage stall addition on property zoned "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" and described as Lots 3, 4, 5 and the north 20 feet of Lot 6, all in Block 1, Sunny Acres Second Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (3311-3317 Avenue Q).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Melvin Sandoval from Custom Masonry and Carpentry (Applicant) for Merlin Wehling of Regional Development, LLC (Owner) for Revised Planned District Development Plan Approval for the construction of

an 8-garage stall addition on property to be zoned "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" and described as Lots 3, 4, 5 and the north 20 feet of Lot 6, all in Block 1, Sunny Acres Second Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (3311-3317 Avenue Q).

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONE BETWEEN 14TH STREET AND 15TH STREET AND CENTRAL AVENUE AND 1ST AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Andrew Hoffmeister for Buffalo County (Applicant and Owner) to rezone from "District M-1, Limited Industrial District" to "District CBD, Kearney Center Mixed Use District" property described as Lots 1506, 1507, 1508, 1509, 1510, 1511, 1514, 1515, 1516, 1517 and the vacated 15th Street lying between Central Avenue and 1st Avenue, together with the vacated alley lying between Lots 1506, 1507, 1508, 1509, 1514, 1515, 1516 and 1517, all in Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (between 14th Street and 15th Street and Central Avenue and 1st Avenue). Planning Commission recommended approval.

The applicant is requesting rezoning approval for parts of property owned by Buffalo County and currently being used as the courthouse property from M-1, Limited Industrial District to CBD, Kearney Center Mixed-Use District. Some parts of the property occupied by the courthouse were previously rezoned to CBD when the Unified Land Development Ordinance and Official Zoning Map were adopted in 2002. If this rezoning is approved it will unify the zoning and all the courthouse property will be similarly zoned as CBD. The property to be rezoned is located between 14th Street and 15th Street and Central Avenue and 1st Avenue. The current M-1 zoning requires a 25-foot front yard setback along the street. The plans for the new jail and courthouse addition propose the buildings to extend to within a few feet of the property line encroaching well within the setback. CBD zoning does not require a setback which will allow the buildings to be built as shown on the plans.

At the Planning Commission there was discussion regarding adequate landscaping of the proposed parking areas. There is no requirement in CBD zoning for landscaping. The parking lot to the west of the courthouse were mentioned and the fact that the required trees have not been planted. City Planner investigated the site and determined that the trees have been planted but they do not meet the minimum size requirements for commercial development.

Andrew Hoffmeister presented this matter to the Council. The proposal is for additional courthouse expansion. This was originally a combined effort. The plan is to extend the existing courthouse straight south along the building lines. To do that, they will have to either vacate some streets or simply rezone this. After talking with City planning it was decided it would be best to simply rezone this to a central business district type

designation. This would include all but the southwest two lots a block south of the courthouse. In the meantime, they will not be vacating streets as was done for the west part of the existing courthouse. This way the streets are left open for whatever improvements or utilities are needed to go into that building. Their intent is to keep the whole building situated as it is. They will be building over the now vacated 15th Street going south for a couple hundred feet. There will be a parking lot on the south which will hopefully open up some parking. This will be a very good facility for Kearney and this area and not just for the County.

Council member Lammers asked about landscaping and the fact that the trees that had been planted did not meet City size standards. Mr. Hoffmeister stated they do not like too many bushes and trees around the City jail because of the security problem it creates. Their plan is for lots of green grass and make it cosmetically mix with the residences that are south of them. The trees on the parking lot will grow. He did state that the problem he has with making too much of a comment around the jail is because it must pass State standards with clear sights of view and monitoring. Those requirements are going to take some precedence over tree and bush requirements, although grass is not an issue. Their intent is to make it aesthetically blend in and to keep or replant trees as necessary. He couldn't be too specific with the details because it is also subject to a jail standards review at least for the south part of the building. Being a government entity, they will try to go with the zoning jurisdictions rules as best they can.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Andrew Hoffmeister for Buffalo County (Applicant and Owner) to rezone from "District M-1, Limited Industrial District" to "District CBD, Kearney Center Mixed Use District" property described as Lots 1506, 1507, 1508, 1509, 1510, 1511, 1514, 1515, 1516, 1517 and the vacated 15th Street lying between Central Avenue and 1st Avenue, together with the vacated alley lying between Lots 1506, 1507, 1508, 1509, 1514, 1515, 1516 and 1517, all in Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (between 14th Street and 15th Street and Central Avenue and 1st Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

FINAL PLAT FOR FIRST LUTHERAN ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for First Evangelical Lutheran Church of Kearney, Nebraska (Owner) for the Final Plat for "First Lutheran Addition" to the City of Kearney, Buffalo County, Nebraska for property described as the north half of Lot 76 and all of Lots 77, 78, 79, and 80 (to be vacated), Switz's Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 33rd Street and east of Avenue G) and to consider approval of Resolution No. 2008-149. Planning Commission recommended approval.

The applicant is requesting approval to plat a tract of land that is south of the First Lutheran Church east of Avenue G and south of 33rd Street for additional church

parking. The north half of Lot 76, and all of Lots 77 through 80 inclusive, of Switz's Subdivision must be vacated to replat this property as First Lutheran Addition. The proposed subdivision will consist of three lots and is to be known as First Lutheran Addition. The Preliminary Plat for First Lutheran Addition was approved by Planning Commission at the August 15, 2008 meeting. An existing house will be relocated from Lot 42 of Switz's Subdivision (3210 Avenue H) to proposed Lot 3 of the new subdivision. Lots 1 and 2 of the proposed subdivision along with Lots 41, 42, and 43 of Switz's Subdivision will be reserved for future parking expansion for the church. No subdivision agreement is required. A Public Works Plan is not required either.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This project is for the First Evangelical Lutheran Church in Kearney. They own some property just south of the church on 34th Street between Avenue G and Avenue H, which they acquired a number of years ago. They want to sell one of those houses and move it to the site on the southerly portion. They want to vacate four and half lots and create three regular standard sized City lots according to City standards. They want to sell that lot to the individual that is moving the house for them. That way the property they own would be rectangular in nature instead of an "L" shaped piece. This would allow them to expand their parking lot in the future or do some other expansion and would be a little more cost effective for them.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for First Evangelical Lutheran Church of Kearney, Nebraska (Owner) for the Final Plat for "First Lutheran Addition" to the City of Kearney, Buffalo County, Nebraska for property described as the north half of Lot 76 and all of Lots 77, 78, 79, and 80, Switz's Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 33rd Street and east of Avenue G) and approve **Resolution No. 2008-149**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2008-149

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "FIRST LUTHERAN ADDITION" to the City of Kearney, Buffalo County, Nebraska for a tract of land described as the north half of Lot 76 and all of Lots 77, 78, 79, and 80 (now vacated), Switz's Subdivision to the City of Kearney, Buffalo County, Nebraska, said lots being part of the Southwest Quarter of the Northeast Quarter of Section 36, Township 9 North, Range 16 West of the 6th P.M., 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 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP FOR 600 AVENUE M

Public Hearings 4, 5, 6, and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 3" to "Low Density Residential" for a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 1.46 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and to consider approval of Resolution No. 2008-150. Planning Commission recommended approval.

The applicant is requesting approval to add additional land to an existing subdivision located at 600 Avenue M. The "new" land has never been zoned or subdivided. The existing subdivision must be vacated, and then the additional land must be rezoned, platted and annexed into the corporate boundary of the City.

The additional land has never been zoned and is therefore considered AG, Agricultural zoning by default. The proposed use of the land is for a rural residence which requires RR-1 zoning. The Future Land Use Map of the Comprehensive Development Plan for the City of Kearney shows the land use designation as "Mixed Use 3" from this area all the way north to 11th Street. The plan considers this area as appropriate for industrial expansion as has been evidenced along the 11th Street corridor in recent years and will probably accelerate when 11th Street is paved next year. The subject property is located far to the south of the 11th Street growth corridor and will be used for residential purposes. Therefore, staff recommends amending the Future Land Use Map to "Low Density Residential" and rezoning to RR-1, Rural Residential District (Rural Standards).

The existing subdivision known as Ward's Addition must be vacated to add the additional property and replat the consolidated land as Ward's Second Addition. The proposed subdivision will consist of one lot and is to be known as Ward's Second Addition. The Preliminary Plat for Ward's Second Addition was approved by the Planning Commission at the August 15, 2008 meeting. An existing house occupies the original 1.46 acres that is currently platted as Ward's Addition. An additional 1.85 acres to the north and east will be incorporated into the new subdivision for a total of 3.31 acres. Additional right-of-way along Avenue M is being dedicated for a total width of 100 feet. No subdivision agreement is required. A Public Works Plan is not required either as this property is served by individual well and septic systems. This property is contiguous to the corporate limits of the City and although it will not be served with city utilities, staff recommends annexation at this time.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. They are taking the lot that is known as Ward's Addition located west of Avenue M which is owned by Cinda Ward and are adding the ground that is directly to the east to square things up. It makes the lot that she will own in its entirety conform to the City's minimum standards as required by the present zoning classification. When Ward's Addition was platted the requirements for a street right-of-way dedication was 40 feet. The City will benefit by getting another ten feet of right-of-way on one of their main arterials. It should be a win/win situation with the zoning, platting and everything that is going on.

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 O & O Farms, Inc. (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 3" to "Low Density Residential" for a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 1.46 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and approve **Resolution No. 2008-150**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-150

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northeast corner of Government Lot 4 in said Section 12 and assuming the east line of said Section 12 as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the east line of said Section 12 a distance of 749.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing SOUTH on the aforesaid east line a distance of 137.0 feet to the northeast corner of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the east line of said Section 12, WEST on the north line of said Ward's Addition, a distance of 464.0 feet to an easterly line of said Ward's Addition; thence NORTH on said easterly line of Ward's Addition a distance of 137.0 feet to a northeasterly corner of said Ward's Addition; thence EAST leaving the easterly line of said Lot 1, Ward's Addition (if extended) a distance of 464.0 feet to the place of beginning, containing 1.46 acres, more or less, all in Buffalo County, Nebraska (600 Avenue M) from "Mixed Use 3" to "Low Density Residential", and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby

amended to change from "Mixed Use 3" to "Low Density Residential" the use classification for the area described as a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northeast corner of Government Lot 4 in said Section 12 and assuming the east line of said Section 12 as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the east line of said Section 12 a distance of 749.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing SOUTH on the aforesaid east line a distance of 137.0 feet to the northeast corner of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the east line of said Section 12, WEST on the north line of said Ward's Addition, a distance of 464.0 feet to an easterly line of said Ward's Addition; thence NORTH on said easterly line of Ward's Addition a distance of 137.0 feet to a northeasterly corner of said Ward's Addition; thence EAST leaving the easterly line of said Lot 1, Ward's Addition (if extended) a distance of 464.0 feet to the place of beginning, containing 1.46 acres, more or less, all in Buffalo County, Nebraska (600 Avenue M).

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONE 600 AVENUE M

Public Hearings 4, 5, 6, and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards)" property described as a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 1.46 acres, more or less, Buffalo County, Nebraska (600 Avenue M). Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards)" property described as a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 1.46 acres, more or less, Buffalo County, Nebraska (600 Avenue M). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT FOR WARD'S SECOND ADDITION

Public Hearings 4, 5, 6, and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for the Final Plat for "Ward's Second Addition" to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds (to be vacated) TOGETHER WITH a part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 3.44 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and to consider approval of Resolution No. 2008-151. Planning Commission recommended approval.

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 Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for the Final Plat for "Ward's Second Addition" to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds (to be vacated) TOGETHER WITH a part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 3.44 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and approve **Resolution No. 2008-151**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2008-151

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "WARD'S SECOND ADDITION" an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the Plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds, and said Ward's Addition being part of Government Lot 4 and accretions located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and with Lot 1 of said Ward's Addition, now vacated, together with a tract of land being part of said Government Lot 4 located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the northeast corner of Government Lot 4 in said Section 12 and assuming the east line of said Section 12 as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the east line of said Section 12 a distance of 749.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing SOUTH on the aforesaid east line a distance of 137.0 feet to the northeast corner of said Ward's Addition; thence continuing SOUTH on the east line of said Section 12 and the east line of said Ward's Addition a distance of 65.11 feet to a point that intersects on the existing North Bank of the North Channel of the Platte River; thence leaving the east line of said Section 12 and the east line of said Ward's Addition, and upstream on the existing North Bank of

the North Channel of the Platte River, N75°21'09"W a distance of 127.69 feet; thence N87°05'38"W and continuing on the aforesaid North Bank a distance of 74.95 feet; thence S83°14'48"W and continuing on the aforesaid North Bank a distance of 267.49 feet; thence S61°58'16"W and continuing on the aforesaid North Bank a distance of 44.93 feet; thence N86°23'42"W and continuing on the aforesaid North Bank a distance of 98.25 feet; thence N65°22'14"W and continuing on the aforesaid North Bank a distance of 111.43 feet to a point on the westerly line of said Lot 1, Ward's Addition; thence leaving the existing North Bank of the North Channel of the Platte River, NORTH on the westerly line of said Lot 1, Ward's Addition and parallel with the east line of said Section 12 and the east line of said Ward's Addition a distance of 166.0 feet to the northwesterly corner of said Lot 1, Ward's Addition; thence EAST on the northerly line of said Lot 1, Ward's Addition a distance of 239.0 feet to a point on an easterly line of said Lot 1, Ward's Addition; thence EAST leaving the easterly line of said Lot 1, Ward's Addition (if extended) a distance of 464.0 feet to the place of beginning, TOGETHER WITH, any additional and all rightful accretions abutting said property on the south side, AND EXCEPT THEREFROM, all that part of said Ward's Addition dedicated to the City of Kearney, Nebraska, for public road right-of-way as shown on said Plat of Ward's Addition, containing 3.44 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 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF WARD'S SECOND ADDITION (600 AVENUE M)

Public Hearings 4, 5, 6, and 7 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for the annexation of "Ward's Second Addition", to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds (to be vacated) TOGETHER WITH a part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 3.44 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and to consider approval of Resolution No. 2008-152. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for the annexation of "Ward's Second Addition", to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds (to be vacated) TOGETHER WITH a part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 3.44 acres, more or less, Buffalo County, Nebraska (600 Avenue M) and approve **Resolution No. 2008-152**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2008-152

WHEREAS, an Application has been submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for O & O Farms, Inc. (Owner) for the inclusion of "Ward's Second Addition" an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being all of Ward's Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with the Plat of said Ward's Addition being filed at Instrument No. 2002-1651, recorded February 14, 2002, in the Office of the Buffalo County Register of Deeds, and said Ward's Addition being part of Government Lot 4 and accretions located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and with Lot 1 of said Ward's Addition, now vacated, together with a tract of land being part of said Government Lot 4 located in Section 12, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the northeast corner of Government Lot 4 in said Section 12 and assuming the east line of said Section 12 as bearing SOUTH and all bearings contained herein are relative thereto; thence SOUTH on the east line of said Section 12 a distance of 749.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing SOUTH on the aforesaid east line a distance of 137.0 feet to the northeast corner of said Ward's Addition; thence continuing SOUTH on the east line of said Section 12 and the east line of said Ward's Addition a distance of 65.11 feet to a point that intersects on the existing North Bank of the North Channel of the Platte River; thence leaving the east line of said Section 12 and the east line of said Ward's Addition, and upstream on the existing North Bank of the North Channel of the Platte River, N75°21'09"W a distance of 127.69 feet; thence N87°05'38"W and continuing on the aforesaid North Bank a distance of 74.95 feet; thence S83°14'48"W and continuing on the aforesaid North Bank a distance of 267.49 feet; thence S61°58'16"W and continuing on the aforesaid North Bank a distance of 44.93 feet; thence N86°23'42"W and continuing on the aforesaid North Bank a distance of 98.25 feet; thence N65°22'14"W and continuing on the aforesaid North Bank a distance of 111.43 feet to a point on the westerly line of said Lot 1, Ward's Addition; thence leaving the existing North Bank of the North Channel of the Platte River, NORTH on the westerly line of said Lot 1, Ward's Addition and parallel with the east line of said Section 12 and the east line of said Ward's Addition a distance of 166.0 feet to the northwesterly corner of said Lot 1,

Ward's Addition; thence EAST on the northerly line of said Lot 1, Ward's Addition a distance of 239.0 feet to a point on an easterly line of said Lot 1, Ward's Addition; thence EAST leaving the easterly line of said Lot 1, Ward's Addition (if extended) a distance of 464.0 feet to the place of beginning, TOGETHER WITH, any additional and all rightful accretions abutting said property on the south side, AND EXCEPT THEREFROM, all that part of said Ward's Addition dedicated to the City of Kearney, Nebraska, for public road right-of-way as shown on said Plat of Ward's Addition, containing 3.44 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on August 15, 2008 on the inclusion of "Ward's Second 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 "Ward's Second 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 September 9, 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 "Ward's Second 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 "Ward's Second 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 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AMEND LAND USE MAP FOR SOUTH OF 55TH STREET, EAST OF 11TH AVENUE AND 48TH STREET

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Grand West, LLC (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 2" to "Mixed Use 1" for property described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5

inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street) and to consider approval of Resolution No. 2008-153. Planning Commission recommended approval.

The applicant is requesting vacation of the townhomes portion of Fountain Hills Second located south of 56th Street, west of 6th Avenue extended north and east of 11th Avenue extended north. You will recall that this was a mixed use subdivision for future commercial development plus 71 units of townhouses approved in September 2007 as phase two of the Fountain Hills development. After the developers did some further investigation they decided that the site would be too costly to develop as townhomes and decided to rezone and plat a tract further south for townhouse development. In May 2008, Planning Commission recommended approval of Fountain Hills Third, a 23.74 acre subdivision with 15.06 acres rezoned to R-3/PD for townhouse development. At that time, Planning Commission expressed some concern that there are now two tracts designated for high density development and that the first tract in Fountain Hills Second should be vacated since Fountain Hills Third was approved. This concern was stated in the motion as follows: "Upon approval from City Council for Fountain Hills Third Addition the applicant will vacate that portion of Fountain Hills Second Addition that is zoned R-3/PD."

The overall size of the project was 18.47 acres. The proposed townhouse development to be vacated comprises 9.73 acres and the two commercial lots to remain comprise 7.49 acres. The street right-of-ways platted for 55th Street and 11th Avenue will remain dedicated and are not a part of this vacation request.

After the property is vacated the zoning needs to be considered. Since the property is once again unplatted, the owner would like the zoning to revert to AG, Agricultural District. At some point in the future when a determination is made regarding how the property will be developed it can then be rezoned accordingly. Along with the rezoning, staff recommends amending the Future Land Use Map of the Comprehensive Development Plan of the City of Kearney from Mixed Use 2 back to Mixed Use 1 which is what the property was designated prior to the platting of Fountain Hills Second.

Craig Bennett from Miller & Associates presented this matter to the Council. This is to take care of the procedural part that Planning Commission had suggested when Fountain Hills Third was platted. This involves a portion of Fountain Hills Third just west of the water tower on 48th Street where they were moving a development plan that they had for townhomes in Fountain Hills Second to Fountain Hills Third. Since they are not going to do that, the proposal is to ask for a partial vacation of what is Fountain Hills Second which is just south of 56th Street and only for the part that was for the town home portion of it. They also are requesting to revert it back from R-4 zoning to Agricultural. By reverting that back, they will still own the rest of the quarter section that is much larger than the 10-20 acres that they need. There were two easements through there before it was platted, one a fiber-optic line and the other a gas line. They have

vacated all the easements except for those two that were previously in place.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Grand West, LLC (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 2" to "Mixed Use 1" for property described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street) and approve **Resolution No. 2008-153**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-153

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street) from "Mixed Use 2" to "Mixed Use 1", and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and

voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from "Mixed Use 2" to "Mixed Use 1" the use classification for the area described as a tract of land described a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: as Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street).

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONE SOUTH OF 55TH STREET, EAST OF 11TH AVENUE AND 48TH STREET

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Grand West, LLC (Owner) to rezone from "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" to "District AG, Agricultural District" property described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street). Planning Commission recommended approval.

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 Craig Bennett from Miller & Associates (Applicant) for Grand West, LLC (Owner) to rezone from "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" to "District AG, Agricultural District" property described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

REZONE SOUTH OF PLATTE RIVER AND WEST OF HIGHWAY 44

Mayor Clouse stated Public Hearings 10 and 11 pertain to the development of Brandt's Lakewood Estates Second for property located south of Platte River and west of Highway 44. The City received an email requesting this matter be tabled until September 23, 2008.

Council member Lear stated he would be abstaining for the reason of a business relationship with one of the applicants.

Moved by Buschkoetter seconded by Clouse to table until September 23, 2008 the hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for James Gregory and Tamara S. Brandt and Mark A. and C. Diane Sutko (Owners) to rezone from "District AG, Agricultural District" to "District RR-2, Rural Residential District (Intermediate Standards)" property described as a tract of land being part of accretions to Government Lot 2 except Lot 1, Brandt's Lakewood 8th Subdivision and excepting all of the 60 foot wide tract recorded as a Private Access Road abutting Lot 1, Brandt's Lakewood 8th Subdivision on the south and abutting Lot 1 of Block 2, Brandt's Lakewood 7th Subdivision, all being part of accretions to Government Lot 2; part of accretions to Government Lot 3, all located in Section 23, Township 8 North, Range 16 West of the 6th P.M., containing 4.31 acres, more or less, Kearney County, Nebraska (south of Platte River and west of Highway 44). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried.

FINAL PLAT FOR BRANDT'S LAKEWOOD ESTATES SECOND

Mayor Clouse stated Public Hearings 10 and 11 pertain to the development of Brandt's Lakewood Estates Second for property located south of Platte River and west of Highway 44. The City received an email requesting this matter be tabled until September 23, 2008.

Council member Lear stated he would be abstaining for the reason of a business relationship with one of the applicants.

Moved by Buschkoetter seconded by Clouse to table until September 23, 2008 the hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for James Gregory and Tamara S. Brandt and Mark A. and C. Diane Sutko (Owners) for the Final Plat for "Brandt's Lakewood Estates Second", a subdivision of Kearney County, Nebraska for property described as a tract of land being part of accretions to Government Lot 2, part of accretions to Government Lot 3, all located in Section 23, Township 8 North, Range 16 West of the 6th P.M., Kearney County, Nebraska, and all of Lot 1, Brandt's Lakewood 8th Subdivision, a subdivision being part of accretions to Government Lot 2 in Section 23, Township 8 North, Range 16 West of the 6th P.M. (to be vacated), containing 6.67 acres, more or less, Kearney County, Nebraska (south of Platte River and west of Highway 44). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried.

BOARD OF EQUALIZATION - PAVING IMPROVEMENT DISTRICT NOS. 2006-909, 2006-910, 2006-911, 2006-912, 2006-913, 2007-914; WATER DISTRICT NOS. 2006-543, 2006-544, 2006-545, 2006-546, 2007-547; SEWER DISTRICT NOS. 2006-486, 2006-487, 2006-488, 2007-489

Mayor Clouse stated that Administration has requested to table until September 23, 2008 Paving Improvement District No. 2006-914, Water District No. 2006-547, and Sewer District No. 2006-489 for 16th Street from Avenue M east a distance of 747 feet.

Moved by Clouse seconded by Kearney to table until September 23, 2008 Paving Improvement District No. 2006-914, Water District No. 2006-547, and Sewer District No. 2006-489. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

Mayor Clouse opened the public hearing for the Council to meet as the Board of Equalization to assess costs for Paving Improvement District No. 2006-909, Water District No. 2006-543 and Sewer District No. 2006-486 for 11th Avenue from the south line of Rapp Addition south to its terminus in a cul-de-sac; AND 8th Street as it abuts Lot 2 of Block 2, Lots 1 and 6 of Block 3, and Lot 6 of Block 4, all in Park View Estates Third; AND 9th Street Place as it abuts Lot 1 of Block 1 and Lot 1 of Block 2, Park View Estates Third; Paving Improvement District No. 2006-910, Water District No. 2006-544 and Sewer District No. 2006-487 for 17th Avenue from 14th Street south to 11th Street; Paving Improvement District No. 2006-911, Water District No. 2006-545 and Sewer District No. 2006-488 for 60th Street from 4th Avenue to the west line of Block 3, Spruce Hollow Estates; Paving Improvement District No. 2006-912 for the alley lying west of

2nd Avenue from 22nd Street to 24th Street; Paving Improvement District No. 2006-913 and Water District No. 2006-546 for Country Club Lane from 35th Street north to the north lot line of Lot 1 of Block 1, Aspen Meadows and to consider approval of Resolution No. 2008-155.

After completion of the construction projects, the City hired a title company to complete property abstracts so that assessments could be levied. These districts have been completed and, in order to satisfy state law, when paving, water and sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (October 29) or will be able to pay the entire assessment without any interest prior to this date. The City will recoup the costs associated with the construction of paving and improving the streets within such Paving Districts, except the cost of paving and improving the intersections of streets or avenues and spaces opposite alleys in such Paving Districts and will recoup the cost of installation of mains in said Water and Sewer Districts.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing for the Council to meet as the Board of Equalization to assess costs for Paving Improvement District No. 2006-909, Water District No. 2006-543 and Sewer District No. 2006-486 for 11th Avenue from the south line of Rapp Addition south to its terminus in a cul-de-sac; AND 8th Street as it abuts Lot 2 of Block 2, Lots 1 and 6 of Block 3, and Lot 6 of Block 4, all in Park View Estates Third; AND 9th Street Place as it abuts Lot 1 of Block 1 and Lot 1 of Block 2, Park View Estates Third; Paving Improvement District No. 2006-910, Water District No. 2006-544 and Sewer District No. 2006-487 for 17th Avenue from 14th Street south to 11th Street; Paving Improvement District No. 2006-911, Water District No. 2006-545 and Sewer District No. 2006-488 for 60th Street from 4th Avenue to the west line of Block 3, Spruce Hollow Estates; Paving Improvement District No. 2006-912 for the alley lying west of 2nd Avenue from 22nd Street to 24th Street; Paving Improvement District No. 2006-913 and Water District No. 2006-546 for Country Club Lane from 35th Street north to the north lot line of Lot 1 of Block 1, Aspen Meadows and to approve **Resolution No. 2008-155**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2008-155

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the street in Paving Improvement District Nos. 2006-909, 2006-910, 2006-911, 2006-912, 2006-913 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of

the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. That the water mains heretofore ordered installed in Water District Nos. 2006-543, 2006-544, 2006-546 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water mains and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. That the sewer mains heretofore ordered installed in Sewer District Nos. 2006-486, 2006-487, 2006-488 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sewer mains and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2006-909, 2006-910, 2006-911, 2006-912, 2006-913 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 6. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District Nos. 2006-543, 2006-544, 2006-546 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sewer District Nos. 2006-486, 2006-487, 2006-488 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

2008-2009 CITY OF KEARNEY BUDGET

Public Hearings 13 and 14 were discussed together but voted on separately.

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Budget for the 2008-2009 Fiscal Year.

Director of Finance and Administration Wendell Wessels presented this matter to the Council. Pursuant to Neb. Rev. Stat. Section 13-506, the City Council is required to conduct a public hearing on the City of Kearney proposed budget and the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2008-2009 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. The City Council should review the 2008-2009 Budget Document and bring it to the City Council public hearings. After the Budget Document is reviewed and the public hearings are conducted, Ordinance No. 7460 should be passed and approved on the Regular Agenda. Ordinance No. 7460 legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney.

The 2008-2009 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the City, and keeping expenditures and taxes as low as possible.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and adopt the City of Kearney Budget for the 2008-2009 Fiscal Year. Roll call resulted as follows: Aye:

Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

2008-2009 OFFSTREET PARKING DISTRICT NO. 1 BUDGET

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2008-2009 Fiscal Year.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt the City of Kearney Offstreet Parking District No. 1 Budget for the 2008-2009 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

2008 PROPERTY TAX LEVY

Mayor Clouse opened the public hearing for the of setting the 2008 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and to consider approval of Resolution No. 2008-156.

Director of Finance and Administration Wendell Wessels presented this matter to the Council. Section 77-1601.02 of the Nebraska Revised Statutes requires political subdivisions of the State of Nebraska to conduct a Special Public Hearing to set the 2008 property tax request if the request is going to be different than the 2007 property tax request. The same statutes include a provision stating that the property tax request for 2007 will be the property tax request for 2008 unless the political subdivision passes by a majority vote a resolution setting the property tax request at a different amount.

Resolution No. 2008-156 sets the property tax request for 2008. The 2008-2009 City of Kearney Budget includes a property tax requirement of \$1,885,167.93 for the General Fund, and a property tax requirement of \$390,026.65 for the Public Safety Tax Anticipation Bond Fund. The 2008 property tax requirements are different than the 2007 property tax requirements; therefore, a Special Public Hearing is required to set the 2008 property tax requirement.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve setting the 2008 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and approve **Resolution No. 2008-156**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2008-156

WHEREAS, Neb. Rev. Stat. Section 77-1601.02, (R.R.S. 1943), as amended), authorizes the City Council to set the 2008 property tax request for the City of Kearney; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that a 2008 property tax request be set for the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-1601.02 (R.R.S. 1943) an All-Purpose Tax Request of \$1,885,167.93 is set for the fiscal year beginning the 1st day of October, 2008 and ending on the 30th day of September, 2009 for the purpose of equipping, maintaining and paying the departments of the City of Kearney.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-1601.02 (R.R.S. 1943), a Special Tax Request of \$390,026.65 is set for the fiscal year beginning the 1st day of October, 2008 and ending the 30th day of September 2009 for the purpose of paying off bonds authorized by Neb. Rev. Stat. Section 18-1202 (R.R.S. 1943).

BE IT FURTHER RESOLVED that the City Clerk is hereby ordered to certify said request to the Buffalo County Clerk in order that the same may be placed on the property tax rolls and be collected in the manner provided by law.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2008.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Council member Buschkoetter removed Subsection 4 of the Consent Agenda. One of the recipients, Kearney Band Parents Association, is receiving keno funds. Since he is employed by Kearney High School, he would be abstaining on this item.

4. Approve the recommendation submitted by the Keno Committee on the allocation on non-departmental keno funds designed for outside agencies.

Moved by Clouse seconded by Kearney that Subsection 4 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney. Nay: None. Buschkoetter abstained. Motion carried.

Moved by Kearney seconded by Lammers that Subsections 1, 2, 3 and 5 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 26, 2008, and Minutes of Special Meeting held September 2, 2008.

2. Approve the following Claims:

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

Ace Hardware \$215.33 Smcs; Ace Irrigation \$440.25 smcs,co; Advanced Auto Parts \$15.99 Smcs; Aflac \$2,694.31 Ps; Agri Coop \$1,356.24 Smcs; Aliph \$9.99 Smcs; Allied Electronics \$65.42 Smcs; Alltel \$1,270.55 Smcs; AlSCO Industrial \$659.38 Smcs; Amazon \$145.18 Smcs; Amer Electric \$274.51 Smcs; Amer Fence \$7,061.00 Co; APWA \$880.00 Smcs; Amsan \$868.11 Smcs; Andersen Wrecking \$45.00 Smcs; Anderson Brothers \$158.20 Smcs; Antigua Credit \$129.40 Smcs; Apple Market \$13.47 Smcs; Arizona Tools \$119.17 Smcs; Artic Refrigeration \$102.00 Smcs; Aurora Co-op \$1,334.80 Smcs; Auto Glass Center \$32.13 Smcs; Baker & Taylor Books \$6,960.13 Smcs; Barney Abstract \$330.00 Co; Barney Ins \$95.00 Smcs; Basenback,J \$13.31 Smcs; BBC Audiobooks \$353.80 Smcs; BD Construction \$3,784.00 Smcs; Bear Frame \$865.96 Smcs; Becker,J \$76.00 Smcs; Bennett,T \$522.75 Smcs; Benson,G \$35.10 Smcs; Big Apple Fun Center \$25.00 Smcs; Blessing \$250,588.12 Co; Bobs Super Store \$57.81 Smcs; Bosselman \$92,679.19 Smcs; Bound to Stay Bound \$1,331.64 Smcs; Brandt,S \$18.06 Smcs; Brilliance Audio \$1,654.27 Smcs; Broadfoot's \$364.00 Smcs; Brown Traffic Products \$1,072.50 Smcs; Buffalo Co Court \$591.77 Ps; Buffalo Co Treasurer \$18,750.00 Smcs; Buggy Bath Car Wash \$63.50 Smcs; Builders Warehouse \$2,618.07 smcs,co; Cabela's \$210.86 Smcs; Campus Edge \$13.01 Smcs; Capstone Press \$5,109.68 Smcs; Carlson,D \$43.63 Smcs; Carquest \$1,425.43 Smcs; Casarino Christman Shalk \$16,708.50 Smcs; Cash-Wa \$1,859.60 Smcs; CDW Gov't \$16,304.15 smcs,co; Centaur Enterprises \$41.18 Smcs; Center Point Large Print \$184.92 Smcs; Central Auto Electric \$112.34 Smcs; Central Fire \$80.00 Smcs; Central Hydraulic Systems \$308.69 Smcs; Central NE Bobcat \$807.50 Smcs; Charter \$56.64 Smcs; Chesterman \$113.40 Smcs; Child's World \$2,025.65 Smcs; City of Ky \$183,411.12 smcs,ps; Clark Enersen Partners \$5,191.88 Co; Cold Spring Granite \$356.40 Smcs; College Savings Plan of NE \$75.00 Ps; Complete Music \$240.00 Smcs; Concrete Workers \$11,493.00 Co; Conesco Life Ins \$24.00 Ps; Construction Rental \$1,142.05 smcs,co; Copycat Printing \$1,537.13 Smcs; Cornhusker Cleaning \$189.78 Smcs; Cracker Barrel \$71.78 Smcs; Crocker & Co \$197.00 Smcs; Crossroads Ford \$340.80 Smcs; Cummins Central Power \$1,365.65 Smcs; CVI Kearney \$1,005.67 Smcs; Dawson Co PPD \$32,750.23 Smcs; Dell \$460.06 smcs,co; Diamond Vogel Paint \$18.44 Smcs; Discovery Channel \$166.93 Smcs; Divotech Golf \$1,078.33 Smcs; Double M Farms \$2,000.00 Smcs; DPC Industries \$6,021.39 Smcs; Dultmeier Sales \$368.88 Smcs; Dutton-Lainson \$250.95 Smcs; Eakes \$1,124.60 smcs,co; Earl May \$11.99 Smcs; Ebsco \$2,500.00 Smcs; Ecolab \$34.50 Smcs; Eickhoff,B \$56.00 Ps; Eileens Cookies \$135.00 Smcs; Eirich,T \$50.00 Smcs; Engineered Systems \$221.15 Smcs; Enterprise \$35.00 Smcs; Eriksen Construction \$5,911.88 Co; EZ Turf \$1,065.00 Co; F&S Supply \$880.50 Smcs; Fairbanks Int'l \$2,804.40 Smcs; Falcon Govt Jobs \$135.00 Smcs; Fast Mart \$290.82 Smcs; Fastenal \$1,775.24 Smcs; Fedex \$39.81 Smcs; Fehringer,S \$24.81 Smcs; Fireguard \$69.41 Smcs; Footjoy \$446.03 Smcs; Foster,D \$31.56 Smcs; Gale \$288.61 Smcs; Galetton Gloves \$1,269.95 Smcs; Galls \$269.42 Smcs; Gangwish Turf \$71.40 smcs,co; Gannon,E \$30.98 Smcs; Garrett Tires \$2,806.65 Smcs; GE Money Bank \$3,922.65 Smcs; Geisler,A \$10.39 Smcs; Geisler,S \$20.55

Smcs; Glatter,LD \$556.00 Smcs; Goebel,J \$30.98 Smcs; Gordons Small Engine \$15.00 Smcs; GFOA \$220.00 Smcs; Graham Tire \$459.43 Smcs; Grainger \$1,630.51 Smcs; H&H Distributing \$1,171.79 Smcs; H2O Distributors \$349.00 Smcs; Hagan,R \$32.96 Smcs; Hamilton Apiaries \$100.00 Smcs; Hanna,N \$26.07 Smcs; Hargrove,G \$5.75 Smcs; Harrison,I \$7.50 Smcs; Hartner,D \$39.47 Smcs; HD Supply \$4,783.48 Smcs; Heartland America \$92.98 Smcs; Henderson,C \$5.51 Smcs; Hilltop Mall \$50.00 Smcs; Hobby-Lobby \$106.64 Smcs; Hoehner Turf \$249.77 Smcs; Holiday \$237.93 Smcs; Holiday Inns Lincoln \$78.40 Smcs; Holiday Station Store \$35.00 Smcs; Holmes Plumbing \$827.58 smcs,co; Hometown Leasing \$39.32 Smcs; Hooker Brothers \$110.88 Smcs; IAEI \$30.00 Smcs; ICMA RC \$2,961.52 Ps; Idea Bank \$504.95 Smcs; Inland Truck Parts \$85.74 Smcs; IRS \$105,287.42 Ps; Int'l Public Mgmt \$645.00 Smcs; Island Supply \$763.64 Smcs; Jack Lederman \$60.96 Smcs; Jack's Uniforms \$409.00 Smcs; Johnson Brothers \$15.00 Smcs; Johnson,S \$50.00 Smcs; Jones Automotive \$1,321.48 Smcs; K&K Parts \$1,675.19 Smcs; Ky Chamber Commerce \$10,000.00 Smcs; Ky Cinema 8 \$25.00 Smcs; Ky Glass \$133.10 Smcs; Ky Hub \$364.10 Smcs; Ky Humane Society \$2,400.00 Smcs; Ky Implement \$1,557.87 Smcs; Ky Towing \$475.00 Smcs; Ky United Way \$549.90 Ps; Ky Visitors Bureau \$69,440.25 Smcs; Ky Warehouse \$3,029.25 Smcs; Ky Winlectric \$69.91 Smcs; KHGI \$2,215.00 Smcs; Klaus,M \$779.92 Smcs; Konica Minolta \$214.11 Smcs; Korth,M \$14.05 Smcs; Kowalek,G \$97.20 Smcs; Kozak,J \$40.00 Smcs; Krueger,N \$4.54 Smcs; Langenberg,B \$4.05 Smcs; Lawson Products \$311.88 Smcs; Lennen,J \$13.58 Smcs; Lesco \$69.43 Smcs; Lincoln Truck Center \$73.82 Smcs; Lind Electronics \$911.50 Smcs; Lindner,S \$4.70 Smcs; Linweld \$168.79 Smcs; Little Caesars \$211.50 Smcs; Little Kings \$231.59 Smcs; Little USA \$11.93 Smcs; LT Navigo Wireless \$1,925.50 Co; Mac Tools \$3.36 Smcs; Machines & Media \$393.00 Co; Magic Cleaning \$250.00 Smcs; Mail Express \$207.45 Smcs; Manufactures News \$84.95 Smcs; Marlatt Machine Shop \$377.54 Smcs; Mascoelectric \$168.83 Smcs; Masters Leasing \$500.00 Smcs; Maul,E \$556.00 Smcs; McWaters,C \$25.00 Smcs; Mellick,S \$5.17 Smcs; Menards \$2,582.80 Smcs; Metlife \$5,907.47 Ps; Mid-American Pump \$693.80 Smcs; Midlands Contracting \$18,803.20 Co; Midwest Turf \$58.34 Smcs; Miller & Associates \$82,243.64 smcs,co; Miller Signs \$2,315.00 Co; Mirror Image \$50.00 Smcs; Misko Sports \$43.00 Smcs; Mitchell 1 \$1,499.00 Smcs; Moody's Investors \$5,000.00 Smcs; Moonlight Embroidery \$2,421.75 Smcs; MSC Industrial Supply \$868.30 Smcs; Mulberry Citgo \$51.66 Smcs; Napa All Makes \$1,996.58 Smcs; Nathan's Curb Grinding \$1,076.00 Co; National Arbor Day \$25.00 Smcs; NCS Equipment \$259.51 Smcs; NE Child Support \$2,707.13 Ps; NE Dept of Agriculture \$135.81 Smcs; NE Dept of Environmental \$8,250.00 Smcs; NE Dept of Revenue \$79,092.38 smcs,ps; NE Library Ass'n \$270.00 Smcs; NE Machinery \$8.63 Co; NE Plastics \$4,561.61 Smcs; NE Truck Center \$277.15 Smcs; NEland Distributors \$1,255.10 Smcs; NeRPA \$136.00 Smcs; Newegg \$279.96 Co; Newman Signs \$937.96 Smcs; Noffke,M \$556.00 Smcs; Noller Electric \$630.58 Smcs; Norfolk Lodge \$84.52 Smcs; Northwestern Energy \$2,999.39 Smcs; Nova Fitness Equipment \$354.50 Ps; Novus \$31.50 Smcs; NTOA \$150.00 Smcs; Nuttelman Fencing \$11,005.40 Co; Office Depot \$243.57 Smcs; Office Max \$2,607.80 smcs,co; Oldcastle Precast \$57.00 Smcs; O'Reilly Auto \$1,695.70 Smcs; Orscheln \$529.92 smcs,co; Osborne,E \$24.81 Smcs; Otto Environmental \$13,105.00 Smcs; Overhead Door \$955.00 Smcs; Oxford University Press \$94.83 Smcs; Paramount Linen \$21.00 Smcs; Payflex Systems \$590.75 smcs,ps; Paypal \$162.00 Smcs; PBD Ala-Graph Editions \$99.40 Smcs; Peerless Machine \$32.50 Smcs; Pen Fire Engineering \$42.00 Smcs; Penworthy \$3,683.24 Smcs; Pep Co \$51.10 Smcs; Pfeiffer,D \$806.00 Smcs; PGA Member Info Services

\$456.00 Smcs; Platte Valley Comm \$1,252.47 Smcs; Presto-X \$78.00 Smcs; Protech \$2,280.00 Co; Quill \$80.45 Smcs; Rainbow Racing System \$79.50 Smcs; Random House \$271.20 Smcs; Reams \$586.16 smcs,co; Recognition Unlimited \$216.88 Smcs; Recorded Books \$527.12 Smcs; Rheome Tree \$425.00 Smcs; Riverside Mfg \$64.35 Ps; RMV Construction \$1,998.00 Smcs; RNDC-Eagle Division \$298.00 Smcs; Roper's Radiator \$925.00 Smcs; Rosetta Stone \$268.95 Smcs; Saki,A \$11.06 Smcs; Sanitation Products \$327.73 Smcs; Sara Lee Bakery \$13.72 Smcs; Schwan's \$2,610.50 Smcs; See Clear Cleaning \$3,200.00 Smcs; Select Sprayers \$48.06 Smcs; Shafer,D \$22.27 Smcs; Sherman,J \$35.82 Smcs; Sherwin Williams \$564.25 Smcs; Shop EZ \$13.32 Smcs; Shrm HR Jobs \$198.00 Smcs; Sign Center \$741.40 Smcs; Sixth Street Self Storage \$82.50 Smcs; Snap-On Tools \$21.06 Smcs; Soc for Human Resource \$160.00 Smcs; Softchoice \$3,884.24 smcs,co; Solid Waste Agency \$50,563.11 Smcs; Sprinkler Warehouse \$556.45 Smcs; Starostka Group \$404,340.70 Co; St of NE/AS Central \$3,351.29 Smcs; St of NE/DAS Comm \$18.52 Smcs; St of NE/HHS Laboratory \$560.00 Smcs; St of NE/Liquor Control \$45.00 Smcs; Steinbrinks Landscaping \$6,177.87 Smcs; Sterling Distributing \$107.70 Smcs; Stott,D \$58.38 Smcs; Sun Life Financial \$24,178.51 Smcs; Sunmart \$207.83 Smcs; Sunny Communications \$3,025.00 Co; Super Shine Auto \$55.61 Smcs; Sutphen \$617.00 Smcs; Swanson,K \$169.68 Smcs; Sydow,J \$40.00 Smcs; Tacnologies \$1,682.00 Smcs; Target \$76.49 Smcs; Terry's Platte Valley Glass \$13.75 Smcs; Theis,J \$60.00 Smcs; Tielke Enterprises \$459.19 Smcs; Tilley Sprinkler \$454.22 Co; Titleist \$264.72 Smcs; Tractor-Supply \$1,276.32 Smcs; Trans Iowa Equipment \$196.72 Smcs; Tri Cities Group \$6,746.00 Co; Tri City Outdoor Power \$122.70 Smcs; TruGreen ChemLawn \$152.00 Smcs; Tye & Rademacher \$12,135.37 Smcs; Type One Incident \$193.69 Smcs; United Seeds \$875.00 smcs,co; Upbeat \$1,452.70 Smcs; USA Blue Book \$119.34 Smcs; Used Routercom \$958.53 Co; USPS \$780.16 Smcs; Van Diest Supply \$794.36 Smcs; Village Uniform \$126.40 Smcs; Waldenbooks \$80.00 Smcs; Wallmountworldcom \$119.96 Co; Wal-Mart \$2,324.82 smcs,co; Warren-T Plumbing \$993.61 Smcs; Watson,S \$37.45 Smcs; Western Section IAEI \$295.00 Smcs; Wicks Truck Trailers \$232.52 Smcs; Wilke Donovans \$59.02 Smcs; Yant Equipment \$281.89 Smcs; Young,M \$20.00 Smcs; Zurich \$1,322.00 Smcs; Payroll Ending 8-30-2008 -- \$300,246.73. 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 **Resolution No. 2008-157** allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$101,003.59 which will be carried over to the 2008-2009 Budget as "Unused Budget Authority".

RESOLUTION NO. 2008-157

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended, allows governmental units to exceed the two and one half percent limit as provided in Neb. Rev. Stat. Section 13-519.01, (R.R.S. 1943), as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Neb. Rev. Stat. Section 13-519.01, (R.R.S. 1943), as amended, by an additional one percent as allowed pursuant to Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended, by an additional one percent.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect October 1, 2008.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt the 2008-2009 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2008-2009 year and approve **Resolution No. 2008-158.**

RESOLUTION NO. 2008-158

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2007-2008 fiscal year was adopted by Resolution No. 2007-108 on June 12, 2007 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2008-2009 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2008.

BE IT FURTHER RESOLVED that Resolution No. 2007-108 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve setting September 23, 2008 at 7:00 p.m. as time and date for the Board of Equalization to assess costs for Lot 16 of Block 2, Lot 14 of Block 4, Stoneridge Fourth Addition and a tract of land being part of the Southeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska in

connection with Paving Improvement District No. 2003-873 for 56th Street from Avenue N west to a point 630 feet west of Parklane Drive.

7. Reject the bids received for the 2008 Part 6 Improvements consisting of Paving Improvement District No. 2008-925 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Paving Improvement District No. 2008-926 for 8th Street from the west line of Block 3, Park View Estates Fourth, thence to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, thence south to its terminus being the south line of Park View Estates Fourth; Water District No. 2008-549 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Water District No. 2008-550 for 8th Street from the west line of Block 3, Park View Estates Fourth, thence to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, thence south to its terminus being the south line of Park View Estates Fourth; Sanitary Sewer District No. 2008-491 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Sanitary Sewer District No. 2008-492 for 8th Street from the west line of Block 3, Park View Estates Fourth, thence to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, thence south to its terminus being the south line of Park View Estates Fourth.

8. Approve the Agreement for Services between the City of Kearney and the Community Redevelopment Authority for the City to provide support services and approve **Resolution No. 2008-159**.

RESOLUTION NO. 2008-159

WHEREAS, the City of Kearney and the Community Redevelopment desire to enter into an Agreement for Services; and

WHEREAS, the Community Redevelopment Authority unanimously approved the Agreement for Services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Services between the City of Kearney and the Community Redevelopment be approved, and that a copy of the Agreement for Services, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement for Services on behalf of the City of Kearney, Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the Letter of Understanding between the City of Kearney and Barry Sherman for consulting purposes regarding any current issues and/or projects pertaining to the City of Kearney Community Redevelopment Authority and approve **Resolution No. 2008-160**.

RESOLUTION NO. 2008-160

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Letter of Understanding between the City of Kearney and Barry Sherman be approved and that a copy of the Letter of Understanding, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve **Resolution No. 2008-90AA** correcting the legal description for the final plat and Subdivision Agreement for Fountain Hills Third Addition to the City of Kearney, Buffalo County, Nebraska for property located north and south of 48th Street, east of 11th Avenue and 48th Street.

RESOLUTION NO. 2008-90AA

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°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 199.79 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 95.69 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 S89°29'22"W on said North line a distance of 72.30 feet; 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 S 88°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, 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 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve **Resolution No. 2008-91AA** correcting the legal description for the annexation of Fountain Hills Third Addition to the City of Kearney, Buffalo County, Nebraska for property located north and south of 48th Street, east of 11th Avenue and 48th Street.

RESOLUTION NO. 2008-91AA

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 199.79 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 95.69 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 S89°29'22"W on said North line a distance of 72.30 feet; 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 S 88°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 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve amending the Releaf Kearney Program and approve Resolution No. 2008-161.

RESOLUTION NO. 2008-161

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, on June 10, 2008 the City of Kearney passed and approved Resolution No. 2008-113 adopting the "Releaf Kearney" program; and

WHEREAS, the City of Kearney is taking 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 One Hundred Dollars (\$100.00); 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 amended, adopted and approved.

BE IT FURTHER RESOLVED that Resolution No. 2008-113 passed and approved on the 10th day of June, 2008 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the Agreement between the City of Kearney and Sorensen Group, Inc. to lease all of Lot 13 and part of Lot 14 of Block 2, Kearney Land and Investment Company's Choice Addition (lying south of the Union Pacific Railroad and east of 8th Avenue) and approve **Resolution No. 2008-162.**

RESOLUTION NO. 2008-162

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement to lease all of Lot 13 and part of Lot 14 of Block 2, Kearney Land and Investment Company's Choice Addition (lying south of the Union Pacific Railroad and east of 8th Avenue), on behalf of the City of Kearney, with Sorensen Group, Inc. of Kearney, Nebraska, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve the application for a Special Designated License submitted by JUAN LAZO, dba El Tropicico to dispense beer and distilled spirits in connection with their Class IB-37623 liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 4, 2008 from 6:00 p.m. until 1:00 a.m. for a Mexican dance.

15. Approve the request submitted by the University of Nebraska at Kearney to conduct a Homecoming Parade on October 11, 2008 beginning at 10:00 a.m. The route

will commence on North Railroad Street and Central Avenue, north on Central Avenue to 27th Street, west on 27th Street and ending at the Nebraskan Student Union. The staging area to be blocked off beginning at 7:00 a.m. is Railroad Street from Avenue E to 5th Avenue, 4th Avenue from Railroad Street to 22nd Street, 3rd Avenue from Railroad Street to 22nd Street, 21st Street from 3rd Avenue to 5th Avenue, 20th Street from 3rd Avenue to 5th Avenue, Avenue B from Railroad Street to 22nd Street, Avenue C from Railroad Street to 22nd Street, Avenue D from Railroad Street to 22nd Street, and Avenue E from Railroad Street to 22nd Street. Parking will be prohibited on Central Avenue between Railroad Street and 25th Street from 2:00 a.m. until conclusion of the parade. This request will also allow for the selling of refreshments during the parade.

16. Approve the request submitted by M.J. Shultz to withdraw the application for tax increment financing for a redevelopment project for Redevelopment Area #2 for an area described as Lots 1452, 1453, 1454, 1455, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1507 Central Avenue) and approve **Resolution No. 2008-163.**

RESOLUTION NO. 2008-163

WHEREAS, on June 13, 2006 the Community Redevelopment Authority (the "Authority") presented to the City for approval pursuant to and in accordance with Section 18-2119 of the Nebraska Revised Statutes, a specific Redevelopment Project within Redevelopment Plan No. 2, as amended by Amendment #1 and as authorized in the Redevelopment Plan, legally described as Lots 1452, 1453, 1454, 1455, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1507 Central Avenue); and

WHEREAS, the City Council determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community; and

WHEREAS, in accordance with Section 18-2147 of the Act, the Mayor and City Clerk were authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project.

WHEREAS, the Authority and the City of Kearney received notification from M.J. Shultz withdrawing their application for tax increment financing for a redevelopment project for Redevelopment Area #2 for an area described as Lots 1452, 1453, 1454, 1455, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1507 Central Avenue); and

WHEREAS, the Authority, at their meeting held on September 3, 2008, approved the request to withdraw the application for tax increment financing for a redevelopment project for Redevelopment Area #2 for an area described as Lots 1452, 1453, 1454, 1455, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1507 Central Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City hereby accepts the recommendation from the Authority withdrawing the application for tax increment financing for a redevelopment

project for Redevelopment Area #2 for an area described as Lots 1452, 1453, 1454, 1455, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (1507 Central Avenue) as submitted by M.J. Shultz.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file this resolution with the Treasurer and Assessor of Buffalo County, Nebraska withdrawing the Allocation Agreement and Notice of Pledge of Taxes that was filed on or about June 14, 2006 with respect to this Redevelopment Project.

PASSED AND APPROVED THIS 9TH DAY OF SEPTEMBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7460 – ADOPT BUDGET (PERTAINS TO PUBLIC HEARING 13)

Council Member Lammers introduced Ordinance No. 7460, being Subsection 1 of Agenda Item V to adopt the City of Kearney Budget Statement to be termed the Annual Appropriation Bill and to appropriate sums for necessary expenses and liabilities, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7460 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7460 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7460 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. 7461 – PERSONNEL ORDINANCE

Ordinance No. 7461 includes all the job classifications, pay grades and ranges of compensation that are included in the City of Kearney 2008-2009 Pay Policy. Additionally, various employee benefits as discussed above have been included in the ordinance. Passage of the Personnel Ordinance is done on an annual basis in

conjunction with the budget process. Ordinance No. 7461 is required pursuant to Neb. Rev. Stat. Section 16-502, which mandates that the governing bodies of First Class Cities specifically appropriate all personnel expenditures in ordinance form. The 2008-2009 City of Kearney budget includes salaries and benefits reflected in the Personnel Ordinance.

Council Member Lammers introduced Ordinance No. 7461, being Subsection 2 of Agenda Item V to repeal Ordinance No. 7373 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7461 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7461 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7461 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. 7462 – CREATE WATER DISTRICT NO. 2008-553

Chapter 16 of the Nebraska Revised Statutes sets out the rules by which water, sewer and paving districts may be created by public entities. The Council has the authority to create districts and make improvements and assess the costs to the property that is benefited by the improvements. The Mayor and Council, by ordinance, shall create districts according to Section 16-619 and 16-667 of the Nebraska Revised Statutes. At that time, the City must publish notice of the creation of the district one time each week for not less than 20 days in a daily or weekly newspaper of general circulation in the City. After publication, if the owners of record title representing more than 50% of the front footage of the property abutting or adjoining the any continuous or extending improvements objects in writing within 20 days (30 days for water and sanitary sewer) from the first date of publication of said notice the work will not be done. If objections are not filed against the district in a timely manner that meets the law, the Mayor and Council shall proceed to construct such improvements.

The Utilities Department is requesting that the Council create this district at this time because the district was requested by the Developer of Eastbrooke Eighth within the subdivision agreement approving the development. Also, the Utilities Department would like to get this improvement constructed before the County paves 56th Street along the south side of Eastbrooke Eighth.

Council Member Lammers introduced Ordinance No. 7462, being Subsection 3 of Agenda Item V to create Water District No. 2008-553 in 56th Street from the southwest corner of Lot 11 of Block 6, Eastbrooke Eighth Addition east to the southeast corner of Lot 1 of Block 7, Eastbrooke Eighth Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7462 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7462 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7462 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. 7463 – CREATE SEWER DISTRICT NO. 2008-494

Chapter 16 of the Nebraska Revised Statutes sets out the rules by which water, sewer and paving districts may be created by public entities. The Council has the authority to create districts and make improvements and assess the costs to the property that is benefited by the improvements. The Mayor and Council, by ordinance, shall create districts according to Section 16-619 and 16-667 of the Nebraska Revised Statutes. At that time, the City must publish notice of the creation of the district one time each week for not less than 20 days in a daily or weekly newspaper of general circulation in the City. After publication, if the owners of record title representing more than 50% of the front footage of the property abutting or adjoining the any continuous or extending improvements objects in writing within 20 days (30 days for water and sanitary sewer) from the first date of publication of said notice the work will not be done. If objections are not filed against the district in a timely manner that meets the law, the Mayor and Council shall proceed to construct such improvements.

The Utilities Department is requesting that the Council create this district at this time because the district was requested by the Developer of Bel Air Third Addition within the subdivision agreement approving the development. Also, the Utilities Department would like to get these improvements constructed before the Bel Air Third lots abutting the sewer district are built on and before the County paves 56th Street along the south side of Eastbrooke Eighth.

Council Member Lammers introduced Ordinance No. 7463, being Subsection 4 of Agenda Item V to create Sanitary Sewer District No. 2008-494 in a 20-foot sanitary sewer easement located along the south side of Block 3, Bel Air Third Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7463 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7463 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7463 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. 7444A – REZONE NORTH AND SOUTH OF 48TH STREET, EAST OF 11TH AVENUE AND 48TH STREET (PERTAINS TO CONSENT AGENDA ITEMS 10 AND 11)

On June 10, 2008 the City Council approved the development of Fountain Hills Third Addition; said property located north and south of 48th Street, east of 11th Avenue and 48th Street. It has come to the City's attention that there is an error in the legal description that needs to be corrected. The legal description for the final plat, the Subdivision Agreement, the annexation and the rezoning need corrected in order to file the final plat and Subdivision Agreement with the Register of Deeds. This is merely a housekeeping matter.

Council Member Lammers introduced Ordinance No. 7444A, being Subsection 5 of Agenda Item V to amend the legal description for the rezoning of 4.82 acres, more or less, from "District AG, Agricultural District" to "District R-2, Urban Residential Mixed-

Density District”, and to rezone 15.06 acres, more or less, from “District AG, Agricultural District” to “District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District”, 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., Buffalo County, Nebraska (north and south of 48th Street, east of 11th Avenue and 48th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7444A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7444A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7444A 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. 7464 – AMEND SECTIONS 7-509 AND 7-519 OF CITY CODE (PERTAINS TO CONSENT AGENDA ITEM 12)

Staff reviewed the Releaf Tree Right-of-Way Program prior to a fall media blitz. The forms and procedures have been amended and believe that the original \$50.00 or 50 percent rebate should be raised to 50 percent of the cost of the tree up to a maximum of \$100.00. Staff believes that by raising the rebate it would encourage the public to plant larger better trees.

Also, in reviewing the sections of the City Code pertaining to the Community Tree Plan, it was noted that there was a discrepancy between Sections 7-509 and 7-519 pertaining to the requirement of tree branches and limbs overhanging the sidewalks and streets. In order to be consistent, the sections will reflect the requirement of seven feet over sidewalks and 14 feet over any street, parkway, sidewalk space, or other public way. There is \$25,000 in the 2008-09 budget for this program.

Council Member Lammers introduced Ordinance No. 7464, being Subsection 6 of Agenda Item V to amend Section 7-509 “Work Ordered or Done by the City of Kearney” and Section 7-519 “Trimming Branches Overhanging Streets and Sidewalks” of Article 5 “Trees and Shrubbery” of Chapter 7 “Park & Recreation” of the Code of the City of

Kearney to require that all tree branches or limbs in or upon any street, parkway, sidewalk space, or other public way so that there is a clearance of 7 feet over sidewalks and 14 feet over the portion of public streets and alleys used for vehicular traffic, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7464 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7464 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7464 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. 7465 – REZONE BETWEEN 14TH STREET AND 15TH STREET AND CENTRAL AVENUE AND 1ST AVENUE (PERTAINS TO PUBLIC HEARING 2)

Council Member Buschkoetter introduced Ordinance No. 7465, being Subsection 1 of Agenda Item VI to rezone from “District M-1, Limited Industrial District” to “District CBD, Kearney Center Mixed Use District” property described as Lots 1506, 1507, 1508, 1509, 1510, 1511, 1514, 1515, 1516, 1517 and the vacated 15th Street lying between Central Avenue and 1st Avenue, together with the vacated alley lying between Lots 1506, 1507, 1508, 1509, 1514, 1515, 1516 and 1517, all in Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (between 14th Street and 15th Street and Central Avenue and 1st 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 Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7465 by number. Roll call of those in favor of

the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7465 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7465 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. 7466 – VACATE PART OF SWITZ’S SUBDIVISION (PERTAINS TO PUBLIC HEARING 3)

Council Member Kearney introduced Ordinance No. 7466, being Subsection 2 of Agenda Item VI to vacate the north half of Lot 76 and all of Lots 77, 78, 79 and 80, Switz’s Subdivision to the City of Kearney, Buffalo County, Nebraska (south of 33rd Street and east of 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 Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7466 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7466 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7466 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. 7467 – VACATE PART OF WARD’S ADDITION (PERTAINS TO PUBLIC HEARING 5)

Council Member Lear introduced Ordinance No. 7467, being Subsection 3 of Agenda Item VI to vacate Lot 1, Ward’s Addition, an addition to the City of Kearney, Buffalo County, Nebraska (600 Avenue M), and moved that the statutory rules requiring

ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7467 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7467 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7467 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. 7468 – REZONE 600 AVENUE M (PERTAINS TO PUBLIC HEARING 5)

Council Member Lear introduced Ordinance No. 7468, being Subsection 4 of Agenda Item VI to rezone from “District AG, Agricultural District” to “District RR-1, Rural Residential District (Rural Standards)” property described as a tract of land being part of Government Lot 4 located in Section 12, Township 8 North, Range 16 West of 6th P.M., containing 1.46 acres, more or less, Buffalo County, Nebraska (600 Avenue M), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7468 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7468 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7468 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. 7469 – VACATE PART OF FOUNTAIN HILLS SECOND (PERTAINS TO PUBLIC HEARING 9)

Council Member Clouse introduced Ordinance No. 7469, being Subsection 5 of Agenda Item VI to vacate a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7469 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7469 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7469 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. 7470 – REZONE SOUTH OF 55TH STREET, EAST OF 11TH AVENUE AND 48TH STREET (PERTAINS TO PUBLIC HEARING 9)

Council Member Clouse introduced Ordinance No. 7470, being Subsection 6 of Agenda Item VI to rezone from "District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District" to "District AG, Agricultural District" property described as a portion of Fountain Hills Second Addition of Buffalo County, Nebraska, a tract of land being part of the Northeast 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: Lots 1 through 6 inclusive of Block 2; Lots 1 through 6 inclusive of Block 3; Lots 1 through 5 inclusive of Block 4; Lots 1 through 6 inclusive of Block 5; Lots 1 through 6 inclusive of Block 6; Lots 1 through 6 inclusive of Block 7; Lots 1 through 6 inclusive of Block 8; Lots 1 through 5 inclusive of Block 9; Lots 1 through 6 inclusive of Block 10; Lots 1 through 5 inclusive of Block 11; Lots 1 through 6 inclusive of Block 12; Lots 1 through 5 inclusive of Block 13; Outlots A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P; all private drives as platted; all utility easements as platted, excepting a 16.5 foot easement as recorded in Misc. Book P, Page 162 and file and filed in the Buffalo County, Nebraska Register of Deeds and excepting 15 foot right-of-way grant recorded on Instrument 96-3925 filed in the office of the Buffalo County, Nebraska Register of Deeds (south of 55th Street, east of 11th Avenue and 48th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7470 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7470 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7470 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. 7471 – VACATE PART OF BRANDT’S LAKEWOOD 8TH SUBDIVISION, KEARNEY COUNTY (PERTAINS TO PUBLIC HEARING 10)

Mayor Clouse stated Ordinance No. 7471 pertains to Public Hearings 10 and 11 which have been tabled. Therefore, the ordinance will have to be tabled.

Moved by Lammers seconded by Lear that Ordinance No. 7471 be tabled until September 23, 2008. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers, Kearney. Nay: None. Lear abstained. Motion carried.

ORDINANCE NO. 7472 – REZONE SOUTH OF PLATTE RIVER AND WEST OF HIGHWAY 44 (PERTAINS TO PUBLIC HEARING 10)

Mayor Clouse stated Ordinance No. 7472 pertains to Public Hearings 10 and 11 which have been tabled. Therefore, the ordinance will have to be tabled.

Moved by Lammers seconded by Lear that Ordinance No. 7472 be tabled until September 23, 2008. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Lear abstained. Motion carried.

OPEN ACCOUNT CLAIMS: STAN CLOUSE - \$38.62, NPPD - \$92,029.43, PLATTE VALLEY STATE BANK - \$44,695.25, SCHOOL DISTRICT #7 - \$919.95

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$38.62 payable to Stan Clouse, in the amount of \$44,695.25 payable to Platte Valley State Bank, and in the amount of \$92,029.43 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$919.95 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Kearney that Council adjourn into closed session at 8:00 p.m. for the protection of the public interest to discuss a possible real estate purchase on Airport property. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss a possible real estate purchase on Airport property.

Moved by Lear seconded by Clouse that Council reconvene in regular session at 8:04 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Buschkoetter that Council adjourn at 8:04 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**