

*Kearney, Nebraska
February 10, 2009
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 February 10, 2009 in the Council Chambers at City Hall. Present were: Randy Buschkoetter, Vice-President of the Council; Michaelle Trembly, City Clerk; Council Members Don Kearney, Bruce Lear, and Bob Lammers. Absent: Mayor Stanley A. Clouse. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; 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: Roger Jasnoch, Michelle Stover, Ronnie Roberts, Tom Henning, Mary Henning, Lynne Heiden, Bruce Lefler, Dave Klone, Matt Keating, Kent Cordes, Neal Lewis, Bruce Grupe, Sara Giboney from Kearney Hub, Steve Altmaier from KGFW Radio.

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 Charles Torpey from St. James Catholic Church provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

Vice-President Buschkoetter 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 OF TOM HENNING AND THE AIR TRANSPORTATION COMMITTEE

In recognition of the long service of the Air Transportation Committee and the years of work contributed to give the Kearney Regional Airport strong commuter service, the Kearney City Council would like to commend Tom Henning and the Air Transportation Committee. Tom is being recognized for serving as the Chairman of the Air Transportation Committee. The Kearney Regional Airport has grown and evolved far beyond the service that existed fifteen years ago, do in no small part to the

determination and service of the Air Transportation Committee. The Council is presenting Tom a plaque for his 15 years of service.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

TRAFFIC ISSUES AT 35TH STREET AND AVENUE A

REMAIN ON TABLE UNTIL STUDY COMPLETED – Request to place 3 or 4-way stop sign located at 35th Street and Avenue A and parking concerns adjacent to the Kearney Catholic High School.

III. PUBLIC HEARINGS

ONE-HALF CENT SALES TAX CAPITAL IMPROVEMENT PLAN

Vice-President Buschkoetter opened the public hearing on the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney.

City Manager Michael Morgan stated after the citizens approved the ½¢ sales tax, the City committed to the annual public hearing which is what is on the agenda at this Council meeting. The current Capital Improvement Plan including all expenditures that are associated with this program since its inception is available on the City website for any citizen to review. The One and Six Year program was reviewed at the last Council meeting and staff can technically answer any questions on those issues. Incorporated in the ½¢ sales tax are the One and Six Year Street Improvement projects. However, there are other street projects that are done with other financial sources.

The plan has been divided into several categories and spending guidelines based on percentages. The general target for streets, curbs and sidewalks is fifty percent. For 2009-2010, the City is at forty percent with the actual estimate to be \$2.6 million by the end of the year. The target for buildings is 25 percent. That number is fairly high because the City has been accumulating those funds into an account to pay cash for the Library and the Senior Center, as well as some funding being carried forward for the Harmon Park fountain. The City is below the target amount of five percent for other improvements for the next year. The City has exceeded its targeted fund balances for the year.

More importantly, in looking at the years in the future, City staff has done a good job in defining those One and Six Year Street Improvement projects as listed. There will be some significant improvements funded in this plan on south Central Avenue. The projects that have been defined for future years, staff has attempted to adjust for inflation which is different than was done in the past to project a better number for those projects. There is a total debt service target amount of 35 percent. There are a few years in the out years that we will hit that percent or get fairly close to it. This is to

ensure that if the City has a significant downturn in the economy that it could simply not do certain projects.

In looking back over the past few years, the major projects that were on the list are either funded, in process or completed. These include the Senior Center, Harmon Park, Library expansion, Fire Station, 39th Street and several significant road improvements that are upcoming. He was proud to announce the amount of grant money that they have been able to leverage with the assistance of Suzanne Brodine. There are a lot of asphalt street replacement projects coming up in the next few years that the City has not been able to do in the past. There are numerous amounts of sidewalks, future brick intersections down the road that will be able to be done.

Council member Lammers emphasized the importance of the ½¢ sales tax that fifty percent a year is going for street improvements. There was an article in the editorial that was somewhat bashing the streets. Citizens need to be aware the City is spending a lot of money on streets to improve those things that need repair. City Manager stated that the first few years there was a strong emphasis on buildings and facilities that were talked about. In 2008-2009, \$2 million is scheduled for improvements and then the amount drops a little until they are \$2.1 million. Several years out \$3 million is scheduled for streets. This is not just for maintenance but some large street improvements that would not have been accomplished without the ½¢ sales tax.

Council member Buschkoetter emphasized that keeping our debt percentages down for debt services is instrumental in having some flexibility. The City will not be hamstrung as much in the future. He also reiterated that this Capital Improvement Plan is available on line through the City website all year and is updated. There is also a list of the expenditures associated with the program along with all the revenue that has come in to the fund. Any citizen can get a snapshot of the entire ½¢ sales tax since the beginning and the Finance Director keeps that up to date for everyone's review.

Council member Kearney stated that he would like to again thank the tax payers for giving the City the opportunity to fund what the Council deems as priorities. All of the projects can now be accomplished.

Council member Buschkoetter stated that he has good feedback from the tax and the things that have been done up to this point. Although often times they do not have a lot of people that address this issue at the public hearing, he believed that the transparency and the availability is instrumental to the peoples appreciation of how they are handling this.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the ½¢ Sales Tax Capital Improvement Plan for the City of Kearney. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

ADOPT ONE AND SIX YEAR STREET IMPROVEMENT PLAN

Vice-President Buschkoetter opened the public hearing on the One & Six Year Street Improvement Plan and to consider approval of Resolution No. 2009-10.

City Engineer Bruce Grupe presented this matter to the Council. The Department of Roads, and each county and municipality must develop and file with the Board of Public Roads Classifications and Standards a long-range, six-year plan of highway, road and street improvements based on priority of needs and calculated to contribute to the orderly development of an integrated statewide system of highways, roads, and streets. In accordance with Section 39-2119 of the Nebraska Revised Statutes, the City of Kearney is required to submit to the Nebraska Department of Roads (NDOR) a One and Six Year Plan for street improvements prior to March 1 of each year. City Council has received the proposed plan and, in accordance with the law, must conduct a public hearing for soliciting input from the Council and citizens.

Council member Lammers asked City Engineer if the plan for 39th Street from 30th Avenue to 47th Avenue is tentative set for 2011-2012. City Engineer stated that when it was talked about in the CIP that it was slated for 2012-2013. That is where they put it on a priority basis. Director of Public Works Rod Wiederspan stated that the first half mile of this project is within the City limits and the other half mile is part of the County so they want to get the County involved in working on this.

Council member Kearney asked to again explain the City's cost in the Cherry Avenue \$7.3 million project. City Manager stated that the State requires the City to report it in those terms. The City's actual cost in real dollars is \$1.5 million, the additional funds come from federal funds that go through the State and then to the City. They are Surface Transportation Program funds that have been accumulating which are federal funds. Those funds fit very well with this project. The State has worked very closely with the City to allow the use of those funds on this project. The \$1.5 million will come from keno funds and there is no property or sales taxes associated with the Cherry Avenue project in its entirety. The golf course debt will be paid off in 2012 so the proceeds will switch from the golf course to the Cherry Avenue project.

City Engineer stated the City has made the One and Six Year program a lot more usable for the community. There is also a federal requirement that the City does this plan and that the Council gives their approval in order to obtain those surface transportation funds. City Manager stated what is truly different is the projects that are listed through 2015 are currently funded in the ½¢ sales tax.

Matt Keating, 29 Rolling Hills, asked if there were any long term plans for the City to work with the County to extend that 39th Street west of 30th Avenue. City Manager stated that the majority of that is currently in the County and the City has been working with them about the City doing a portion of that work. A funding amount has been set aside on the plan to do a portion of that work in 2012-2013. The County has also placed it on their Six Year Plan.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the One & Six Year Street Improvement Plan and to consider approval of **Resolution No. 2009-10**.

Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-10

WHEREAS, the City of Kearney, Nebraska is required by Section 39-2119 of the Nebraska Revised Statutes to adopt a One and Six Year Street Improvement Program.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, at a Public Hearing held at approximately 7:00 p.m. on February 10, 2009, in the Kearney City Council Chambers that the One Year City Street Plan for fiscal year ending September 30, 2010 and the Six Year City Street Plan ending September 30, 2015, are hereby adopted as listed on the Summary of One Year Plan and the Summary of Six Year Plan, marked as Exhibit "A" attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

ANNEXATION ALONG EAST HIGHWAY 30 BETWEEN ANTELOPE AVENUE AND CHERRY AVENUE

Vice-President Buschkoetter opened the public hearing on the proposed annexation of the following tracts of land: a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the South 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (located north of East Highway 30 between Antelope Avenue and Cherry Avenue).

City Manager Michael Morgan presented this matter to the Council. The City of Kearney has received agreements from three property owners favoring the annexation of their properties adjacent to the Kearney city limits extending generally east of Antelope

Avenue along Highway 30 (on the north) to approximately Cherry Avenue. The Council accepted those agreements on December 23, 2008. The City has received the fourth and final agreement from Scott Morris and is Item 12 of the Consent Agenda.

In accordance with Section 19-929 of the Nebraska Statutes, "the municipal governing body shall not take final action on matters relating to...the annexation of territory...until it has received the recommendation of the planning commission if such commission in fact has been created and is existent." The Planning Commission considered the proposed annexation at a public hearing held on January 16, 2009 and was unanimously approved. There were no members of the public that testified at said hearing.

In accordance with Section 16-117 of the Nebraska Revised Statutes, the City Council, on January 27, 2009, passed a resolution stating its intent to annex, approved an annexation plan, and set the public hearing for comment on the proposed annexation before the City Council for tonight. Tonight the Council will receive comments from the public with regard to the annexation.

Item 1 under the Regular Agenda is the ordinance annexing the property. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." Therefore, the first reading of the ordinance by title will be tonight, the second reading on February 17 and the final reading on February 24.

The area in question is either served or can be served by city utilities. Accordingly, additional utility improvements will not be required. However, as conditions warrant, the City of Kearney will construct to city standards a new road between Morris Press and Kearney Implement. The estimated cost for the road is \$80,000.

There was no one present in opposition to this hearing.

Vice-President Buschkoetter and Council members commended the businesses for working with the City on the annexation.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the annexation of the following tracts of land: a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of

the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the South 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (located north of East Highway 30 between Antelope Avenue and Cherry Avenue). Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Kearney that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

1. Approve Minutes of Regular Meeting held January 27, 2009.

2. Approve the following Claims:

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

Advanced Battery Systems \$209.60 smcs; Affiliated Computer Serv \$1,065.00 smcs; Aflac \$2,721.66 ps; Alltel \$1,270.27 smcs; Amax Contracting \$72.72 co; Amer Backflow Assn \$70.00 smcs; Amer Fence \$4,970.00 co; Amer First Aid \$129.23 smcs; Andersen Wrecking \$500.00 smcs; Anderson,S \$154.05 smcs; Baker & Taylor \$5,273.61 smcs; Barnes,J \$43.00 smcs; BBC Audiobooks \$243.84 smcs; Bosselman \$16,181.15 smcs; Brown Traffic Products \$1,251.25 smcs; Buffalo Co Court \$468.05 smcs,ps; Buffalo Co Reg Deeds \$46.00 smcs; Buffalo Co Highway Dept \$41.80 smcs; Builders Warehouse \$3,107.57 smcs; Central District Health Dept \$2,624.50 smcs; Central Fire & Safety \$80.00 smcs; Central Hydraulics \$6,807.13 smcs; Central Place Pawn \$81.37 smcs; Chad \$956.56 ps; Charter \$675.58 smcs; Chief Construction \$28,859.70 co; Christ,M \$39.09 smcs; City of Ky \$187,410.30 smcs,ps; College Savings Plan of NE \$100.00 ps; Consec Life Ins \$24.00 ps; Credit Management Serv \$4.45 smcs; Cummins Central Power \$1,123.00 smcs; Custom TV Stereo \$480.00 smcs; Denver Post \$117.00 smcs; Development Council \$2,708.71 smcs; Dreyer,D \$100.75 smcs; Dutton-Lainson \$1,240.46 smcs; Eakes \$1,722.77 smcs,co; Eirich,T \$50.00 smcs; ESRI \$6,300.00 smcs; Evans,N \$19.18 smcs; Fike,R \$60.00 smcs; Fireguard \$13,873.53 smcs; Forensics Source \$949.61 smcs; Fredrickson Construction \$24,709.00 co; Frontier \$174.77 smcs; Gale \$464.65 smcs; Galls \$37.46 smcs; Garrett Tires \$1,832.69 smcs; GE Money Bank \$1,599.83 smcs; Gilliland,E \$13.33 smcs; Gneil \$54.99 smcs; Goody Square \$1,362.00 smcs; HW Wilson Co \$147.00 smcs; Harland Technology \$1,711.00 smcs; Harshbarger,K \$35.10 smcs; Hausmann Construction \$158,148.00 co; HD Supply \$4,547.33 smcs; Highland Park \$1,721.94 smcs; Hometown Leasing \$207.71

smcs; Hotsy Equipment \$603.00 smcs; Hydrite Chemical \$13,108.03 smcs; IA, NE, SD Prima Chapter \$40.00 smcs; IACP \$120.00 smcs; ICMA RC \$4,340.81 ps; IRS \$100,072.99 ps; Jack Lederman \$798.02 smcs; Jacobsen, Orr, Nelson \$4,131.94 smcs; Jelinek,T \$11.70 smcs; Johnson Service \$2,000.00 smcs; Johnson,S \$50.00 smcs; Ky Chamber Comm \$10.00 smcs; Ky Hub \$2,817.08 smcs; Ky Humane Society \$4,000.00 smcs; Ky Towing \$560.00 smcs; Ky United Way \$656.00 ps; Ky Visitors Bureau \$45,054.69 smcs; Konica Minolta \$124.58 smcs; Koski,J \$22.61 smcs; Langenberg,B \$87,221.50 co; League of NE Municipalities \$276.00 smcs; Lindner,S \$23.65 smcs; Linweld \$10,355.33 co; Magic Cleaning \$350.00 smcs; Maines Electric \$16,131.00 co; Masonry Unlimited \$100.00 smcs; McDermott & Miller \$20,630.00 smcs; Metlife \$6,151.32 ps; Meyers,D \$7.39 smcs; Mid-NE Garage Doors \$6,074.00 co; Midway \$3.02 smcs; Miller & Associates \$47,225.93 smcs,co; Moonlight Embroidery \$192.00 ps; Morgan,M \$23.65 smcs; Municipal Supply \$397.10 smcs; Murphy Tractor \$10,451.69 smcs; NCBOI \$150.00 smcs; NCL of Wisconsin \$11,349.67 co; NE Child Support \$2,797.89 ps; NE Dept of Revenue \$84,105.08 smcs,ps; NE Environmental Products \$200.00 smcs; NE Forest Service \$40.00 smcs; NE Golf Assn \$617.10 smcs; NE IAI \$50.00 smcs; NE Municipal Clerks \$35.00 smcs; Neopost \$6,520.00 smcs; Nichols,E \$11.00 smcs; Northwestern Energy \$16,951.81 smcs; Nova \$89.00 smcs; Office Depot \$122.55 smcs; Old Warrior Publishing \$34.90 smcs; Oxford University Press \$86.78 smcs; Paulsen \$39,229.20 co; Payflex Systems \$1,265.00 smcs,ps; Peerless Machine \$68.75 smcs; Pep Co \$51.10 smcs; Pioneer Door \$216.00 smcs; Platte Valley Comm \$375.00 smcs; Presto-X \$78.00 smcs; Procure USA \$14.56 smcs; Protex Central \$94.00 smcs; Random House \$152.00 smcs; Ready Mixed Concrete \$1,768.13 co; Recorded Books \$409.42 smcs; Recreonics \$1,867.93 smcs; Rheome Tree Service \$661.50 smcs; RK Digital \$480.00 smcs; Rutt's Heating \$5,960.00 smcs; Sands,M \$16.16 smcs; Sanitation Products \$5,222.70 smcs; Sapp Brothers \$13,688.35 smcs; Sensus Metering \$132.00 smcs; Sherwin Williams \$3,455.90 smcs; Smeal Fire Apparatus \$432,122.00 co; Solid Waste Agency \$40,176.67 smcs; Solid Waste Equipment \$7,443.45 smcs; State of NE/AS Central \$2,913.28 smcs; State of NE/DAS Comm \$18.52 smcs; State of NE/HHS Lab \$3,186.00 smcs; Stocker,K \$11.70 smcs; Story,G \$11.70 smcs; Summit Heating \$129.00 smcs; Sun Life Financial \$29,486.58 smcs; Sydow,J \$40.00 smcs; Thome,B \$35.10 smcs; Time For Baby \$100.00 smcs; Travis Anderson Construction \$1,300.00 co; Tri-Cities Group \$117.66 smcs; Tye & Rademacher \$12,967.52 smcs; Video Service of America \$78.98 smcs; Village Uniform \$457.36 smcs; Walters Electric \$145.39 smcs; Warren-T Plumbing \$188.50 smcs; Water Environment Federation \$93.00 smcs; Wellman,P \$10.70 smcs; Wilkins Hinrichs Stober \$2,694.22 co; Williams,M \$10.34 smcs; Zimmerman Printers \$413.72 smcs; Payroll Ending 1-31-2009 -- \$300,887.02. 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. Repeal Resolution No. 2008-158 and amend the Comprehensive Fee Schedule to provide calculated fees associated with plumbing permits based on square footage in residential houses and commercial projects will be based on a percentage of the plumbers cost of the work related to a project and approve **Resolution No. 2009-11.**

RESOLUTION NO. 2009-11

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 for the 2008-2009 was adopted by Resolution No. 2008-158 on September 9, 2008; and

WHEREAS, it is necessary to amend the Comprehensive Fee Schedule to provide for calculated fees associated with plumbing permits based on square footage in residential houses and commercial projects will be based on a percentage of the plumbers cost of the work related to a project; and

WHEREAS, the revised 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 revised and adopted.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the revised Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of February 11, 2009.

BE IT FURTHER RESOLVED that Resolution No. 2008-158 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

4. Approve the Amendment to the Fixed Base Operator Use and Operations Agreement for Hangar T-926 between the City of Kearney and Otis Air Service and approve **Resolution No. 2009-12.**

RESOLUTION NO. 2009-12

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, that the Vice-President be and is hereby authorized and directed to execute the Amendment to the Fixed Base Operator Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Otis Air Service for Hangar T-926 at the Kearney Regional Airport, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

5. Approve the Amendment to the Use and Operations Agreement for Hangar T-385 between the City of Kearney and Otis Air Service for commercial storage of aircraft at the Kearney Regional Airport and approve **Resolution No. 2009-13.**

RESOLUTION NO. 2009-13

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, that the Vice-President be and is hereby authorized and directed to execute the Amendment to Use and Operations Agreement on behalf of the City of Kearney, Nebraska, with Otis Air Service for Hangar T-385 at the Kearney Regional Airport, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

- 6. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 1978-01 to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.
- 7. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period of one year.
- 8. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and DT Development, Inc. to provide paving, water and sanitary sewer to serve Lots 1 and 2 of Block 2, and Outlot A, Spruce Hollow Estates Third Addition, a subdivision of Buffalo County, Nebraska and approve **Resolution No. 2009-14**.

RESOLUTION NO. 2009-14

BE IT RESOLVED BY THE VICE-PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement" between the City of Kearney and DT Development, Inc. for the construction of paving, water and sanitary sewer to serve Lots 1 and 2 of Block 2, and Outlot A, Spruce Hollow Estates Third Addition, a subdivision of Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Jeffrey L. Orr, Attorney, its Authorized Agent for DT Development, Inc. to construct said paving, water and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the Vice-President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

- 9. Approve **Resolution No. 2009-15** to support Buffalo County in pursuing and applying for Department of Homeland Security funds to assist in the financing and

rehabilitation of an Emergency Operations Center located in the basement of the Correctional Center currently under construction and/or other suitable location.

RESOLUTION NO. 2009-15

WHEREAS, the United States, Department of Homeland Security has grants available to local governments to assist in financing and rehabilitation of Emergency Operation Centers to be used in event of emergencies; and

WHEREAS, if approved, the grant will match local funds expended by approximately a one dollar of local expenditure to a federal participation of two and one-half dollars; and

WHEREAS, Buffalo County, Nebraska is applying for such grant and allocate an expenditure of \$50,000 as Buffalo County's share of funding for such grant; and

WHEREAS, the City of Kearney supports Buffalo County, Nebraska in submitting an application for grant funds.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, to support Buffalo County in pursuing and applying for Department of Homeland Security funds to assist in the financing and rehabilitation of an Emergency Operations Center located in basement of Correctional Center now under construction and/or other suitable location.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

10. Approve the purchase of a Four-Wheel Drive Loader to be used by the Transportation Division from Nebraska Machinery in the amount of \$158,292.00.

11. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on March 14, 2009 from 3:00 p.m. until 12:00 a.m. for a wedding reception.

12. Approve the Agreement submitted by Scott Morris with regard to annexing property located at 3212 East Highway 30 and approve **Resolution No. 2009-16.**

RESOLUTION NO. 2009-16

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the Agreement for Annexation between the City of Kearney and Scott Morris be and are hereby accepted.

BE IT FURTHER RESOLVED that the Vice-President be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney for the annexation of the respective business located at 3212 East Highway 30.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7503 – ANNEXATION ALONG EAST HIGHWAY 30 (PERTAINS TO PUBLIC HEARING 3)

Council Member Kearney introduced Ordinance No. 7503, being Subsection 1 of Agenda Item VI to annex the following tracts of land: a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter, all located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND Lot 1, Vantage Industrial Park 2nd Addition, an addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND the South 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; AND that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; AND a tract of land being part of Lot 1, Vantage Industrial Park Addition, an addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (located north of East Highway 30 between Antelope Avenue and Cherry Avenue), and moved that Ordinance No. 7503 be placed on first reading. Council Member Lammers seconded the motion to place on first reading. 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: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried. City Clerk read Ordinance No. 7503 on first reading.

ORDINANCE NO. 7503

An Ordinance of the City of Kearney, Nebraska, to extend the boundaries and include within the corporate limits of, and to annex to the City of Kearney, Nebraska a tract of land being part of Government Lots 1, 4 and 5 and part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the SOUTHWEST Quarter, all located in Section 32, Township 9 North, Range

15 West of the 6th P.M., Buffalo County, Nebraska; and a tract of land being part of the Southeast Quarter of the Northwest Quarter and part of the NORTHEAST Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and Lot 1, Vantage Industrial Park 2nd Addition, an Addition being part of the Southeast Quarter of the Northwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and also Lots 1 and 2, Vantage Industrial Park Addition, an Addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and a tract of land being part of Lot 1, Vantage Industrial Park Addition, an Addition being part of the Southeast Quarter of the Northwest Quarter and part of the Northeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and a tract of land being the south 330 feet of the North Half of the South Half of the Northeast Quarter and the South Half of the South Half of the Northeast Quarter; and that part of the Northwest Quarter of the Southeast Quarter all being located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all tracts more particularly described herein; to provide service benefits thereto; to confirm zoning classifications; to repeal all ordinances and resolutions or parts thereof in conflict herewith; and to provide for publication in pamphlet form by authority of the City Council and effective date of this ordinance.

REDEEMING 1998 BONDS AND 2001 BONDS

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Vice-President Buschkoetter opened for discussion the calling for the redemption of the 1998 Bonds and the 2001 Bonds and to consider approval of Resolution No. 2009-17.

Bruce Lefler from Ameritas presented this matter to the Council. This matter is for the refinancing of outstanding Combined Utility Bonds of the City in the amount of \$6,335,000 Series 2009. Series 1998 and 2001 Bonds have maturities in 2016 maturing on May 15th and June 16th and will be consolidated on June 1st. They are not necessarily extending the term, but paying the bonds back over the terms that are outstanding just at a lower interest rate. Series 1998 Combined Utility Bonds maturing throughout 2016 at an outstanding average interest rate of 5.34 percent and Series 2001 Combined Utility Bonds maturing through 2016 at an average interest rate of 5.30 percent will be refunded into a single new issue that will mature June 1, 2016 at an average interest rate of 2.41 percent. This will provide debt service savings over that same period of time of \$427,000.00 by virtue of lowering the interest rate. Debt service savings shown on the summary sheet have been netted of any issuance expenses, as well as any deposits made by the City so they are a true bottom line savings as shown.

The Resolution provided would call in for payment the Series 1998 and 2001 issue and the issuance of the refunding bonds to pay for those. Even though economic turmoil is in place, the curve is so steep in today's environment that these bonds that are coming due in the next 5-10 years are getting a lower interest rate compared to 15-20 years

where the interest rates are not quite as competitive. They are taking advantage to the lower end of the curve which is advantageous to the City. The Series 2004-B Combined Utility Bond issue that is also outstanding that they have looked at, but the savings on that one are not quite as significant. They will continue to monitor that series and if the opportunity comes up to benefit the City, they may be back regarding those bonds.

Moved by Lammers seconded by Lear to approve calling for the redemption of the 1998 Bonds and the 2001 Bonds and approve **Resolution No. 2009-17**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-17

BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska:

Section 1. The following bonds, in accordance with their option provisions are hereby called for payment on March 17, 2009, after which date interest on the bonds will cease:

Combined Utilities Revenue Refunding Bonds, Series 1998, of the City of Kearney, Nebraska, date of original issue – December 1, 1998, in the principal amount of Six Million Three Hundred Fifteen Thousand Dollars (\$6,315,000), numbered as shown on the books of the Paying Agent and Registrar, in denomination of \$5,000 each, becoming due and bearing interest as follows:

Principal Amount	Maturity Date	Interest Rate	CUSIP No.
\$ 805,000	June 1, 2009	4.50%	486894 FQ 6
835,000	June 1, 2010	4.60%	486894 FR 4
880,000	June 1, 2011	4.70%	486894 FS 2
925,000	June 1, 2012	4.80%	486894 FT 0
965,000	June 1, 2013	4.90%	486894 FU 7
1,025,000	June 1, 2014	5.00%	486894 FV 5
435,000	June 1, 2015	5.05%	486894 FW 3
445,000	June 1, 2016	5.10%	486894 FX 1

Said bonds are hereinafter referred to as the “1998 Refunded Bonds.”

Said bonds are subject to redemption at any time on or after December 1, 2005, at par plus accrued interest, and said interest is payable semiannually. Said bonds were authorized by Ordinance No. 6473 and were issued for the purpose of providing funds along with City funds on hand to: 1) refund on December 1, 1998, \$790,000 City of Kearney, Nebraska, Combined Utilities Revenue Bonds, Series 1992, Date of Original Issue – July 15, 1992; 2) purchase U.S. Government Securities to be held in escrow for the purpose of paying the principal of and interest on \$4,840,000 principal amount of Combined Utilities Revenue Bonds, Series 1994, Date of Original Issue - July 15, 1994, maturing June 1, 2006 through June 1, 2014, to and including date of redemption on December 1, 1999; 3) purchase U.S. Government Securities to be held in escrow for the purpose of paying the principal of and interest on \$3,035,000 principal amount of Combined Utilities Revenue Bonds, Series 1996, Date of Original

Issue – May 15, 1996, maturing May 15, 2009 through May 15, 2016, to and including date of redemption of June 1, 2001.

Section 2. The following bonds, in accordance with their option provisions are hereby called for payment March 17, 2009, after which date interest on the bonds will cease:

Combined Utilities Revenue Bonds, Series 2001, of the City of Kearney, Nebraska, date of original issue – May 15, 2001, in the principal amount of Seven Hundred Sixty Thousand Dollars (\$760,000), numbered as shown on the books of the Paying Agent and Registrar, in denomination of \$5,000 each, becoming due and bearing interest as follows:

Principal Amount	Maturity Date	Interest Rate	CUSIP No.
\$ 80,000	May 15, 2009	4.35%	486894 GF 9
85,000	May 15, 2010	4.45%	486894 GG 7
90,000	May 15, 2011	4.55%	486894 GH 5
95,000	May 15, 2012	4.70%	486894 GJ 1
95,000	May 15, 2013	4.80%	486894 GK 8
100,000	May 15, 2014	4.90%	486894 GL 6
105,000	May 15, 2015	5.00%	486894 GM 4
110,000	May 15, 2016	5.05%	486894 GN 2

Said bonds are hereinafter referred to as the “2001 Refunded Bonds.”

Said bonds are subject to redemption at any time on or after May 15, 2006, at par plus accrued interest, and said interest is payable semiannually. Said bonds were authorized by Ordinance No. 6773 and were issued for the purpose of paying the cost of maintaining, extending, enlarging, and improving the waterworks plant and water system owned by the City.

Section 3. The 1998 Refunded Bonds and the 2001 Refunded Bonds are to be paid at the office of the Treasurer of the City of Kearney, Nebraska (the “Paying Agent”), as paying agent and registrar.

Section 4. A true copy of this resolution shall be filed immediately with the Paying Agent, and said Paying Agent and Registrar is hereby instructed to mail notice to each registered owner of said bonds not less than thirty days prior to the date fixed for redemption, all in accordance with the ordinances authorizing the 1998 Refunded Bonds and the 2001 Refunded Bonds.

PASSED AND APPROVED THIS 10TH DAY OF FEBRUARY, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

ORDINANCE NO. 7504 – ISSUE COMBINED UTILITIES REVENUE REFUNDING BONDS, SERIES 2009

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Council Member Lear introduced Ordinance No. 7504, being Subsection 3 of Agenda Item VI to authorize the issuance of Combined Utilities Revenue Refunding Bonds, Series, 2009 of the City of Kearney, Nebraska in the aggregate principal amount of \$6,335,000 for the purpose of providing for the payment and redemption of the City's outstanding Combined Utilities Revenue Refunding Bonds, Series 1998 in the principal amount of \$6,315,000 and the City's outstanding Combined Utilities Revenue Bonds, Series 2001 in the principal amount of \$760,000; directing the application of the proceeds of said bonds; prescribing the form, terms and details of said bonds; pledging and hypothecating the revenue and earnings of the waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system of said City for the payment of said bonds and interest thereon; providing for the collection, segregation and application of the revenues of said waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system; entering into a contract on behalf of the City with the holders of said bonds; directing the prepayment of the Series 1998 Bonds and the Series 2001 Bonds; and providing for publication on the ordinance in pamphlet form, 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: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7504 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Kearney that Ordinance No. 7504 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7504 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.

PLANS AND SPECIFICATIONS FOR HARMON PARK FOUNTAIN IMPROVEMENTS

Vice-President Buschkoetter opened for discussion the Plans and Specifications for the Harmon Park Fountain Improvements and set the bid opening date for March 3, 2009 at 2:00 p.m.

At the July 22, 2008 Council meeting Kent Cordes from Miller & Associates presented a report on their evaluation of the existing fountain. Some of the improvements include the construction of an equipment vault, recirculation equipment, and fountain pool painting. Plans and specifications are now completed for the renovation of the existing fountain.

The first phase of the project includes a new recirculation system, filter, disinfection system, piping, bowl and railing restoration and a new center pedestal. After costs of this phase are completed, remaining funds will be used for landscaping. The work associated with the renovation of the existing fountain will be substantially complete May 31, 2009. Funds have been included in the 2008-2009 budget for the fountain and garden and \$5,192 has been expended on design services. The Engineer's Opinion of Probably Construction cost ranges between \$50,000 and \$125,000.

Kent Cordes from Miller & Associates presented this matter to the Council. The Historical Society had found a picture of the fountain which showed the 3-tier fountain with some frog sprays and further research found some other photos that showed how the fountain actually looked. The discussion began with replacing or refurbishing the existing fountain. Through a lot of community meetings and discussion, it was decided to refurbish the fountain. They debated whether or not to try to find a fountain that could be put back in the middle and they have found one that matches almost exactly what that fountain looked like.

The original pedestal is not in the fountain today. The last time that fountain operated it had only a spray feature in the middle without frogs. The original photo also showed a manhole that sticks up about three inches above the sidewalk and is a potential tripping hazard. To access the operation of the fountain, a person must crawl down in a tunnel underneath the fountain to fill and drain it. It is very difficult to access. The intention is to replace this with a circulation system, a vault that is more accessible and eliminate the tripping hazard from that manhole.

They plan to remove all the paint, mortar and other surface material from the existing bowl area of the fountain. They will then refinish and repaint the pool. The pool will be sealed with a product that is called "mortar clad" which is a thin surfacing of the entire pool including the cracks. This is a product that is used in water tanks and swimming pools to seal and smooth out those surfaces. This will make a nice looking surface, as well as a functionally sealed surface. Next will be a three coat epoxy paint system similar to what is used on a swimming pool. They will strip the railing and paint it in place. The decorative rail will be sandblasted and rust removed. There will be a zinc based primer coat, epoxy for the second coat with a urethane topcoat to prevent chalking from rubbing off on hands.

They located a company in Alabama that manufactures this particular pedestal. They used the dimensions from the original photo to compare with the one from this company. It is virtually an identical match with the exception that the original photo showed a figurine on top (uncertain as to what it was). This fountain does not have anything on top which is the only difference that they can see. This pedestal will be historically accurate to match the one that was there before. The pedestal will be a newly constructed fountain manufactured of cast iron, but the appearance will be like the one manufactured in the 1920-1930's. Although it is uncertain when that original center piece left, we know that it was replaced in the 1930-1940's because in later photographs there was another centerpiece in place. That piece was in place until about the 1980's and then disappeared.

The new center pedestal will be installed with the new equipment vault that will contain

all the circulation and filtration equipment. They will have an automated system for refilling the fountain as water evaporated. This will require less maintenance and eliminate the need to crawl back under the fountain to drain it. They will also include four new underwater lights which will be removable (not fastened to the pool) so they can be taken out during the winter. These will be similar to the lights that were last used.

The new recirculation system will help reduce some of the maintenance activities that have occurred over the past few years. The equipment vault will be a 6x6x6 foot that replaces that manhole. The vault will contain a light and a service outlet, a hinge, locking lid. The recirculation system will have a drain valve that moved out from underneath the fountain into the vault and a pump filter and UV light to disinfect. In the past, it was drained every couple of weeks because the water would start to get green. That water was sent down the sewer and filled with new water. This should allow recirculation of the water in there which will save water. The filter will occasionally need to be changed. The automated fill line will be regulated by a sensor in the pool which will open up a valve to allow more water in from the sprinkler system when water gets low. They have an automatic suction overload on the pump. If the drain gets plugged then the pump will create a huge vacuum and for protection of the pump or a person in the pool, it will automatically shut the pump off.

Mr. Cordes stated there are a few challenges with the project. The depth and size of the vault which will require a deep hole to build a vault with the size they want to put in there. They will be working in tight spaces. So once the hole is 7-8 foot deep, they will be building right up against the fountain pool. This will require some sheeting and shoring. There are also a lot of things in that area that the City does not want to disturb (benches, borders for the flower areas, etc.) They will have to remove at least 10x20 foot area of sidewalk to do this, but it might require more to be removed.

Due to the depth of that hold, there are certain safety requirements that a contractor must meet for OSHA requirement so they do not put workers at risk. There is a slope there the size of their excavation or they will have to sheet and shore it to prevent the trench wall from caving in. They will attempt to match that sidewalk with the joints and pattern as closely as they can to what is there now. The existing sidewalk does not have standard square joints like in a residential area. These joints are very angular and make a pattern. It will be a challenge to match that existing sidewalk as closely as they can. Access to the site is a challenge. They have got to get some construction equipment in there which might have to take out a little of those planting borders. There is an existing ¾ inch electrical conduit to the manhole which they will increase to a 1 inch and bring in a new conduit from the Harmon Park Activity Center. Since the sod has not been laid around the Activity Center it will be a good time to do the trenching. The benches might have to be removed and reset after the project is done.

Mr. Cordes stated they propose to open bids on March 3rd which would come with a recommendation to be awarded at the March 10th Council meeting. Construction proposed to begin toward the end of March. They have moved their substantial completion date to May 31st because the fountain pedestal is going to take 4-6 weeks to be delivered once it is ordered. This date is different from the May 15th date as presented to the Park Board. He anticipated that all the work would be done before the pedestal arrives. The City could purchase the pedestal directly and order it now and just

make it an install item. It would then be eliminated from the contract.

The way they set up their bid, it is essentially a lump sum project, but they asked for an alternate bid for a deduct to eliminate the pedestal. The pedestal was an add on feature after they originally talked about this last year. They also did a deduct for the underwater light. The reason they asked for those deducts is because of the budgeted amount. They know that funds are a little tight so they wanted to see what could potentially be done at a later date. The pedestal could be done at a later date, but the fountain will not operate until that pedestal is there. There would be a spray feature to replace it with in the meantime.

If the Council desires, they could change their bid package or do an addendum to eliminate the pedestal and say install only as provided by the owner. City Manager stated the only risk the City would run is if that bid came in significantly higher. The only alternative they would have if that happened is to reject the bids. If the fountain had already been ordered, there would not be any additional funds. He believed that it was just a timing issue and involves just a few weeks. Mr. Cordes stated that final completion date is June 15th which would give them a little bit more time to clean up, do the last minute details and get their paperwork submitted.

There is an Engineers Probable Opinion of Probable Construction Cost between \$50,000 and \$125,000. The engineers try not to give the contractors too much of a hint as to the actual amount. They do have a number which is given to the City Clerk in a sealed envelope and is opened at the time the bids are opened. They could also make that number available to the Council if they wish.

Council member Lammers stated that there had been some discussion about the safety issue about the top of the railing. Mr. Cordes stated that the top of the railing curves out and he understood the safety concerns about this. He was not aware of any codes that this railing violates. This is the original railing, but it has been modified over the years. It originally had spikes that stuck straight up and later they were bent over which he found in the historical data.

Council member Lear asked what the numbers were to replace the bowl verses doing the refurbishing. Kent Cordes stated that the original estimate for restoring was \$60,000-\$135,000 range and \$70,000-\$145,000 was to reconstruct a duplicate bowl. However, he did not think that included the costs that he received from the contractor that he consulted late last year. That contractor's cost were a bit higher than what they were anticipating for reconstruction. He believed that from what he looked at, he is optimistic that the costs will come in better than what they were originally looking at.

Director of Park & Recreation Neal Lewis stated on the design that Clark Enersen developed for the construction of a new fountain was estimated at \$34,875 with the base cost of the formal garden \$53,000 which is initially quite a bit less than refurbishing. The total project would have been \$88,000 with a replacement fountain or \$113,000 using the average cost for renovating the existing fountain. Design cost was estimated at \$12,000. By adding the middle pedestal that was not originally considered, it is not a tremendous amount more. The other concern they had was with the \$100,000, the landscaping was estimated at \$20,000. That meant that they could not go

that high on the fountain because than they would not have funds for landscaping. They are waiting to see the bids to determine how much money they would have for landscaping.

City Manager stated that he directed staff there was \$100,000 for this project and that if the Park Board wanted to take option A or B they had to understand what the budget limitations were. That is why the alternate deducts were put in the bid package. There is about \$94,000 left after engineering for the project. Without actual bids, the range is so wide that a comparison cannot be determined.

Council member Buschkoetter stated regarding the safety concerns of a big open hole in a public park are there safety precautions referenced in the bid. Mr. Cordes responded they make safety precautions entirely the contractor's responsibility to protect the public and their own workers and to guard and protect those trenches. That is something they will closely monitor because for liability reasons they do not direct exactly what measures the contractor takes, but if they see something unacceptable they can step in and address it. He envisioned they would have the snow safety type fence put up around the open excavation.

Council member Kearney asked if there are specific specifications of the amount of liability that has to be carried by contractor. City Attorney Michael Tye stated the insurance requirements are included in the contractor specification and an insurance certificate is required to be on file with the City Clerk as part of the process. It is typically \$1 million, general aggregate insurance and \$1 million each occurrence for bodily injury and property damage. Mr. Cordes stated they also require that the City of Kearney is named as an additional insured on the policy that the contractor provides.

Moved by Kearney seconded by Lammers to approve the Plans and Specifications for the Harmon Park Fountain Improvements and set the bid opening date for March 3, 2009 at 2:00 p.m. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$167.03, PLATTE VALLEY STATE BANK - \$45,358.21

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$45,358.21 payable to Platte Valley State Bank, and in the amount of \$167.03 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lammers. Nay: None. Lear abstained. Clouse absent. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:09 p.m. Roll call

resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

ATTEST:

**RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL**

**MICHAELLE E. TREMBLY
CITY CLERK**