

Kearney, Nebraska
October 14, 2008
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on October 14, 2008 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Jon McBride, Terry Broadfoot, Damon Day, Craig Sobieszky, Leann Sobieszky, Julie Bray, Mitch Humphrey, Jerry Fox, Craig Bennett, Trenton Snow, Doug Deterding, Essam Arram, Barbra Arram, Kraig Swogger, Lance Lang, Bruce Grupe, 3 UNK students, supporters for the Kearney Area Children's Museum, Sara Gibony from Kearney Hub, Steve Altmaier from KGF 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

Father Jerry Ness from St. Luke's Episcopal Church provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONE SOUTH OF PLATTE RIVER AND WEST OF HIGHWAY 44

Mayor Clouse stated 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) was withdrawn by the applicant and owner. Therefore, no action was taken.

FINAL PLAT FOR BRANDT'S LAKEWOOD ESTATES SECOND

Mayor Clouse stated 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) was withdrawn by the applicant and owner. Therefore, no action was taken.

FINAL PLAT FOR BALDWIN SUBDIVISION

Mayor Clouse opened the public hearing on the Application submitted by Baldwin Filters (Applicant and Owner) for the Final Plat and Subdivision Agreement for "Baldwin Subdivision" of Buffalo County, Nebraska for property described as the north half of Section 33, Township 9 North, Range 15 West of the 6th P.M., containing 61.88 acres, more or less, Buffalo County, Nebraska (north of East Highway 30 and west of Airport Road) and to consider approval of Resolution No. 2008-176. Planning Commission recommended approval.

The applicant is requesting approval to plat a 61.88-acre tract of land as a single lot subdivision that will include the existing Baldwin Filters property plus additional land to the east for expansion of the plant. As you are aware, Airport Road has been relocated

to the east of its present location so that all of the land will be one contiguous parcel. Although the parcel exceeds the ten acre threshold requiring platting, staff feels that this development should be treated as a "master planned campus" much like past expansion projects at Good Samaritan Hospital, Hilltop Mall, Builders Warehouse, and The Buckle Warehouse. Therefore, a subdivision plat is required. The parcel size exceeds the 20 acre threshold in the Unified Land Development Ordinance that requires planned zoning and therefore this parcel will be rezoned in the future from M-2 to M-2/PD and development plans will be required. The Preliminary Plat for Baldwin Subdivision was approved by the Planning Commission on September 19, 2008. This property is currently located in the Two-Mile Extraterritorial Jurisdiction and cannot be annexed at this time. Future annexation is addressed in the purchase agreement between the City and Baldwin Filters. A Public Works Plan is not required as all utilities are in place. Stormwater detention is required. Design and computations for the stormwater system must be submitted to and approved by the City Engineer prior to issuance of any building permits.

The 20-foot wide easement along Highway 30 has been revised on the final plat to show a 15-foot City water easement on the north and a five-foot utility easement on the south of the twenty-foot strip.

Kraig Swogger, 4400 East Highway 30, representative from Baldwin Filters presented this matter to the Council. The request is to combine into one plat the exiting property in addition to approximately 20 acres to the east. They have worked with consulting engineers and the City Planning Commission to develop this plat. The City and County have been helpful in getting the project to this point.

Council member Lammers asked if the completion date is approximately a year and a half. Mr. Swogger stated the timeline is a bit delayed from their original projection. They are about 25 percent through the design and they have suspended that until 2009. They expect to pick up the design phase in mid-2009 and their construction plan would be start in 2010.

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 Baldwin Filters (Applicant and Owner) for the Final Plat and Subdivision Agreement for "Baldwin Subdivision" of Buffalo County, Nebraska for property described as the north half of Section 33, Township 9 North, Range 15 West of the 6th P.M., containing 61.88 acres, more or less, Buffalo County, Nebraska (north of East Highway 30 and west of Airport Road) and approve **Resolution No. 2008-176**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2008-176

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "BALDWIN SUBDIVISION" of Buffalo County, Nebraska for a tract of land comprising of Tract "B", Midway Industrial District, and a part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M.,

Buffalo County, Nebraska, described as follows: Beginning at the northwest corner of the Northeast Quarter, and assuming the north line of the Northeast Quarter to have a bearing of N89°49'55"E; thence N89°49'55"E, and on the north line of said Northeast Quarter, 606.53 feet to a 3/4" rebar w/cap; thence S16°32'01"E, 755.33 feet to a 3/4" rebar w/cap; thence S15°56'00"W, 383.80 feet to a 3/4" rebar w/cap on the north right-of-way line of Highway #30; thence S75°18'33"W, and on the north right-of-way line of said Highway #30, 330.46 feet to a 3/4" rebar w/cap; thence S73°30'33"W, and on the north right-of-way line of said Highway #30, 518.83 feet to a 5/8" iron bar; thence S74°32'19"W, and on the north right-of-way line of said Highway #30, 281.19 feet to a 5/8" iron bar; thence S82°02'42"W, and on the north right-of-way line of said Highway #30, 101.20 feet to a 5/8" iron bar; thence S73°32'17"W, and on the north right-of-way line of said Highway #30, 400.04 feet to a 5/8" iron bar; thence S64°08'31"W, and on the north right-of-way line of said Highway #30, 64.15 feet to a 5/8" iron bar, said iron bar being a point of curvature on the east right-of-way line of Railroad; thence on a curve to the right, and on the east right-of-way line of said Railroad, said curve having a radius of 728.79 feet, a chord bearing of N31°14'41"W, an arc distance of 794.40 feet to a point of tangency; thence N00°01'04"W, and on the east right-of-way line of said Railroad, 794.88 feet to a point of curvature; thence on a curve to the right, and on the east right-of-way line of said Railroad, said curve having a radius of 618.51 feet, a chord bearing of N04°53'58"E, an arc distance of 106.16 feet to a 3" pipe on the south right-of-way line of 39th Street; thence N89°43'49"E, and on the south right-of-way line of said 39th Street, 1296.74 feet to the point of beginning and containing 61.88 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Kearney County, Nebraska.

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 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING ½ MILE EAST OF SWEETWATER AVENUE, SOUTH OF 11TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Jerald and Judith Fox (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 1 and Government Lot 2 located in the Northeast Quarter of Section 10, Township 8 North, Range 15 West of the 6th P.M., containing 22.60 acres, more or less, AND TOGETHER WITH a tract of land being part of Government Lot 3 located in Section 10,

Township 8 North, Range 15 West of the 6th P.M., containing 0.54 acres, more or less, all in Buffalo County, Nebraska (½ mile east of Sweetwater Avenue and south of 11th Street). Planning Commission recommended approval.

The applicant is requesting rezoning of a 23.14 acre tract of land located in the Two-Mile Extraterritorial Jurisdiction on the north side of Interstate 80 one-half mile east of Sweetwater Avenue. There is an overpass on I-80 at this location for the old railroad tracks that are now part of the Ft. Kearney Trail system. The majority of the property is a sandpit lake, roughly triangular in shape. There is currently a rural residence on the lake and the applicant would like to add an additional rural residence. City Code requires 20 acres per house in Agricultural zoning and the applicant only has 23 acres. Rezoning from Agricultural to District RR-1, Rural Residential District (Rural Standards) will reduce the required lot size per unit to three acres allowing both houses to be located on the lake. Parcels in excess of ten acres do not need to be formally subdivided per State law and with 23 acres a metes and bounds description can be used to split the parcel into two pieces, each exceeding ten acres. The property will be served by well and septic systems and is located outside the City of Kearney Wellhead Protection zone.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The site of this location is the pond area that is to the north of the Interstate 80 right-of-way, just to the west of the trail head for the Fort Kearny Trail. This is an area that has been used for a barrow pit at one point in time and there is a metal building and another dwelling out there. They would like to rezone to RR-1 to allow them to get some building permits in the future.

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 Jerald and Judith Fox (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 1 and Government Lot 2 located in the Northeast Quarter of Section 10, Township 8 North, Range 15 West of the 6th P.M., containing 22.60 acres, more or less, AND TOGETHER WITH a tract of land being part of Government Lot 3 located in Section 10, Township 8 North, Range 15 West of the 6th P.M., containing 0.54 acres, more or less, all in Buffalo County, Nebraska (½ mile east of Sweetwater Avenue and south of 11th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

FINAL PLAT FOR CLASSIC GLACIER, AN ADDITION TO THE CITY OF KEARNEY

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Deterding's Pool & Spa (Owner) for the Final Plat for "Classic Glacier" an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lot 2, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska EXCEPTING HOWEVER, the south 87.5 feet thereof as the same would be measured at right angles from the southerly line of said Lot 2 (to be vacated), being located in the South Half of the Northeast Quarter of Section 1, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (1917 Avenue H) and to consider approval of Resolution No.

2008-177. Planning Commission recommended approval subject to the following two conditions: (1) building setbacks shall be shown on the Final Plat; and (2) an electronic file of the subdivision shall be filed with the City.

The applicant is requesting approval to vacate and re-subdivide a 4.94 acre tract of land east of the Avenue H overpass. A minor subdivision was previously used to split a small piece from the south end of the parcel in 2000. Any lot can only be re-split by minor subdivision one time. Therefore, this parcel must be vacated to be further subdivided. The property is zoned M-2, General Industrial District. The abutting property to the east is Andersen Wrecking. A railroad spur abuts proposed Lot 2 for the length of the south side.

Part of Lot 2, Glacier Park Addition must be vacated to replat the land as Classic Glacier, an addition to the City of Kearney. The proposed subdivision will consist of two lots and is to be known as Classic Glacier. The Preliminary Plat was approved by Planning Commission on September 19, 2008. Lot 1 of the new subdivision goes to Andersen Wrecking. Development of Lot 1 for salvage services will require a Conditional Use Permit. Municipal water is located in Avenue H. Sanitary sewer is located in Avenue H, vacated Avenue I and in 20th Street from Avenue H to Avenue I. Subdivision regulations require extension of water and sewer mains in 20th Street to the northeast corner of proposed Lot 1 prior to the issuance of any construction permits, including fence permits. Paving on 20th Street is not to City standards and improvements are required in conjunction with any building permits. 20th Street was paved with asphalt to provide alternative circulation when the Avenue Q railroad crossing was closed and the Avenue M/N Overpass was constructed. The City did not pave the street with concrete at that time because water and sewer have not been extended in the right-of-way. Future development activity will cause the utilities to be extended and the street to be paved to City standards with concrete. A subdivision agreement is not required. Storage bins are currently located in the 25-foot setback along 20th Street but will be relocated or removed. Planning Commission recommended approval subject to the following two conditions:

- a) Building setbacks are not shown on the Final Plat and shall be added.
- b) The City requests an electronic file of the subdivision.

Trenton Snow presented this matter to the Council. This property is Deterding's warehouse located on the south side of the Avenue H Overpass on the east side of the street. The proposal is to make the lot almost rectangular where the warehouse is located. They would extend the line that runs through the middle to the north. Mr. Deterding is looking to sell the piece of ground that is on the west side. The building setback has been put on the final plat.

Council member Lammers confirmed that the bins were going to be removed from the property by Anderson Wrecking. He also asked if they had any concerns about the paving district assessment. Mr. Snow stated not that he was aware of and it had been discussed at Planning Commission.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the

Application submitted by Trenton Snow (Applicant) for Deterding's Pool & Spa (Owner) for the Final Plat for "Classic Glacier" an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lot 2, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska EXCEPTING HOWEVER, the south 87.5 feet thereof as the same would be measured at right angles from the southerly line of said Lot 2 (to be vacated), being located in the South Half of the Northeast Quarter of Section 1, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (1917 Avenue H) and approve **Resolution No. 2008-177** subject to compliance with the following conditions: (1) building setbacks shall be shown on the Final Plat; and (2) an electronic file of the subdivision shall be submitted to the City prior to filing the final plat. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2008-177

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "CLASSIC GLACIER" an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 2, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska EXCEPTING HOWEVER, the south 87.5 feet thereof as the same would be measured at right angles from the southerly line of said Lot 2 (now vacated), being located in the South Half of the Northeast Quarter of Section 1, Township 8 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 subject to the building setbacks shall be shown on the final plat and an electronic file of the subdivision shall be submitted to the City prior to filing the final plat, 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 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

BIG 'O' TIRES REVISED DEVELOPMENT PLANS

Mayor Clouse stated the applicant submitted an email requesting to table until October 28, 2008 the Application submitted by Big O Tires (Applicant) for LPJ Limited Partnership Association (Owner) for Revised Planned District Development Plan Approval for exterior displays on property zoned "District C-2/PD, Community Commercial/ Planned Development Overlay District" and described as Lot 3, Skiview Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; EXCEPT that part conveyed to the State of Nebraska Department of Roads by Deed

filed July 16, 1999 as Instrument 1999-5822 (116 West 56th Street).

Moved by Buschkoetter seconded by Clouse to table until October 28, 2008 the Application submitted by Big O Tires (Applicant) for LPJ Limited Partnership Association (Owner) for Revised Planned District Development Plan Approval for exterior displays on property zoned "District C-2/PD, Community Commercial/ Planned Development Overlay District" and described as Lot 3, Skiview Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; EXCEPT that part conveyed to the State of Nebraska Department of Roads by Deed filed July 16, 1999 as Instrument 1999-5822 (116 West 56th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

AVIATION AND HAZARD EASEMENT FOR KEARNEY REGIONAL AIRPORT

Mayor Clouse opened the public hearing on the proposed acquisition for an Avigation and Hazard Easement for a tract of land located in the Northeast Quarter of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: commencing at the East Quarter corner of said Section 33, thence N00°53'13"W on the east line of said Section 33 a distance of 1,624.89 feet to a point on the south Union Pacific Railroad right-of-way line; thence S72°48'07"W on said south Union Pacific Railroad right-of-way line a distance of 266.84 feet to the point of beginning; thence S01°46'56"E a distance of 499.54 feet; thence N53°15'06"W a distance of 1,186.46 feet to a point on said south Union Pacific Railroad right-of-way line; thence N72°48'07"E on said south Union Pacific Railroad right-of-way line a distance of 1,217.12 feet to the point of beginning, containing 6.73 acres, more or less, all in Buffalo County, Nebraska and to consider approval of Resolution No. 2008-179.

City Attorney Mike Tye presented this matter to the Council. The Federal Aviation Administration (FAA) has requested that the Kearney Regional Airport obtain an additional aviation easement at the end of the main runway for the Airport in an effort to protect air traffic entering the Airport's airspace. The aviation easement in question consists of a parcel of approximately 6.73 acres and is located just to the south of the Union Pacific Railroad right-of-way and south of the main runway at the Kearney Regional Airport.

The City has entered into negotiations with Wolford Farms and obtained an appraisal valuing the aviation easement at approximately \$5,073.00. Wolford Farms, Inc. is will to accept a payment of \$10,000.00 for the acquisition of this easement and in an effort to resolve this matter, FAA has agreed that a purchase price of \$10,000.00 is reasonable and prudent given the costs and expenses that would be incurred in a condemnation, should that be necessary. FAA will pay 95 percent (\$9,500.00) of the cost of such acquisition and the remaining five percent (\$500.00) will be the City's obligation.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the proposed acquisition for an Avigation and Hazard Easement for a tract of land located in the Northeast Quarter of Section 33, Township 9 North, Range 15 West of the 6th P.M.,

Buffalo County, Nebraska, being more particularly described as follows: commencing at the East Quarter corner of said Section 33, thence N00°53'13"W on the east line of said Section 33 a distance of 1,624.89 feet to a point on the south Union Pacific Railroad right-of-way line; thence S72°48'07"W on said south Union Pacific Railroad right-of-way line a distance of 266.84 feet to the point of beginning; thence S01°46'56"E a distance of 499.54 feet; thence N53°15'06"W a distance of 1,186.46 feet to a point on said south Union Pacific Railroad right-of-way line; thence N72°48'07"E on said south Union Pacific Railroad right-of-way line a distance of 1,217.12 feet to the point of beginning, containing 6.73 acres, more or less, all in Buffalo County, Nebraska and approve **Resolution No. 2008-179**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2008-179

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for an Avigation and Hazard Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Wolford Farms, Incorporated, a Nebraska Corporation, has granted to the City of Kearney, Nebraska an Avigation and Hazard Easement on a tract of land located in the Northeast Quarter of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: commencing at the East Quarter corner of said Section 33, thence N00°53'13"W on the east line of said Section 33 a distance of 1,624.89 feet to a point on the south Union Pacific Railroad right-of-way line; thence S72°48'07"W on said south Union Pacific Railroad right-of-way line a distance of 266.84 feet to the point of beginning; thence S01°46'56"E a distance of 499.54 feet; thence N53°15'06"W a distance of 1,186.46 feet to a point on said south Union Pacific Railroad right-of-way line; thence N72°48'07"E on said south Union Pacific Railroad right-of-way line a distance of 1,217.12 feet to the point of beginning, containing 6.73 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Avigation and Hazard Easement granted by Wolford Farms, Incorporated, a Nebraska Corporation, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

KIDZONE – KEARNEY AREA CHILDREN'S MUSEUM DEVELOPMENT PLANS

Mayor Clouse opened the public hearing on the Application submitted by Essam Arram (Applicant) for Kearney Area Children's Museum (Owner) for Planned District Development Plan Approval for the construction of a new Children's Museum on property zoned "District C-2/PD, Community Commercial/Planned Development Overlay

District" and described as Lot 3 and the west 225 feet of Lot 1, North Acres Seventh, an addition to the City of Kearney, Buffalo County, Nebraska (5827 4th Avenue) and to consider approval of Resolution No. 2008-180.

The applicant is requesting approval of development plans for an 18,000 square foot building to be the new home of the Kearney Area Children's Museum. The 2.20 acre property is zoned C-2/PD and is located at 5827 4th Avenue just west of Slumberland Furniture Store. There are 36 parking stalls required and 66 provided. A complete Landscape Plan is provided. A 20-foot landscaped bufferyard is provided against the residential use along the south property line. The City will work with Frontier Communications to provide landscape screening for their repeater building to the north of the subject property. The front or west façade of the building will be stucco with stone veneer accents. An entry portico on the west wall provides the required offset for each 100 lineal feet of building façade. The developer is requesting a deviation from the offset requirement for the other three sides which will be metal panel construction. Fifty feet to the rear property line and 75 feet to the north property line are left open for outdoor activities. Planning Commission recommended approval of the development plans as presented recognizing the deviation to the required five-foot offset on the north, east and south walls of the building.

Craig Bennett from Miller & Associates presented this matter to the Council. The area is part of two different lots, Lot 3 and the west 225 feet of Lot 1, North Acres Seventh. It is west of Slumberland Furniture Store, and north is where Telecommunications has a little tract of ground. On the south are some duplexes, on the east is Slumberland and to the north and south of this site, it is currently undeveloped. Their site plan shows coming in off of 4th Avenue entering the parking lot and circulating through the parking area. They are required to have 36 stalls and 66 are available on this site. Some vehicular access would be allowed to the southwest corner of the building for loading and unloading. There will be a sidewalk around the interior to allow for circulation of pedestrian traffic at a single point. There are also sidewalks that would allow circulation for fire and ingress and egress around the south, east and north side. There is a buffer of about 75 feet on the north and 50 feet on the east side. Since it is residential in use, a 20-foot buffer is required with green space and evergreen trees every 25 feet within that buffer area.

Mr. Bennett highlighted the floor plan. Entering the building on the east would be an office/small board room with a counter for people to get information, directions, etc. Restrooms and a mechanical room are located behind that. The rest of the building would be open so play areas can be moved around. There will also be a 24x40 foot community room located in the southeast corner. The storage room would be the same size which has an overhead door where they could load and unload. There are water and sewer utilities currently available which could utilize the existing infrastructure in that location. They did ask for a deviation to exceed the 100-foot linear façade without a 5-foot extrusion on the south, east and north sides of the building which the City Code requires. Slumberland has the same type of alignment on their building with no break up, although this building is not as long as Slumberland's. They want to be a little consistent with that alignment with no break up there.

Council member Lammers asked if they plan to have fencing on the backside of the

building to the east because of having young children in this area. Mr. Bennett stated not that he is aware of any. Essam Arram stated possibly in the future, but not at this time. Mayor Clouse asked if the 75 feet to the north would be used for further expansion. Mr. Bennett stated that technically it could, but right now it could be used for some outdoor activities in those areas.

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 Essam Arram (Applicant) for Kearney Area Children's Museum (Owner) for Planned District Development Plan Approval for the construction of a new Children's Museum on property zoned "District C-2/PD, Community Commercial/Planned Development Overlay District" and described as Lot 3 and the west 225 feet of Lot 1, North Acres Seventh, an addition to the City of Kearney, Buffalo County, Nebraska (5827 4th Avenue) and approve **Resolution No. 2008-180**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2008-180

WHEREAS, Essam Arram (Applicant) for Kearney Area Children's Museum (Owner) have applied for Planned District Development Plan Approval for the construction of a new Children's Museum on property zoned "District C-2/PD, Community Commercial/Planned Development Overlay District" and described as Lot 3 and the west 225 feet of Lot 1, North Acres Seventh, an addition to the City of Kearney, Buffalo County, Nebraska (5827 4th Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Essam Arram (Applicant) for Kearney Area Children's Museum (Owner) for Planned District Development Plan Approval for the construction of a new Children's Museum on property zoned "District C-2/PD, Community Commercial/Planned Development Overlay District" and described as Lot 3 and the west 225 feet of Lot 1, North Acres Seventh, an addition to the City of Kearney, Buffalo County, Nebraska (5827 4th Avenue).

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

KEARNEY AREA CHILDREN'S MUSEUM

Mayor Clouse stated opened for discussion the recommendation from City Administration on providing \$75,000 to go toward the construction of the KidZone – Kearney Area Children's Museum.

As you may be aware, the Kearney Area Children's Museum has been located in downtown Kearney since 2005. In the past three years, the Children's Museum has been visited by over 31,000 people. An individual has come forward and is donating

some land and financial assistance for the construction of a new Children's Museum to be located at 5827 4th Avenue.

The City created a fund entitled "Special Sales Tax – Capital Improvements/Equipment Fund" to place the proceeds of the ½¢ sales tax. Because the Children's Museum is a valuable asset to the community, City staff is suggesting \$75,000 go towards the construction of the new Children's Museum.

Alex Straatmann, Board President for the Kearney Area Children's Museum, presented this matter to the Council on behalf of Julie Bray, Executive Director. The original plan for the building was an 18,000 square foot building. Due to some of the construction and infrastructure costs, it exceeded the funds available but they wanted to keep it at that 18,000 square feet. With the help of the City Manager, they have put together this proposal for \$75,000 to maintain the size of the building. This will allow the City of Kearney to have the Children's Museum that they envisioned when this project was started about a year ago.

City Manager Michael Morgan stated that pursuant to the request, the City put together the draft for Capital Improvement half cent sales tax document for the Council that reflects the funding impact. The City is still in good financial shape and the sales tax is meeting all of the City's goals. Mr. Straatmann stated that overall they have raised \$1.2 million for this project. They will be going from a 3,300 square foot building to an 18,000 square foot building and there will be nothing comparable to this in Central Nebraska or west of Lincoln. It will set Kearney as a unique destination for the Children's Museums and would not be possible if not for the generosity of those like Mr. Arram and the City.

Moved by Lammers seconded by Lear to approve the recommendation from City Administration on providing \$75,000 to go toward the construction of the KidZone – Kearney Area Children's Museum. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

IV. CONSENT AGENDA

Council member Buschkoetter stated he was not removing Item 6; he just wanted clarification with regard to the bidding process. He wanted to ask questions about the bidding process and the specifications for the downtown sign. City Manager Michael Morgan stated there was a significant process where the project was bid more than once. City Planner Lance Lang and Chief Building Official Max Richardson helped with the bid specifications, which were fairly tight as to what the requirements were and specifications to propose a bid consistent with the specs. If they made exceptions to the bid specs, the reason had to be spelled out.

Council member Buschkoetter stated that even though the bids were close, both bids met the specification in terms of sturdiness and thickness of materials. City Manager stated the Downtown Improvement Board also took into consideration, the size, type of materials, brightness and quality of the display to help make their recommendation.

City Manager stated there are really two purposes for the sign. One is to promote

downtown, "The Bricks". It is not to promote individual businesses since it is partially paid for by those businesses that are assessed fees in the downtown area. The diagram of the sign display shows a reflection of "The Bricks". The second is to promote City and public events of importance consistent with the policy that has been set forth by the City. The reason for that policy is that the City is not in a position to advertise for others, specifically. Secondly the State of Nebraska has very specific rules about off-premise signs and what can be advertised. They needed to make sure that this sign complied with the State requirements.

City Manager clarified that this is not a billboard and is significantly smaller than the size of a billboard. It is an electronic information sign. There is a Digital Sign Use Policy that was approved by the Downtown Improvement Board and now is being presented for Council's approval. There is a high, secondary, and low priority standard for events to be advertised for the community. Council member Buschkoetter asked where the NCAA Basketball Tournament would rank. City Manager stated that it would have the lowest priority unless there was availability in addition to advertising other school events. It is not intended to sponsor all the non-for-profit, such as school events, because there are hundreds of those. The use is clearly for primary and secondary uses, the third priority would be school events, UNK, as well as emergency messages. The sign will have time and temperature. The concept of this is to replace the billboard that is there and to promote downtown which is why they are paying for approximately 50 percent of the cost.

Mayor Clouse asked if the Council was approving the policy as well as bid. City Manager stated by the Council's approval of the item with the attachment, the intent is clear that they also approve the policy. It is an important part of the item because there will be citizens that will not understand and will make requests that do not fit under the policy. There have already been questions over the past several months from some who believe that it is going to be a digital billboard and available for individual advertising. They just want to make sure that it is clearly understood that is not the case.

Council member Kearney stated that since Item 3 was withdrawn, that the Council should not vote on it.

Moved by Lear seconded by Buschkoetter that Subsections 1, 2 and 4 through 9 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held September 23, 2008.
2. Approve the following Claims:

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

AT&T \$87.80 smcs; Ace Hardware \$30.57 smcs; Ace Irrigation \$180.00 smcs; Advance

Auto Parts \$145.52 smcs; AFLAC \$2,604.74 ps; Agri Co-op \$32,184.71 smcs; Air Midway \$92.70 smcs; Alamar Uniform \$52.76 ps; All Star Windshield Repair \$35.00 smcs; Allied Electronics \$264.09 smcs; Alltel \$1,270.55 smcs; Amazon \$501.35 smcs; Amer Electric \$2,029.61 smcs,co; Amsan \$1,280.98 smcs; Andersen Wrecking \$10.00 smcs; Anderson Brothers \$202.81 smcs; Anderson,D \$60.00 smcs; Anderson,S \$412.57 smcs; Applemarket \$164.19 smcs; ARC Network \$175.00 smcs; Arctic Refrigeration \$68.00 smcs; Arrow Seed \$100.56 smcs; Arrow Striping \$11,029.94 smcs; Ask Supply \$885.12 smcs; Asknet-shops.com \$26.21 co; Aurora Co-op \$439.38 smcs; Axzo Press \$101.82 co; Baker & Taylor \$8,787.08 smcs; Barber,J \$262.50 smcs; Barco Municipal \$862.50 smcs; Barney Ins \$13,320.00 smcs; BBC Audiobooks \$377.55 smcs; Beacon Athletics \$1,374.05 smcs; Bear Frame & Alignment \$2,503.48 smcs; Beckenhauer Construction \$857.00 smcs; Benson,G \$128.00 smcs; Benson,N \$100.00 smcs; Blessing Construction \$4,247.79 smcs; Blevins,D \$132.00 smcs; Bluecross Blueshield \$82,709.66 smcs; Bobs Superstore \$60.15 smcs; Bonde,L \$28.46 smcs; Boogaarts \$32.63 smcs; Book Page \$236.00 smcs; Bosselman \$40,325.23 smcs; Bowman,C \$21.20 smcs; Brilliance Audio \$72.88 smcs; Broadfoot,E \$3,500.00 smcs; Broadfoot's \$60.00 smcs; Buffalo Co Court \$984.72 ps; Buffalo Co Reg Deeds \$67.50 smcs; Buffalo Co Sheriff \$119,138.00 smcs; Buffalo Co Treasurer \$7.00 co; Buffalo Outdoor Power \$142.74 smcs; Buggy Bath \$17.00 smcs; Builders Warehouse \$3,169.30 smcs,co; Cabela's \$76.17 smcs; Carquest \$1,808.14 smcs; Casey's \$10.19 smcs; Cash Wa \$81.30 smcs; CDBG Recertification \$105.00 smcs; Centaur Enterprises \$1,066.71 smcs; Center Point Large Print \$1,347.13 smcs; Central Fire & Safety \$229.50 smcs; Central Hydraulic \$872.90 smcs; Central NE Bobcat \$372.94 smcs; Central State Wire \$3,324.70 smcs; CH Diagnostic \$445.00 smcs; Charter \$903.10 smcs; City Glass \$52.60 smcs; City of Ky \$355,809.90 smcs,ps; CivicPlus \$5,500.92 smcs; Clarion Hotels \$168.10 smcs; Cold Spring Granite \$189.90 smcs; College Savings Plan of NE \$150.00 ps; Colorado Chapter APWA \$1,040.00 smcs; Commontime \$162.50 smcs; Conseco Life Ins \$24.00 ps; Constplaycom \$52.49 smcs; Construction Rental \$1,730.45 smcs,co; Copycat Printing \$1,209.39 smcs; Cornhusker Cleaning \$162.91 smcs; Crossroads Ford \$744.61 smcs; CTX \$43.48 smcs; Culligan \$73.50 smcs; Cummins Central Power \$1,683.22 smcs; Custom Plastic Card \$311.00 smcs; CVI \$441.46 smcs; Cygnus Expositions \$1,480.00 smcs; Cyraicks,J \$42.32 smcs; D&M Security \$54.00 smcs; D&S Lighting \$5.85 smcs; Dan Roeder Concrete \$31,858.92 co; Danko Emergency \$367.14 smcs; Davis,B \$35.35 smcs; Dell \$2,240.69 smcs; Depository Trust \$143,753.75 ds; Detter,R \$40.00 smcs; Development Council \$30,000.00 smcs; Diamond Vogel \$520.05 smcs; Dibbern,B \$1,471.85 smcs; Discovery Channel \$4.99 smcs; Dogpoopbagscom \$326.70 smcs; DPC Industries \$12,176.90 smcs; Drummond \$582.63 smcs; Dugan Business Forms \$807.51 smcs; Dutton-Lainson \$189.46 smcs,co; Eakes \$2,734.01 smcs; Earl May \$22.99 smcs; Ecolab \$33.50 smcs; Eirich,T \$50.00 smcs; Elliott,R \$78.00 smcs; Embassy Suites \$964.74 smcs; Enterprise Rent-A-Car \$733.82 smcs; Envirotech \$16,107.32 smcs; Excel Systems \$3,135.00 co; Expedia \$7.00 smcs; Fairbanks \$16,350.45 smcs,co; Farmers Coop \$96.01 smcs; Fastenal \$1,189.09 smcs; Fickel,C \$6.53 smcs; Fiddelke Heating \$60.00 smcs; Fisher,J \$12.13 smcs; Footjoy \$53.84 smcs; Fraberm,M \$40.13 smcs; French Café \$100.00 smcs; Frontier \$273.87 smcs; Frontierair \$519.40 smcs; Fyr-Tek \$1,492.50 smcs; Gale \$622.30 smcs; Galls \$131.97 co; Gangwish Turf \$11.52 smcs; Garrett Tires \$4,136.15 smcs; Gaylord Brothers \$301.50 smcs; GE Money Bank \$2,126.94 smcs; General Traffic Controls \$716.30 smcs; GI Family Radio \$1,665.00 smcs; GIS Workshop \$740.00 smcs; Glaser,T \$60.00 smcs; Go Mobile Now \$79.91 co;

Goesch,W \$15.03 smcs; Golf Course Superintendent \$480.00 smcs; Gordon's Small Engine \$31.87 smcs; Government Finance \$50.00 smcs; Graham Tire \$2,095.50 smcs; Grainger \$3,149.40 smcs; GI Independent \$500.00 smcs; Green,V \$60.00 smcs; Grimes,S \$189.20 smcs; H&H Distributing \$658.35 smcs; H2O Distributors \$349.00 smcs; Hach \$25.05 smcs; Hali-Brite \$576.65 smcs; Hamilton Caster \$384.59 smcs; Harley Davidson \$287.44 smcs; Harrison,R \$182.00 smcs; HD Supply \$7,193.97 smcs; Heartland Clerks \$10.00 smcs; Hernandez,E \$21.64 smcs; Hiser,D \$27.85 smcs; Hobby-Lobby \$181.50 smcs; Holiday \$197.37 smcs; Holmes Plumbing \$1,061.16 smcs; Homestead \$354.77 smcs; Honholt,C \$23.16 smcs; HTE User's Group \$250.00 smcs; Hydrologic \$621.00 smcs; IBM \$2,925.00 smcs; ICMA \$7,376.80 smcs,ps; ID-Ideascom \$55.70 smcs; Infinisource \$2,002.32 smcs; IRS \$213,817.26 ps; Int'l Association \$2,380.00 smcs; Ippolito,T \$11.02 smcs; ISDN \$188.25 smcs; Jack Lederman \$473.86 smcs; Jacobsen, Orr, Nelson \$67.60 smcs; Jenkins,B \$42.07 smcs; Johnsen Corrosion \$2,129.30 smcs; Johnson Controls \$554.25 smcs; Johnson,S \$50.00 smcs; Jones,J \$21.03 smcs; K&K Parts \$2,761.71 smcs; Kansas.gov \$12.50 smcs; Ky Band Parents \$5,000.00 smcs; Ky Chamber Comm \$2,750.33 smcs; Ky Concrete \$19,880.26 smcs,co; Ky Crete \$412.85 smcs,co; Ky Glass \$4,627.50 smcs,co; Ky Hub \$3,502.23 smcs; Ky Humane Society \$4,000.00 smcs; Ky Implement \$2,834.85 smcs; Ky Liquor \$29.51 smcs; Ky Noon Rotary \$155.00 smcs; Ky Towing \$669.00 smcs; Ky United Way \$539.90 ps; Ky Visitors Bureau \$37,609.61 smcs; KVFD \$2,000.00 smcs; Ky Warehouse \$7,432.61 smcs; Ky Winlectric \$525.14 smcs; Ky Yamaha \$6,793.75 smcs,co; Killion Motors \$177.19 smcs; Kirkham Michael \$6,185.62 co; Klaus,M \$570.00 co; Kmart \$11.76 smcs; KOLN \$3,632.00 smcs; Konica Minolta \$173.93 smcs; Kowalek,G \$126.80 smcs; Kramer,A \$23.99 smcs; Kucera Painting \$14,175.00 co; Kwik Stop \$74.25 smcs; Lawson Products \$207.20 smcs; Leaf,G \$78.91 smcs; League of NE Municipalities \$31,706.68 smcs; Legend Micro \$16.34 smcs; Lerner Publishing \$1,892.57 smcs; Lincoln Airport Authority \$24.00 smcs; Linda's Upholstery \$177.75 smcs; Linweld \$159.42 smcs; Little Caesars \$303.00 smcs; Little USA \$25.80 smcs; Lockmobile \$6.00 smcs; Lynaugh,J \$435.84 smcs; Madison,H \$68.00 smcs; Magic Cleaning \$250.00 smcs; Mail Express \$398.41 smcs; Main Event \$195.00 smcs; March of Dimes \$100.00 smcs; Marlatt Machine Shop \$801.69 smcs; Masek Distributing \$27.12 smcs; Mason,P \$26.00 smcs; Maxwell Medals \$447.25 smcs; Mayo's Electric \$1,315.57 co; Media Management Service \$1,585.28 smcs; Menards \$2,334.32 smcs; Metlife \$5,923.72 ps; Mid Amer Signal \$405.60 smcs; Mid Plains Community \$220.00 smcs; Mid-America Pump \$6,375.22 smcs; Midas Auto Service \$15.00 smcs; Midlands Contracting \$139,224.31 co; Mid-NE Garage Doors \$12,100.00 co; Mid-State Units \$120.00 smcs; Midwest Turf \$1,356.01 smcs; Mieth,T \$36.92 smcs; Miller & Associates \$109,071.06 co; Miller Signs \$150.00 smcs; Miracle Recreation \$460.00 smcs; Misko Sports \$52.50 smcs; MONA \$4,950.00 smcs; Montbello 66 \$52.23 smcs; Moonlight Embroidery \$2,402.00 smcs; Motion Industries \$415.46 smcs; Motorola \$350.20 co; Mueller,M \$41.41 smcs; Municipal Emergency \$174.10 smcs; Municipal Pipe & Tool \$48.16 smcs; Munster,S \$501.40 smcs; N.Central Lab \$867.90 smcs; Napa All Makes Auto \$1,491.15 smcs; Nat'l Electrical Seminar \$270.00 smcs; NCS Equipment \$190.47 smcs; NE Chapter APWA \$120.00 smcs; NE Chapter IAEI \$125.00 smcs; NE Child Support \$5,341.32 ps; NE Dept Environmental \$23,379.87 smcs; NE Dept of Aeronautics \$2,095.00 ds,er; NE Dept of Revenue \$29,363.98 smcs,ps; NE Law Enforcement \$468.00 smcs; NE Machine Company \$346.00 co; NE Salt & Grain \$38,708.05 smcs; NE State Library \$57.00 smcs; NE Statewide Arboretum \$130.00 smcs; NE Supreme Court \$57.00 smcs; NE Truck Center \$970.13 smcs; NE Workforce

Dev \$2,507.00 smcs,ps; NEland Distributors \$667.00 smcs; NE-LTAP \$85.00 smcs; Network Solutions \$228.00 co; Nevco Scoreboard \$193.72 smcs; New Directions \$9,844.38 smcs; Newegg \$1,408.74 smcs,co; Newman Signs \$877.50 smcs; Nicklasson,N \$189.20 smcs; NMC \$2,260.64 smcs,co; Norm's Plumbing \$300.00 smcs; Northwestern Energy \$4,873.44 smcs; Novus \$31.50 smcs; NSA/POAN \$180.00 smcs; NWEA \$1,080.00 smcs; Office Depot \$381.24 smcs; Office Max \$1,131.25 smcs,co; Officenet \$1,947.17 smcs,co; O'Keefe Elevator \$713.92 smcs; Olsen's Military \$132.50 smcs; Olson,L \$182.03 smcs; O'Reilly Auto \$1,023.34 smcs; Oriental Trading \$35.91 smcs; Orscheln \$590.36 smcs; Overhead Door \$65.00 smcs; Paramount Linen \$37.17 smcs; Paulsen \$218,863.89 co; Payflex Systems \$480.25 ps; Pfeiffer,C \$60.00 smcs; Philmont Scout Ranch \$470.00 smcs; Pioneer Revere \$2,568.00 smcs; Platte Valley Comm \$10,218.84 smcs,co; POS/PBS/SOS Mag Serv \$30.00 smcs; Pospapercom \$107.75 smcs; Powerplan \$2,643.55 smcs; Presto-X \$230.00 smcs; Prestwick Golf Group \$576.12 smcs; Public Resource Library \$94.75 smcs; Public Risk Management \$812.00 smcs; Pulliam,R \$501.40 smcs; Quill \$424.38 smcs; Radioshack \$183.87 smcs; Random House \$457.00 smcs; Raymond Geddes \$204.78 smcs; Ready Mixed Concrete \$3,515.26 smcs,co; Reata Petroleum \$52.00 smcs; Recognition Unltd \$366.72 smcs; Recorded Books \$3,767.92 smcs; Redman's Shoes \$250.00 smcs; Respond First Aid \$561.82 smcs; Rheome Tree Service \$1,350.00 smcs; Riverside Mfg \$35.34 ps; Rourke Publishing \$2,302.54 smcs; Ruby Tuesday \$55.85 smcs; Russell's \$279.00 smcs; S.A. Foster Lumber \$136.30 smcs; Sahling Kenworth \$165.72 smcs; Salina Blueprint \$7,995.00 co; Sanitation Products \$861.98 smcs; Sapp Brothers \$15,790.00 smcs; Schmidt,A \$389.20 smcs; Schwan's \$1,259.08 smcs; Sears \$248.98 smcs; See Clear Cleaning \$1,800.00 smcs; Senior Hospitality \$6,337.00 smcs; S-F Analytical Lab \$490.00 smcs; Shell Oil \$54.01 smcs; Sherwin Williams \$517.69 smcs; Sign Center \$547.61 smcs; Sirsi Dynix \$15,770.34 smcs; Sixth Street Self Storage \$82.50 smcs; Smith Signs \$4,000.00 co; Snap-On Tools \$81.50 smcs; Snow,T \$501.40 smcs; Softchoice \$345.99 co; Solid Waste Agency \$49,904.87 smcs; Solid Waste Equipment \$2,144.14 smcs; SOS Portable Toilets \$175.00 smcs; Splitter,M \$392.24 smcs; SSG*BSN/Collegiate Pac \$233.98 smcs; Starostka Group \$228,520.55 co; St of NE/AS Central \$4,464.17 smcs; St of NE/DAS Comm \$18.52 smcs; St of NE/HHS Laboratory \$1,713.00 smcs; Steinbrink's Landscaping \$3,604.68 smcs; Stephen,J \$120.00 smcs; Stone,M \$798.00 smcs; Story,G \$423.70 smcs; Sullivan,S \$8.28 smcs; Sun Life Financial \$24,520.14 smcs; Sunmart \$162.89 smcs; Superior Signals \$303.50 smcs; Sutphen Corp \$1,200.00 smcs; Sydow,J \$40.00 smcs; Tappan,J \$11.64 smcs; Target \$27.96 smcs; Technical Maintenance \$7,210.62 co; Theis,J \$60.00 smcs; Thies,G \$39.54 smcs,ps; Tigerdirectcom \$193.97 smcs; Titleist \$600.10 smcs; Tool Doctor \$91.35 smcs; Tractor-Supply \$799.21 smcs; Tracy,K \$101.40 smcs; Travel Ins Policy \$52.88 smcs; Tri City Outdoor Power \$1,444.69 smcs; TRI/Environmental \$357.00 co; Tye & Rademacher \$10,016.99 smcs; UAP Midwest \$138.75 smcs; Ultimate Office \$108.81 smcs; United Air \$770.00 smcs; United Seeds \$1,482.50 smcs; United Way Store \$117.04 smcs; University of Louisville \$675.00 smcs; UPS Store \$118.27 smcs; US Internet \$2,106.00 smcs; USPS \$108.57 smcs; Van Diest Supply \$4,742.30 smcs; Veskerna,J \$28.14 smcs; Video Store Shopper \$738.63 smcs; Village Uniform \$423.00 smcs; Walgreens \$14.68 smcs; Wal-mart \$1,275.69 smcs,co; Walters Electric \$578.34 smcs; Walz,Q \$17.46 smcs; Warrington,D \$108.50 smcs; Wells Fargo Equipment \$44,444.42 ds; Wells,A \$60.00 smcs; West Payment Center \$1,350.44 smcs; Wicks Sterling Trucks \$115.54 smcs; Wiegand Security \$75.00 smcs; Wilke Contracting \$122,102.89 co; Wilke-Donovan's \$427.25 smcs,ps; Wilkins Hinrichs Stober

\$22,379.73 co; World Book \$1,795.00 smcs; Yandas Music \$63.92 smcs; Zimmerman Printers \$525.87 smcs; Zubrod,D \$189.20 smcs; Payroll Ending 9-27-2008 -- \$315,164.34. 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. **WITHDRAWN BY ADMINISTRATION.** Approve the recommendation from the Building Official on the annual renewal of the Wood River Trailer Court manufactured home court license until May 31, 2009.

4. Approve the Agreement between the City of Kearney and the Nebraska Department of Roads for Project No. STPD-30-4(148) to improve Highway 30 from Avenue B to Avenue L and approve **Resolution No. 2008-181.**

RESOLUTION NO. 2008-181

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Agreement for Project No. STPD-30-4(148) on behalf of the City of Kearney. A copy of said Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve Change Order No. 2 showing an increase in the amount of \$9,872.50, Application and Certificate for Payment No. 3 in the amount of \$163,075.95 submitted by Blessing, LLC and approved by Brungardt Engineering for the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and approve **Resolution No. 2008-182.**

RESOLUTION NO. 2008-182

WHEREAS, Blessing, LLC has performed services in connection with the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and the City's engineer, Brungardt Engineering, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$9,872.50 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$163,075.95 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,004,396.00
Change Order No. 1 (4-8-2008)	- 136,500.00
Change Order No. 2 (10-14-2008)	+ 9,872.50
Contract Sum to Date	<u>877,768.50</u>

Total Completed and Stored to Date	488,733.50
Retainage	48,873.35
Amount Due to Date	439,860.15
Less Previous Certificates for Payment	<u>276,784.20</u>
Current Payment Due	\$ 163,075.95

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A", and Application and Certificate for Payment No. 3 as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

6. Approve the recommendation from the Downtown Improvement Board awarding the bid to Tri-City Sign Company in the amount of \$71,725.00 for the removal of an existing sign and the installation of a new digital on-premise sign to be located at the corner of 2nd Avenue and 21st Street.

7. Approve the Standard Specifications for Municipal Construction and the Standard Specifications for Private Construction Performed on Public Right-of-Way and approve **Resolution No. 2008-183**.

RESOLUTION NO. 2008-183

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the document entitled Standard Specifications for Municipal Construction and the Standard Specifications for Private Construction Performed on Public Right-of-Way be and is hereby adopted and approved as presented. A copy of said Standard Specifications for Municipal Construction and the Standard Specifications for Private Construction Performed on Public Right-of-Way, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

8. Approve the bids received for the 2008 Part 4 Improvements for the construction of the 39th Street and 17th Avenue Intersection Improvements and approve **Resolution No. 2008-184** awarding the bid to Blessing, LLC in the amount of \$267,833.25.

RESOLUTION NO. 2008-184

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on October 2, 2008 at 2:00 p.m. for the 2008 Part 4 Improvements for the construction of the 39th Street and 17th Avenue Intersection

Improvements; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$230,532.50; and

WHEREAS, the said engineers have recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the sum of \$267,833.25 be accepted as the lowest responsible bid for the 2008 Part 4 Improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Blessing, LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2008 Part 4 Improvements for the construction of the 39th Street and 17th Avenue Intersection Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing, LLC of Kearney, Nebraska in the sum of \$267,833.25 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$230,532.50 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve Change Order No. 1 showing a decrease in the amount of \$18,005.00, Application and Certificate for Payment No. 3-Final in the amount of \$81,808.75, and Certificate for Substantial Completion submitted by Judds Brothers Construction Co. and approved by Miller & Associates for the construction of the 2008 Airport Road Water Main Relocation and approve **Resolution No. 2008-185**.

RESOLUTION NO. 2008-185

WHEREAS, Judds Brothers Construction Co. of Lincoln, Nebraska has performed services in connection with the construction of the 2008 Airport Road Water Main Relocation, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$18,005.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Judds Brothers Construction Co. and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$81,808.75 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$382,430.00
Change Order No. 1 (10-14-2008)	<u>- 18,005.00</u>
Contract Sum to Date	\$364,425.00
Total Completed and Stored to Date	364,425.00
Retainage	.00
Amount Due to Date	364,425.00

Less Previous Certificates for Payment	<u>282,616.25</u>
Current Payment Due	\$ 81,808.25

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of July 24, 2008, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 3-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7471 – VACATE PORTION OF BRANDT’S LAKEWOOD EIGHTH (PERTAINS TO PUBLIC HEARING 1)

Mayor Clouse stated that Ordinance No. 7471 proposing to vacate Lot 1, Brandt’s Lakewood 8th Subdivision, Kearney County, Nebraska (south of Platte River and west of Highway 44) was withdrawn by the applicant and owner. Therefore, no action was taken.

ORDINANCE NO. 7472 – REZONE SOUTH OF PLATTE RIVER AND WEST OF HIGHWAY 44 (PERTAINS TO PUBLIC HEARING 1)

Mayor Clouse stated that Ordinance No. 7472 proposing to rezone property located south of Platte River and west of Highway 44 was withdrawn by the applicant and owner. Therefore, no action was taken.

ORDINANCE NO. 7473 – REZONE ½ MILE EAST OF SWEETWATER AVENUE AND SOUTH OF 11TH STREET (PERTAINS TO PUBLIC HEARING 4)

Council Member Buschkoetter introduced Ordinance No. 7473, 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 1 and Government Lot 2 located in the Northeast Quarter of Section 10, Township 8 North, Range 15 West of the 6th P.M., containing 22.60 acres, more or less, AND TOGETHER WITH a tract of land being part of Government Lot 3 located in Section 10, Township 8 North, Range 15 West of the 6th P.M., containing 0.54 acres,

more or less, all in Buffalo County, Nebraska (½ mile east of Sweetwater Avenue and south of 11th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7473 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 Clouse seconded by Kearney that Ordinance No. 7473 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. 7473 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. 7474 – VACATE PORTION OF GLACIER PARK ADDITION (PERTAINS TO PUBLIC HEARING 5)

Council Member Kearney introduced Ordinance No. 7474, being Subsection 5 of Agenda Item VI to vacate Lot 2, Glacier Park Addition to the City of Kearney, Buffalo County, Nebraska, excepting however, the south 87.5 feet thereof as the same would be measured at right angles from the southerly line of said Lot 2, being located in the South Half of the Northeast Quarter of Section 1, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (1917 Avenue H), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, 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. 7474 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 Lammers seconded by Lear that Ordinance No. 7474 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. 7474 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. 7475 – VACATE AVENUE P

The applicant is requesting approval to vacate one block of Avenue P as it lies between 27th Street and vacated 28th Street, west of Grand Avenue. Apparently this section of street was thought to be previously vacated but was not. There is no street in place. This is a house keeping issue and staff supports this request.

Council Member Lear introduced Ordinance No. 7475, being Subsection 6 of Agenda Item VI to vacate all of Avenue P located north of 27th Street, east of Lot 2, Con Agra Addition, an addition to the City of Kearney, Buffalo County, Nebraska, west of Lots 1 and 8 of Block 45, East Lawn Addition to the City of Kearney, Buffalo County, Nebraska (west of Grand Avenue, north of 27th Street, south of vacated 28th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7475 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 Buschkoetter seconded by Clouse that Ordinance No. 7475 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. 7475 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.

IMPROVEMENTS AT MEMORIAL FIELD

Mayor Clouse opened for discussion the recommendation from City Administration on providing \$75,000 to go toward the improvements at Memorial Field.

Memorial Field, one of the premier baseball facilities in Nebraska, has benefited from private funding sources and the University of Nebraska at Kearney. The field is used by

various American Legion teams and the UNK baseball team. The most recent facility improvement was the construction of a building to house offices, a weight room, and a batting area with the primary tenant to be the UNK baseball program.

The Loper Athletic Club identified donors interested in paying to construct a building at Memorial Field for the benefit of the UNK baseball program as well as for the promotion of youth baseball in the City of Kearney. The Loper Athletic Club has approached the City requesting financial assistance in order to match a \$75,000 donor and to enhance the facility. The City Manager and Neal Lewis recently met with representatives of UNK and the Legion to discuss possible improvements to the facility. Also, it was agreed by all parties to create an Advisory Group for developing projects, fund raising, and to discuss the use of the facility.

Based on the plans presented, the commitment to establish an Advisory Group, and the benefits of receiving matching funds, Staff recommends providing \$75,000 towards Memorial Field improvements.

The "Special Sales Tax – Capital Improvements/Equipment Fund" has sufficient funds available to allocate the \$75,000.

Jon McBride, Athletic Director at UNK, presented this matter to the Council. This was an exciting evening for them to come before the Council and talk about this opportunity. Present from the Legion Board were Rick Reinsch, Dale Klute, Terry Broadfoot and Damon Day. A new committee will be formed with this approval to deal with some much needed improvements at this older facility to upgrade it to a greater facility. They have made some improvements (as a separate project) on a building that will be used in the near future which is a great addition to Memorial Field. With the approval of this money from the City, it will match an anonymous gift that they have been given to make improvements at Memorial Field for the betterment of baseball, the Legion programs, UNK and the Kearney community. There will be an advisory group formed by UNK and the Legion to make recommendations for improvements on a timely basis to the City staff. They are immediately doing some fencing work to improve the fence that was blown down in the high winds. They also want to do some lighting work, infrastructure work on some very old locker room facilities behind the dug out and add an umpire room to be used by the Legion programs and UNK. They are looking forward to doing these improvements and bringing this facility up to modern day standards.

Mayor Clouse pointed out that the funding for the building and the batting cage was a separate project and these funds would be used for a lot of other improvements that need to be done out there. Mr. McBride stated that they need these improvements in order to host state and national tournaments in the future. He has been to national tournaments that did not have facilities that are as good as this facility. If Kearney has a first class facility to offer, it will attract a great number of people to this community for special events. There has been some discussion about further developing West Lincoln Way because for those national events, we also need good practice fields. They feel confident that with these improvements, they would have a greater chance to get those types of events to Kearney. They are already scheduled to host the RMAC baseball tournament in two years.

City Manager Michael Morgan stated he had not had the opportunity to spend any time at the ball park. After looking at all the information and the partnerships that have gone into this facility in the past, the projects have been extremely well done. They have been very fortunate to have the many donors and individuals involved in this fairly unique relationship between the University and the Legion. This facility is used by all ages. It was suggested to create this advisory group for their benefit. City staff does not intend to be that involved and assume they have been doing a good job on their own. This will give them a better opportunity to help prioritize some of the improvements out there. This is another great example of the half cent sales tax with leveraging more funds and meeting the needs of a different group or our citizens.

Council member Lammers stated since there are so many different groups using the field which involves a lot of coordination for scheduling and duties, he asked who was going to be in charge of that. Mr. McBride stated that he believed that could be an off-shoot of the user group board to help facilitate that because it has not been as clean as it can be. From a University point of view, they would like to set some perimeters from a users perspective which would make it clearer for everybody involved in using this facility.

Council member Lammers asked if some of the funding was being considered for upgrading some seating to stadium backed seats. Mr. McBride stated the first thing is to install a taller and more professional looking fence (like what is in right field) which will go all the way around in the very near future. They are working with the lighting people from Musko for recommendations about more lighting or improved lighting and better lighting for the spectator area which is now very dark. The seating (approximately 400 stadium seats) is being undertaken as a fund raising project by the Kearney Legion program.

Moved by Clouse seconded by Kearney to approve the recommendation from City Administration on providing \$75,000 to go toward the improvements at Memorial Field. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

SUPPLEMENTAL AGREEMENT ON KEARNEY EAST BYPASS

Mayor Clouse opened for discussion the Supplemental Agreement No. 3 between the City of Kearney, Buffalo County, and the Nebraska Department of Roads for Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) allowing the Kearney East Bypass to be constructed under three separate phases and setting forth the costs for each phase and to consider approval of Resolution No. 2008-186.

Director of Public Works Rod Wiederspan presented this matter to the Council. As the Cherry Avenue Bypass project is moving forward it is now necessary to enter into a supplemental agreement that defines the responsibilities of the parties for the remainder of the work, funding for the project and upon completion of the bypass the relinquishment requirements that will alter the responsibility of certain roads within the City and County including the closure of the Cherry Avenue and Antelope Avenue at-grade UPRR crossings. This agreement will turn the project over to the State to

assume the role of lead agency after the completion of the Environmental Study. The agreement also divides the project into three (3) phases as follows:

Phase 1 is from I-80 to 11th Street which will include the interchange, new bridges over the north channel of the Platte River and a 4-lane highway to 11th Street. The connection for 1st Street to tie in with the existing 1st Street is also part of Phase 1 at an estimated cost of \$15 million.

Phase 2 is the continuation from 11th Street up to 56th Street which will include the 4-lane highway, the overpass (Highway 30 and the railroad), two traffic circles (roundabouts), one at 39th Street and one turning south by Eaton's to tie back into Highway 30. Off of 56th Street, there will be a new entrance into the Airport at that location. The County is responsible for improving 56th Street and the new entrance into the Airport. The estimate for Phase 2 is \$21.5 million.

Phase 3 continues from 56th Street north to 78th Street, turns and goes west to the intersection of Highway 10 and Highway 40. A 2-lane section is proposed today with the ability to add on another 2-lanes in the future. Phase 3 is estimated at \$10 million.

The entire project is estimated at \$47 million. The City's portion will be \$2.5 million of which they anticipate \$1,500,000 will come from Keno funds over ten years, \$500,000 from the hotel lodging tax and \$437,525 will come out of the Street Improvement Fund. The City also has the STP money that has been saved for this project (balance of approximately \$3 million), from which annually the City gets about \$750,000. They anticipate that they will spend about \$5 million of that money towards this project.

During Phase 2, they will be closing the existing Cherry Avenue crossing which the County is responsible for. The City will be responsible for the closure of the Antelope Avenue crossing and removing the at-grade railroad crossing as it exists. That will be part of the project cost, because Antelope Avenue is within the City limits so we are responsible for that one. The Cherry Avenue crossing is in the County so they are responsible. The State is still negotiating with the railroad what their contributions are going to be to this. The City would be looking at a minimum of getting five percent and possibly more. The City's job is only to approve the closing of those crossings and there are no costs or need to provide any manpower. The State had concerns about traffic backing up onto the highway from both of those crossings which is the reason for the closings.

Another informational meeting is scheduled for Thursday, October 30th at the Arch from 5:00 p.m. to 7:00 p.m. This will be an informal meeting that explains the whole project. There will be a number of stations set up to get a closer look at the project. City Manager stated the funds are reserved for Phase 1 and cannot be pulled. He hoped that would dispel any rumors that the funding might not be there. In the spring of 2010, there will be construction of Phase I. Phases 2 and 3 are funded and in the State's budget; however, there is always potential that something could happen in the meantime. This project is a high priority for them. Once they pave that first phase, they will want to keep going and want to be relieved of 2nd Avenue as quickly as they can. There are agreements in place as to what that means and the improvements that they have to make. Ten or fifteen years ago when they talked about Cherry Avenue, no one

would have dreamed this would cost \$50 million, but we are paying only 4½ percent of the project and Kearney should be extremely pleased about that.

City Manager thanked Director of Public Works Rod Wiederspan for his efforts and the hundreds of people that have worked on this project over many years to bring it to this point. Phase I will start in March 2010 and be completed in two years. Phase 2 could possibly be started during the first phase. They hope to have the whole project built in seven years.

City Manager also thanked Buffalo County who is a big partner in this. By the County paving 11th Street, it made the Phase 1 project very accessible and usable. The 56th Street pavement which the County is doing next year, will be a huge improvement and much appreciated. The County has also agreed to pave Avenue M south from 11th Street to Archway Parkway (1st Street). It is fairly unusual for a federal highway project to include a local road. This project does include the extension of paving from Cherry Avenue west to connect to the existing 1st Street, which is included in the funding. What is unique about that is if you take the total cost with 1st Street from Cherry Avenue all the way to Central Avenue, the \$5-\$6 million of paving, water and sewer is all paid for by somebody else, either the Archway or the federal government. Utilities were all extended for the benefit of those projects that could go out to the Archway or by the Archway. There is a huge benefit there.

Moved by Kearney seconded by Lammers to approve the Supplemental Agreement No. 3 between the City of Kearney, Buffalo County, and the Nebraska Department of Roads for Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) allowing the Kearney East Bypass to be constructed under three separate phases and setting forth the costs for each phase and approve **Resolution No. 2008-186**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2008-186

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 Supplemental Agreement No. 3 between the State of Nebraska Department of Roads, the City of Kearney, and Buffalo County with regard to Project Nos. DPS-10-2(114), STP-10-2(116) and STP-10-2(117) allowing the Kearney East Bypass to be constructed under three separate projects. A copy of the said Supplemental Agreement No. 3, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF OCTOBER, 2008.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$80,599.15, PLATTE VALLEY STATE BANK - \$93,882.42

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the

amount of \$93,882.42 payable to Platte Valley State Bank, and in the amount of \$80,599.15 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.

VII. REPORTS

LANDSCAPING ON EAST 25TH STREET

Director of Public Works Rod Wiederspan stated the other project they are working on is Highway 30 from Avenue D to Avenue E and from Avenue I to Avenue L. The Department of Roads plan showed there should be ten foot in the area between the back of curb and the sidewalk and originally it was planned to sod that area. After discussion with some of the property owners, they would rather see a brick stamp concrete similar to what was done on 39th Street; however, that adds costs to the project. The Department of Roads is willing to pay for what the sod was going to cost, but are not willing to pay the additional costs for the concrete. He did talk to the Department of Roads regarding four properties. For those four properties that are built rather close to the road and part of their parking is using some of that driving lane, they would like to put in four foot of brick stamp at those locations, a five foot sidewalk and leave the rest the way it is. Some of the property owners went down and talked to the Department of Roads and the Highway Commission to try to work out a solution. To go to the brick stamp throughout the project, it would add \$100,000 - \$150,000 to the project.

City Manager Michael Morgan stated that the City's concern is that this is another major gateway and the 10-foot "mow strip" has not been successful along the arterial roads. Most of these small businesses do not have lawnmowers and there is no irrigation. One option is to take responsibility for them; irrigate, mow and treat them like a median. That is a staff issue, but would keep them looking appropriate. Since the cost is a concern he asked for Council's input about whether to do this.

Director of Public Works stated a major concern of the property owners is there is not water there. Another option would be to put in sprinkler systems and sod and then let the property owners maintain it. At this point, they do not have a cost factor for doing that, but it would be significantly less than the concrete which is a high priced item. A 10-foot wide strip would take a lot of concrete. The locations are on both sides of Highway 30, McDermott and Miller is on northeast corner of Avenue D and straight across the street is the other building and Waldron's building sits on the northeast corner of Avenue B.

Council members discussed driving by the site or looking at a drawing of the property locations. City Manager stated the State wants to move forward with their bids and they do not really care what the City decides to do.

Council member Lear asked if there will be any changes to the width of the street. Director of Public Works stated there will be left turn bays at each intersection, but there will be a two foot median down the middle. The brick stamp will be on those medians that are 2-foot wide. The general consensus of the Council members was they would

rather see green space. City Manager stated that they will work with the landowners. If the City is going to do all that, it might as well treat it like a median and then it will look nice. The City has done so much north, south and on 39th Street and will be coming to the Council later with significant improvements going west on Highway 30 into the UNK properties. The City is at a point where it will be doing more mowing of the medians, so if that is the Council's preference, it is doable. The other advantage to that is it will allow the streets to expand and contract without breaking the curbs off like some on those to the east have done. The landscaping will allow some buffer there and should not have that problem in the future. Staff will work up an agreement with the property owners according to Council's recommendation.

LISTENING SESSION ON RESTAURANT OCCUPATION TAX

City Manager stated the Listening Session for citizen input regarding the restaurant occupation tax has been scheduled for October 21, 2008 at 7:00 p.m. in the Council Chambers. The Kearney Visitors Bureau will be making the presentation.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:13 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**