

Kearney, Nebraska
April 14, 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 April 14, 2009 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; Shawna Erbsen, Director of Human Resources; Suzanne Brodine, Grants and Marketing Coordinator; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Craig Bennett, Jeff Overturf, Ron Follmer, Bob Kerby, Genon Kerby, Lloyd House, Paul Otto, Marv Reichert, Andy Howe, Neva Bell Howe, Duane McCan, Adam Chan, Jerry Thompson, Mitch Humphrey, Sara Giboney from Kearney Hub, Steve Altmaier from KGFV 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

Reverend James DeLoach from Zion Lutheran 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

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.

PROCLAMATION FOR PARKINSON'S DISEASE AWARENESS MONTH

Mayor Clouse read and presented the Proclamation declaring April as Parkinson's Disease Awareness Month. The Proclamation was presented to Neva Bell Howe.

PROCLAMATION RECOGNIZING BUSINESSES EMPLOYING VOLUNTEER FIREFIGHTERS

Mayor Clouse and Council Members recognized the businesses within the community that employ citizens who serve as members on the Kearney Volunteer Fire Department.

PROCLAMATION FOR EARTH DAY

Mayor Clouse read and presented the Proclamation declaring April 18 as Earth Day. The Proclamation was presented to a representative from Go Green Kearney.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO JEFFREY AND LISA OVERTURF; 1/4 MILE SOUTH OF THE INTERSECTION OF 11TH STREET AND 30TH AVENUE ON THE WEST

Mayor Clouse opened the public hearing on the Application submitted by Jeffrey and Lisa Overturf (Applicant and Owner) for a Conditional Use Permit to locate and operate a sand and gravel dredging and mining operation, hauling gravel and sand off site on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (1/4 mile south of the intersection of 11th Street and 30th Avenue on the west). The Planning Commission had a split vote. Staff recommends approval subject to the following conditions: (1) A 60 month time limit. (2) Proposed hours of operation for dredging and hauling shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 p.m. during the months of April to September and 8:00 a.m. to 5:00 p.m. during the months of October to March. No operations on Sundays. (3) Ron Follmer of Mid Nebraska Aggregate will be the official manager with daily oversight of this project. (4) Ron Follmer and Carl Whitney Sand and Gravel will partner with the applicant to market and dispose of the dredge material that is to be hauled off-site. (5) This operation shall meet all Federal or State agency requirements and standards and applicant shall provide a letter from the Corps of Engineers recognizing that this operation is acceptable to them. (6) Standard hold harmless and liability clause absolving the City of any liability concerns shall be included.

The applicant is requesting a Conditional Use Permit (CUP) for dredging sand/gravel south of the Berean Cornerstone Church to create a sandpit lake approximately 30 to 40 acres in size. The site is zoned Agricultural. The dredge material will be stockpiled

initially and then trucked off site for various construction projects in the area. The applicant anticipates that the operation will be ongoing for up to five years. Eventually, the applicant would like to build a house on the lake and his brother may also want to build a house in the future. The applicant has submitted a site plan, a letter of explanation, and a list of proposed conditions. The Planning Commission expressed some concerns and ended in a split vote; three in favor, and three opposed. Therefore, there is not a clear recommendation coming from the Planning Commission. Staff requested clarification of some of the issues that the Planning Commission raised and the applicant provided further information. Key points include the following:

- The original request was for a 24 month time period as presented to the Planning Commission. The Commission discussed this issue at length. Some of the Commissioners questioned whether the project could be completed within the 24 month time period. It is a sizeable project but the dredging will only go to about 25 feet in depth as compared with 60 to 80 feet for a conventional commercial dredging operation. The applicant has increased the length of time requested for the permit from 24 to 60 months to address this concern from the Planning Commission.
- At the Planning Commission hearing the applicant explained that he plans to purchase a dredge and associated equipment from a man that is selling his equipment and the applicant will then dredge the lake. The Commission seemed somewhat concerned that the applicant is planning to do the work himself as opposed to contracting with a commercial dredging operator. The applicant now reports that he has secured agreements with Ron Follmer of Mid Nebraska Aggregate and also with Whitney Sand and Gravel to help sell, remove, and haul the gravel in trucks from the location.
- Mr. Follmer will also manage the dredging operation for the applicant. He has many years of experience in this business.
- There were some neighboring property owners that spoke in protest at the Planning Commission meeting concerning the proposed dredging and trucking operation. They are concerned about the impact to the roads that the truck traffic will cause, the additional traffic and noise and dust. The applicant has submitted additional information regarding these concerns. Dust control will be accomplished as needed with water application. The applicant has a water tank truck. The applicant is working with the Buffalo County Highway Department as they plan to widen 30th Avenue and replace the bridge at 30th Avenue and Turkey Creek. The applicant has agreed to dedicate ten feet of additional road right-of-way along his property for the road improvement project. The applicant will be providing gravel from the dredging operation to rebuild the road. The County is using the applicant's site to park equipment and store materials.

Craig Bennett from Miller & Associates presented this matter to the Council. This 126 acres is located west of the current Comprehensive Plan. The Conditional Use Permit ties into the existing zoning which is currently zoned Agricultural. Adjacent to the 126 acres is Deerfield Subdivision which is currently zoned RR-1 and everything else around it is zoned Agricultural. This site is within the City's two-mile jurisdiction.

There is an existing power line that bisects the property from north to south. The area that they are looking at to do their dredging and gravel area is east of the cornfield and

the rest is pasture land. The property owners have a letter from the Corp of Engineers in terms of how it would relate to the Clean Water Act and approval for this project. They also have a letter from the Buffalo County Roads Department that is currently working on the bridge which is located at the southeast corner of this property. The County Road Department stated that they are in favor of this project because Mr. Overturf has agreed to allow them to come on their site and improve the drainage ditch. That area tends to flood quite a bit across the road.

Ron Follmer of Mid-Nebraska Aggregate would be involved along with Whitney Sand and Gravel. Those pumping and hauling places would also use this particular site. The Conditional Use Permit time frame was proposed to be 24 months prior to Planning Commission. Since the Planning Commission, it was decided that would be too short of a time to try and move that amount of material out of there. The proposal has been changed to 60 months for the CUP.

Council member Lammers asked how far the setback is from where the start of the lake would be from the edge of the road. Mr. Bennett stated the setback has not been determined at this time, but it would definitely be outside of what would be known as the 30th Avenue right-of-way. Currently, that setback would be 66 feet, but they must consider the possibility of widening which could be as much as 100 feet because it is an arterial street. The second thing is they would also like to stay outside of that in the off chance they would want some outside the building setbacks. They would then have room to allow for some landscape screening although it is not required.

Mayor Clouse asked if the proposed setback is far enough to accommodate the 30th Avenue Interchange. Mr. Bennett stated that the proposed 100 foot (50 foot either side of the section line) would also work out for north of 11th Street which would be the 4-lane area that we have now on that viaduct. In terms of putting a median there, it would be similar to the one on Cherry Avenue; it would require a little larger right-of-way.

Mayor Clouse asked how this proposed lake compares in size to Yanney Lake. City Manager stated that Yanney Lake is 12 acres so it would be about twice the size.

Council member Kearney stated he was concerned about the amount of truck traffic this amount of sand hauling would require. Mr. Bennett stated he has discussed this with the owners and the number of required truck loads a day had not been determined. They would not exceed the hours of operation with the loads being hauled.

Council member Kearney stated that in reviewing the Planning Commission minutes, he could not get a feeling for the pros and cons from those who voted. City Manager stated in talking with the City Engineer, one of the concerns about this project was that this is one of the largest operations that they have seen in the community. Many of the questions at the Planning Commission were about where is this material going, how many trucks would be used, etc. Other issues were that the intersection of 30th Avenue and 11th Street is not the best intersection and 11th Street is not in great condition although 30th Avenue is in fairly decent shape. There are homes located on 11th Street and heavy traffic by residential was another concern. The feeling in general was the applicants should have some place in mind that this amount of material would be going and about the length of time it would take to complete.

Jeff Overturf, Edgar, Nebraska, stated they do not have any projects going right now, but they will go east, west or north because there is no way to go south. Some of them will have to go down 11th Street, so they would go by homes and possibly two parks. Creating traffic in these areas is also a concern to him. He thought that there are a couple of other sandpits down there that are also going that direction. He was unable to determine how many loads a day would be hauled, but would be comparable to some of the other operations in the area.

Council member Lammers asked about their plans for maintenance from 11th Street south from 30th Avenue. Mr. Overturf stated they have worked out with the County to supply them with whatever gravel they need for maintenance. The County is going to widen the road and he has agreed to donate ten feet so they can widen the ditch.

Mayor Clouse asked if this CUP is approved and they do not have any projects, will they just dredge and stockpile until they are awarded a bid for a project. Mr. Overturf stated that Whitney, Ron Follmer and a possible third individual have expressed an interest in taking all the material for their projects, but there are no specifics available at this time.

City Manager Michael Morgan asked if they had calculated how many trucks a day they would need to haul to complete this in five years. Mr. Overturf stated an average of 15 trucks a day over a period of 300 days a year.

Council member Lear stated that 25 foot deep is not typical of a sand and gravel operation. He asked if the plan is to make this a one or two residential type setting on a large lake. Mr. Overturf stated that initially that was the plan, but now it will be set up so that housing can be sold around the edge of the lake. The long term vision is basically a housing subdivision. Mr. Bennett stated the boundary along 30th Avenue would allow for screening, right-of-way and buffer. If they would choose to allow that to be held back even further, they could put residential housing around it. They have talked to them about doing some master planning with this when they get into the dredging process. If it is decided to do some residential planning and housing around it, those types of issues will be very important. In order to make sure there is the proper lot depth, spacing around the outside of the lake and still provide rear and side yard spacing with circulation for a road matrix system they need a master plan. At this time they are just looking for the dredging area, so the boundary is only for the location of the lake. The schematics for laying out residences or two or three lots would definitely alter where he is coming in close proximity to his outside boundary lines. Eventually, there will be lots along 30th Avenue, but they are not planning on selling any lots for several years.

Council member Buschkoetter stated that he would be concerned about the amount of traffic by Yanney Park that would go through the hike/bike trail and would go by Centennial Park. The estimated average is 15 trucks a day, but some days there would be heavier action than others. His concern would be the amount of traffic in those residential areas, once you get past Kea West Road all the way to 30th Avenue. He believed even a few full gravel trucks would speed up the demise of that street that is already a little worse for wear. Mr. Bennett stated a project that was westerly or easterly that could navigate through 30th Avenue in a north/south direction and get on to Highway 30, would allow them a better thoroughfare to go east/west as opposed to 11th

Street.

Ron Follmer from Mid-Nebraska Aggregate stated that he was contacted by Mr. Overturf to see if he would buy product from him. He also talked with another individual who said he would do the pumping. He was in agreement with going to Highway 30 to avoid the residential and parks areas if that is what it takes. He is aware that other companies and other truck traffic do use 11th Street and 30th Avenue. Mayor Clouse stated that 11th Street is an arterial street and is designed to have more traffic moving on it.

Mr. Follmer stated he was unable to give a figure on the number of trucks a day until they have something to market. You cannot make a sale until you have a product there. His opinion was it would speed up the process since they are pumping shallower than usual. The product has to be marketed and so the timeline is difficult to determine. He has three other operations running. He is looking at saving some mileage by using the product that he could market and sell out of there.

Council member Kearney stated that if there are 25 acres and they are dredging 25 feet deep, the number of cubic feet/yards of fill should be able to be calculated. If that number is divided by five, than it should be able to be determined how many trucks would be needed to take it where ever it is going to go. Mr. Follmer stated that not all of the material will be going out because they will have to use a percentage of that product to fill the boundary to be in compliance. In the last nine years, he has pumped approximately 60-70 feet deep and has gone over between 25-30 acres at the Minden Exchange. If they backhoe part of it, that will speed up the process instead of dredging it all.

Council member Buschkoetter stated that his concern is between Kea West Road and 30th Avenue which is an asphalt road and not concrete. There are already patches that have been installed there by the County over the last few years. For a while, there was rock that was put in a pothole that washed out with the rain a couple of summers ago. He was not pointing fingers at the County because part of that is flood damage, but the fact remains that the demise of that road will be sped up dramatically by heavy traffic. Although it is out of the City and into the County, it is part of the arterial system. There is also a 4-lane road going on 30th Avenue which goes by West Lincoln Way.

Mayor Clouse stated if the traffic is okay for an arterial, it should be okay for a 4-lane state highway. The question is, "When is too much, too much". It was less than two years ago when the issue of the sandpit using Kea West Road and wanting them to go to 30th Avenue was discussed. It was decided to use Kea West Road and not 30th Avenue because of the increased use of Yanney Park which was before getting to 11th Street going east or west. They need to determine when is too much being directed in that area. He did not advocate moving the traffic up to Highway 30 because it could become more problematic creating a higher volume of truck traffic going through town past the University. There really is not a good way to get to the east part of town.

Council member Buschkoetter commented that the Petersen Senior Center will soon be open in Yanney Park as well. It would be easier to make a decision if they knew the project was on the west side of town or in a direction that would avoid having to use the

town. Council member Lear agreed that if they knew the product was all going to be used for the Cherry Avenue project (for example), and moved out down 11th Street and made sure it was gotten rid of that might change the equation.

City Manager stated according to the Planning Commission minutes, 11th Street is a concern. The County does have plans in October 2010, but they are not going to concrete the road. The plan is to mill the asphalt and put down asphalt again. This is never going to be up to the standards that the concrete streets are. The intersection at the church is very interesting because it goes from gravel to asphalt with a sign stating to "look again". He was surprised that issue did not come up again which would be a County responsibility that needs to be looked at regardless of this project. That issue was not addressed at the Planning Commission level.

Bob Kerby, 415 46th Avenue, stated he was at the Planning Commission meeting where this was discussed. He owns 66 acres in the same section as this project and has some concerns. He said at Planning Commission it was stated that this project involved 30 acres, but in the Hub it stated 30-40 acres. Yanney Park is 80 acres and this would be half as big as the park. The Yanney Lake is between 18-20 acres so this would be a pretty big lake. This means that a housing project is coming in the future. He also is concerned about the traffic issue. The Berean Church is north on the corner. Although this operation will not be going on during Sunday, he is sure they have other functions there during the week. It was mentioned that they need some really big signs at the 3-way stop at 11th Street and 30th Avenue because it is bad enough right now. It is virtually impossible to come from 2nd Avenue to 30th Avenue without seeing a gravel truck now. There is another gravel operation south of Yanney Park which has been there for years and that is fine. He believed the possibility of 15 trucks a day will create a congestion problem. He likened this project to Deerfield Subdivision in the same section that has been digging a lake which has been doing so for a long time. They go right by his house because they cannot go north right now because they are putting in the bridge on 30th Avenue. They were not able to use the bridge prior to that because it would not handle a truck. He did not know the number of trucks that have gone by his place, but it has really been a nuisance and that lake will only be 7-8 acres. He believed this operation is going to be an eyesore not only for two years, but for five years. He is not opposed to progress, but wanted to mention his concerns.

Lloyd House, who lives at the intersection of 30th Avenue and 11th Street, stated that there is a water problem on that corner when it rains. The City had indicated they did not want any more water going east and the County will not take it south. The trash is getting worse all the time. There is a 3-way stop sign which he believed should be either a 4-way or a 2-way. People coming from the north assume that people from the east are going to turn, but not always. In his opinion, 11th Street is breaking up because it was not made for highway type traffic. Due to the fact that 11th Street crosses the hike/bike trail and it will soon go right by the Senior Center, it might be a problem. He also believed that property values might change if the gravel pit goes in.

Clint Kerby, 3710 22nd Avenue, stated that Bob Kerby is his father, who lives in this section. He goes out there everyday to feed their horses. His parents have lived there for 50 years and have paid taxes to the County during that time. Their concerns are basically what has been said about the magnitude of the project and if it needs to be in

that location. That corner is used extensively by people skirting town, as well as the truck traffic. Currently, there is not a lot of traffic from the south which will be changing if this proposal is approved. He believed the plan is a little vague. At first, they were under the impression that it was going to be a two year project with a smaller lake for Mr. Overturf's personal use. Now it looks like it is going to be a bigger project for a land development and basically a commercial gravel operation. Stockpiling is another issue and whether it would be taken care of within the 5-year timeframe. He also wanted to know how many tons of products would a lake like this produce. This is a progressive part of town and they want to see it go in the right direction.

Marvion Reichert, 18 Rolling Hills, stated that his concern is also about 11th Avenue and how it would withstand heavy truck traffic. It has gone to pieces in several places over the last year and it will not last very long with that kind of traffic. He did not think the City would want the other route mentioned either, going over 39th Street to Cherry Avenue. In his opinion, taking heavy traffic north on 30th Avenue would not be advisable either.

Paul Otto, who lives one mile west of this corner, stated he questions the size of this project in that location. It is not within the City limits currently but it will affect the City in the future. His understanding was that there is going to be an interchange from the Interstate there someday and things like that should be taken into consideration. He personally believed that something half the size of the proposal should be adequate.

Mr. Bennett stated that 30 acres of land being dredge 25 feet deep would produce right at one million cubic yards of product if this was a box based on these dimensions. However, they cannot go straight down and there will be tapers, so it would probably be closer to 600,000-700,000 cubic yards. He would have to know what size truck they would be using to determine how many loads that would be. In talking to Mr. Overturf, less than fifty percent will be trucked out so it would be more like 400,000-500,000 tons of product. Mr. Follmer calculated 600,000 ton would be an average of 15 trucks a day to get rid of the product in five years.

Mayor Clouse stated he is a strong advocate of free enterprise and he is aware there are like businesses in that area, but his concern is that this project should be scaled back. For this size of project, he wanted some clarity on the details. He would not be supportive until he sees some of that clarity. Council member Kearney stated regarding the supply and demand, the supply is there, but the problem of 11th Street remains. Council member Lear asked if the request was to do a lake front development of this size, would the Council allow it. Mayor Clouse responded they would not without a development plan.

Council member Lear stated his personal opinion was that they must be careful of talking about this in terms of too much traffic. They have already said that 11th Street is a traffic corridor and that is where they want truck traffic (even though the road is not a good quality for that). He did not like the concept of an arterial running by two parks, but that is the way it is. The question is how much traffic they are willing to allow to be added to the situation.

Council member Lammers stated he was not as concerned about the traffic issue

because it is the County's responsibility to get that road shaped up if there is that much traffic through there. His concern was about the size of the lake. He lives on Lost Lake (3-4 acres) which is a pretty small lake that has a lot of houses around it. Yanney Park Lake is 12 acres so comparatively a lake over 30-40 acres is significant.

Council member Buschkoetter stated the size of the lake is directly related to the amount of traffic created. There needs to be a path to deliver and he did not believe they have that pathway. The operation that they recently approved was one-fifth the size of this proposal. That operation goes right to the interstate resurfacing from their site which is kind of a unique situation. The larger the operation, the more difficult it is to make the process fit. This has the potential to become a hazardous situation because the intersection is not good and Kea West Road to 30th Avenue is not good. He was not willing to approve this and say the County will build a 4-lane road through there because he does not think that will happen.

Council members were in agreement that a development plan would be the requirement for them to consider approval of this project.

Moved by Kearney seconded by Lammers to close the hearing and deny the Application submitted by Jeffrey and Lisa Overturf (Applicant and Owner) for a Conditional Use Permit to locate and operate a sand and gravel dredging and mining operation, hauling gravel and sand off site on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (1/4 mile south of the intersection of 11th Street and 30th Avenue on the west). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

REZONING AT 5785 COTTONMILL AVENUE

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Duane McCan and Ellen Kowalewski (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 acres, more or less, Buffalo County, Nebraska (5785 Cottonmill Avenue). Planning Commission recommended approval.

The applicant is requesting approval to plat a tract of land containing 2.788 acres located on the east side of Cottonmill Avenue just north of 56th Street (5785 Cottonmill Avenue). There is an existing house on this property and the Owner would like to add additional land to the house site. This property has never been zoned or platted. The property is zoned AG by default and needs to be rezoned to RR-1, Rural Residential District (Rural Standards) for rural residential use. A Subdivision Plat is required by state law when any resulting parcel from a property split is less than 10 acres. The

Preliminary Plat was approved by Planning Commission at the March 20, 2009 meeting. The Preliminary and Final Plats consist of one lot. No Public Works Plan is required as the house is served by individual well and septic service. An additional seven feet of land is dedicated along the east side of Cottonmill Avenue on the Final Plat to bring the road right-of-way width to 40 feet from centerline.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. Mr. McCan owns the area encompassed within the confines of the shelter belt. Ms. Kowalewski owns a great deal of property to the south and to the east. They want to expand Mr. McCan's ownership by purchasing some of Ms. Kowalewski's ground. To accommodate some construction on the site and make his lot bigger, a one lot subdivision and some rezoning are needed. As part of the final plat, they will dedicate some road right-of-way for Cottonmill Avenue so if the City ever grows out that way, it will have some right-of-way issues taken care of.

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 Duane McCan and Ellen Kowalewski (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 acres, more or less, Buffalo County, Nebraska (5785 Cottonmill Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

FINAL PLAT FOR McCAN SUBDIVISION

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Duane McCan and Ellen Kowalewski (Owner) for the Final Plat for "McCan Subdivision" of Buffalo County, Nebraska for property described as the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 acres, more or less, Buffalo County, Nebraska (5785 Cottonmill Avenue) and to consider approval of Resolution No. 2009-39. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Duane McCan and Ellen Kowalewski (Owner) for the Final Plat for "McCan Subdivision" of Buffalo County, Nebraska for property described as the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 acres, more or less, Buffalo County, Nebraska (5785 Cottonmill Avenue) and approve **Resolution No. 2009-39**. Roll

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

RESOLUTION NO. 2009-39

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "McCan Subdivision" of Buffalo County, Nebraska for a tract of land being the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 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 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 APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LAND USE MAP AMENDMENT FOR 7143 17TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 1" and "Medium Density Residential" to "Rural Estates" for a tract of land being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue) and to consider approval of Resolution No. 2009-40. Planning Commission recommended approval.

The applicant is requesting approval to plat a tract of land currently containing 2.25 acres located on the east side of 17th Avenue just south of Glenwood Estates. (7143 17th Avenue). There is an existing house on this property and the Owner would like to construct an outbuilding as an accessory use to the house. This property has never been zoned or platted. The property is zoned AG by default and needs to be rezoned to RR-1, Rural Residential District (Rural Standards) for rural residential use. A Subdivision Plat is required by state law when any resulting parcel from a property split is less than 10 acres. The Preliminary Plat was approved by Planning Commission at the March 20, 2009 meeting. An additional seventeen feet of land is dedicated along the east side of 17th Avenue on the Final Plat to bring the road right-of-way width to 50 feet from centerline. This right-of-way dedication causes the lot size to be reduced from 2.25 acres to 1.96 acres and reduces the front yard setback below the minimum required.

The applicant wants to start construction of the outbuilding prior to final approval of the rezoning and subdivision request. The Development Services Department has issued a "foundation only" permit to allow the construction to proceed that is tied to a Development Agreement that has been signed by his mother, the owner of the property. A copy of the agreement is attached. The agreement also addresses the encroachment of the house into the front yard setback. Any addition, enlargement or reconstruction of the existing house, or a new house to replace the existing house must comply with all setback requirements of the RR-1 zoning district.

The Planning Commission expressed some concern with the authorization to proceed with the foundation prior to final approval of the rezoning and subdivision plats. Staff explained that this is not the first time that this approach has been taken, although it happens quite rarely. The applicant is required to sign a very specific development agreement accepting full liability and absolving the City of any liability if, for some reason, the project is not approved. Staff would only consider this approach for projects that are very straightforward with no anticipated problems.

The current land use designation for this property is "Mixed Use 1" and "Medium Density Residential." The map will be amended to "Rural Estates." The corresponding zoning is RR-1, Rural Residential District (Rural Standards). The property will be rezoned from AG to RR-1.

The Preliminary and Final Plats for this property consist of one lot to be known as Young Estates. The lot size is 1.86 acres. The Preliminary Plat was approved by Planning Commission at the March 20, 2009 meeting. As previously mentioned, seventeen feet of additional right-of-way is dedicated on the east side of 17th Avenue on the final Plat. No Public Works Plan is required as the house is served by individual well and septic service.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This site is located south of Glenwood Estates on the east side of the road. They want to build another building on this site which requires amending the Land Use Map to Rural Estates and dedicating 50 feet of right-of-way of 17th Avenue to accommodate the City's plan to extend 17th Avenue to a 4-lane section of road (100 feet width) in the future. The only complicating factor is this lot currently contains 2.25 acres which is small in nature and after deducting the required dedication of road right-of-way for 17th Avenue, the balance is 1.96 acres. The location of the house would then set into the new building setback lines. In recognizing that issue, the owner is requesting to commence construction on the project as soon as possible and has signed an agreement.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Mixed Use 1" and "Medium Density Residential" to "Rural Estates" for a tract of land being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West

of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue) and approve **Resolution No. 2009-40**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2009-40

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land described as a tract of land being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, described as follows: Beginning at the southwest corner of the Southwest Quarter of said Section 14; thence easterly along the south line of said Quarter Section a distance of 297 feet to a point on said south line; thence northerly a distance of 330 feet along a line parallel to the west boundary line of said Southwest Quarter to a point; thence westerly a distance of 297 feet to a point on the west boundary line of said Southwest Quarter; thence southerly along said west boundary line of said Southwest Quarter a distance of 330 feet to the place of beginning, containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue) from "Mixed Use 1" and "Medium Density Residential" to "Rural Estates", and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from "Mixed Use 1" and "Medium Density Residential" to "Rural Estates" the use classification for the area described as a tract of land being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, described as follows: Beginning at the southwest corner of the Southwest Quarter of said Section 14; thence easterly along the south line of said Quarter Section a distance of 297 feet to a point on said south line; thence northerly a distance of 330 feet along a line parallel to the west boundary line of said Southwest Quarter to a point; thence westerly a distance of 297 feet to a point on the west boundary line of said Southwest Quarter; thence southerly along said west boundary line of said Southwest Quarter a distance of 330 feet to the place of beginning, containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue).

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING FOR 7143 17TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue). Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

FINAL PLAT FOR YOUNG ESTATES

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) for the Final Plat for "Young Estates" of Buffalo County, Nebraska for property described as being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue) and to consider approval of Resolution No. 2009-41. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Donna Young (Owner) for the Final Plat for "Young Estates" of Buffalo County, Nebraska for property described as being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue) and approve **Resolution No. 2009-41**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-41

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Young Estates" of Buffalo County, Nebraska for a tract of land being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., Buffalo

County, Nebraska, described as follows: Beginning at the southwest corner of the Southwest Quarter of said Section 14; thence easterly along the south line of said Quarter Section a distance of 297 feet to a point on said south line; thence northerly a distance of 330 feet along a line parallel to the west boundary line of said Southwest Quarter to a point; thence westerly a distance of 297 feet to a point on the west boundary line of said Southwest Quarter; thence southerly along said west boundary line of said Southwest Quarter a distance of 330 feet to the place of beginning, containing 2.25 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 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 APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING FOR NORTH OF HIGHWAY 30, WEST OF THE LITTLE USA STORE

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Richard Sorensen of Sorensen Construction (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., AND a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 10.95 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store). Planning Commission recommended approval.

The applicant is requesting approval to plat a tract of land containing 10.95 acres located on the west side of Little USA on the north side of the highway. There is an existing house and some accessory buildings on this property and the Owner would like to divide the property into three lots. This property has never been zoned or platted.

3.26 acres of land contained in Lot 10 of Little Ponderosa Acres is requested for vacation so that it can be added to the balance of the property to the east and be part of this subdivision.

The property is zoned AG by default and needs to be rezoned to RR-1, Rural Residential District (Rural Standards) for rural residential use.

The proposed three-lot subdivision will be known as Sorensen Acres. A Subdivision Plat is required by state law when any resulting parcel from a property split is less than 10 acres. The Preliminary Plat was approved by Planning Commission at the March 20, 2009 meeting. No Public Works Plan is required as the existing house is served by individual well and septic service and the other two lots will be similarly served. The proposed gravel cul-de-sac at the south east corner of the property will be private and provides for a vehicle turnaround. An easement provides access to proposed Lot 1, a flag lot. The existing house is located on proposed Lot 2. Lot 3 takes access from the west. The 14 foot by 35 foot garage that is located across the common lot line between Lots 2 and 3 must be removed or relocated before any building permits are issued for either of those lots. The majority of Lot 1 is impacted by the 100-year floodplain associated with the Kearney Canal.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. Rick Sorensen owns the 10.95 acres where the entrance to the property is located. This property sits up into the trees and is south of the NPPD Kearney Canal and is a very unique piece of property. His house site is to the right of the driveway and one lot will be developed around the house site that contains about 3.1 acres. There is another building south of the cluster of trees where another building site will be created. On the north side, there is a larger tract that is south of the canal that will be developed into approximately a 4.5 acre lot. The access to the north lot is going to be a long narrow strip of ground that will be 50 feet wide and they will dedicate a cul-de-sac at the southeasterly corner of that overall development to provide public access to the two lots. There is an existing access road on the west side which really is not built yet. To the south of the short row of trees which are north of the highway, there is an access road which was granted many years ago as part of the Little Ponderosa development.

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 Richard Sorensen of Sorensen Construction (Owner) to rezone from "District AG, Agricultural District" to "District RR-1, Rural Residential District (Rural Standards) District" property described as being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., AND a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 10.95 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store). Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

FINAL PLAT FOR SORENSEN ACRES

Public Hearings 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Richard Sorensen of Sorensen Construction (Owner) for the Final Plat for "Sorensen Acres" of Buffalo County,

Nebraska for property described as being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., AND a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 10.95 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store) and to consider approval of Resolution No. 2009-42. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Richard Sorensen of Sorensen Construction (Owner) for the Final Plat for "Sorensen Acres" of Buffalo County, Nebraska for property described as being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., AND a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 10.95 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store) and approve **Resolution No. 2009-42**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2009-42

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Sorensen Acres" of Buffalo County, Nebraska for a tract of land being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 of the 6th P.M., Buffalo County, Nebraska, and all more particularly described as follows: Referring to the southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 32 and assuming the south line of said Southeast Quarter of the Southwest Quarter of said Section 32 as bearing N89°57'50"E and all bearings contained herein are relative thereto; thence N00°13'01"E a distance of 33.0 feet to the Actual Place of Beginning, said place of beginning being on the north right-of-way line of U.S. Highway No. 30; thence N89°57'50"E and on the aforesaid north right-of-way line a distance of 372.13 feet to the southwest corner of Lot 4, Little U.S.A Addition; thence N00°02'23"W and on the west line of Little U.S.A. Addition (if extended) a distance of 863.6 feet to a point that intersects on the south right-of-way line of NPPD's Kearney Canal; thence S87°11'28"W and on the aforesaid south right-of-way line a distance of 76.0 feet; thence N77°47'14"W a distance of 110.0 feet; thence N62°27'32"W a distance of 112.0 feet; thence N50°07'56"W a distance of 111.7 feet to a point that intersects on the east line of said Tract 10, Little Ponderosa Acres; thence continuing on the south right-of-way of NPPD's Kearney Canal N50°07'56"W a distance of 42.5 feet; thence N37°50'01"W a distance of 271.71 feet to a point of intersection with the south right-of-

way line of NPPD's Kearney Canal and the west line of said Tract 10, Little Ponderosa Acres; thence S00°14'34"W and on the west line of said Tract 10 and leaving said NPPD's Kearney Canal right-of-way a distance of 774.4 feet; thence N89°47'25"E a distance of 171.18 feet; thence S00°03'01"W a distance 435.14 feet to a point on the south line of said Tract 10 in said Little Ponderosa Acres; thence S89°56'27"E and on the aforesaid south line a distance of 28.1 feet to the southeast corner of said Tract 10; thence S00°54'15"E a distance of 39.67 feet to the place of beginning, containing 10.95 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 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 APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LIQUOR LICENSE FOR GOURMET HOUSE JAPANESE CUISINE

Mayor Clouse opened the public hearing on the Application for a Class I-84539 Liquor License submitted by Gourmet House LLC, dba "Gourmet House Japanese Cuisine" located at 1325 2nd Avenue, Suite D, and the Manager Application for Adam Chan and to consider approval of Resolution No. 2009-43.

Gourmet House LLC has made application for a license to sell liquor, wine and beer at a new business called "Gourmet House Japanese Cuisine", which is to be located at 1325 2nd Avenue, Suite D. The Police Department performed a background on the applicants, Mr. Chan and his wife, Cora Tsang. The background did not indicate any negative issues with the application, nor the applicants. Mr. Chan and his wife have experience in operating this type of business with a liquor license and currently operate businesses in Holdrege and North Platte.

This is a new business and an additional license to the community. Mr. Chan is aware of the rules and regulations to operate this type of business. The Application for Manager identifies Adam Chan. According to the Police Department, Mr. Chan has experience with no real record of legal problems.

Adam Chan presented this matter to the Council. He received TIPS training in North Platte in 2007. He and two other employees are planning on attending the TIPS training here in Kearney.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application for a Class I-84539 Liquor License submitted by Gourmet House LLC, dba

“Gourmet House Japanese Cuisine” located at 1325 2nd Avenue, Suite D, and the Manager Application for Adam Chan and approve **Resolution No. 2009-43**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-43

WHEREAS, Gourmet House LLC, dba “Gourmet House Japanese Cuisine” has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-84539 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to do business at 1325 2nd Avenue, Suite D, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Gourmet House LLC, dba “Gourmet House Japanese Cuisine” also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Adam Chan; and

WHEREAS, a hearing was held relating to said application on April 14, 2009.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class I-84539 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to Gourmet House LLC, dba “Gourmet House Japanese Cuisine” located at 1325 2nd Avenue, Suite D, Kearney, Nebraska, and to approve the application for Corporate Manager of Adam Chan.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held March 24, 2009.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services
 - ER Equipment Rental
 - CO Capital Outlay
 - DS Debt Service

2cocom \$94.00 co; 3M \$1,488.48 smcs; Ace Hardware \$334.22 smcs; Ace Irrigation \$82.11 smcs; Advance Auto Parts \$2.39 smcs; Aflac \$2,721.66 ps; Alertshirt \$938.29

smcs; Allied Electronics \$158.56 smcs; Alltel \$1,229.96 smcs; Almquist,R \$87.50 smcs; Amax Contracting \$168.56 co; Amazon \$65.84 smcs; Amer Electric \$304.27 smcs; Amer Flags Express \$321.00 smcs; Amer Legion \$561.40 smcs; AMI Graphics \$84.75 smcs; Amsan \$27.02 smcs; Andersen Wrecking \$25.00 smcs; Anderson Brothers \$126.78 smcs; APA Membership \$427.00 smcs; Apple Market \$10.45 smcs; Arbor Day Foundation \$15.00 smcs; ASCAP \$308.21 smcs; Ashworth \$997.00 smcs; Ask Supply \$274.84 smcs; Aurora Cooperative \$853.16 smcs; Ayers Distributing \$272.00 smcs; Baird Holm \$9,502.50 smcs; Baker & Taylor Books \$7,931.23 smcs; Barnes,J \$125.00 smcs; BBC Audiobooks \$480.06 smcs; Beckenhauer,T \$170.29 smcs; Bike Shed \$49.99 smcs; BJ Harris \$600.00 smcs; Black Rhino Recycling \$332.18 smcs; Blessing Construction \$31,210.42 smcs,co; Bloomfield,C \$48.10 co; Bluecross Blueshield \$62,710.63 smcs; Bosselman \$6,858.80 smcs; Bottorff,J \$29.03 smcs; Bowman,M \$15.60 smcs; Breathing Air Systems \$70.17 smcs; Broadfoots \$90.00 smcs; Buffalo Co Dist Court \$478.98 ps; Buffalo Co Sheriff \$119,138.00 smcs; Buffalo Co Treasurer \$24,924.46 smcs,co; Buffalo Outdoor Power \$30.77 smcs; Buffalo Surveying \$2,493.75 smcs; Builders \$8,159.26 smcs,co; Business Computer Design \$2,785.00 smcs; Buydigcom \$69.00 smcs; Buzz's Marine Supply \$19.92 smcs; Capstone Press \$5,572.83 smcs; Carquest \$1,422.67 smcs; Casey's \$50.00 smcs; Cash-Wa \$1,226.75 smcs; CDW Gov't \$1,208.00 co; Cellphone Battery Whse \$65.90 co; Cellphone Shop \$30.93 smcs; Central Fire & Safety \$107.25 smcs; Central Hydraulic Systems \$1,210.64 smcs; Central NE Bobcat \$64.08 smcs; CH Diagnostic \$445.00 smcs; Chad \$8.00 ps; Charter \$558.95 smcs; Chief Construction \$7,435.43 co; Christianbookcom \$62.66 smcs; Copycat Printing \$262.17 smcs; City of Ky \$200,466.90 smcs,ps; Clifford of Vermont \$204.00 smcs; Cold Spring Granite \$313.20 smcs; College Savings Plan of NE \$200.00 ps; Connect Television \$28.36 smcs; Consec Life Ins \$24.00 ps; Construction Rental \$201.70 smcs; Control Masters \$24.75 smcs; Copycat Printing \$12.00 smcs; Corporate Express \$999.35 smcs; Cowden,D \$35.19 smcs; Creative Teacher \$29.98 smcs; Credit Management Services \$8.90 ps; Crossroad Ford \$487.38 smcs; Crouch Recreational Design \$18,909.00 smcs,co; Culligan \$80.00 smcs; Cummins Central Power \$569.57 smcs; D&M Security \$64.50 smcs; Danko Emergency \$385.46 smcs; Dataprobe \$502.61 co; Dawson Co PPD \$1,634.67 smcs; Dell \$5,672.16 smcs,co; Depository Trust \$7,700,374.53 ds; Development Council \$1,270.55 smcs; Diamond Vogel Paint \$212.68 smcs; Dispenserkeyscom \$15.75 smcs; Dutton-Lainson \$753.05 smcs,co; Eakes \$4,916.52 smcs,co; Earl May \$89.96 smcs; Ecolab \$30.00 smcs; Educational Service Unit \$325.00 co; Eirich,T \$50.00 smcs; Elegant Home Center \$181.17 smcs; Elliott Equipment \$129.79 smcs; Elliott Sanitation \$180,265.00 co; EMC Insurance \$507.98 smcs; Espinoza-Sanchez,I \$1.97 smcs; Eustis Body Shop \$200.00 smcs; Ezyberquestcom \$309.92 smcs; Fairbanks \$355.68 smcs; Farmers Union Coop \$18.00 smcs; Fastenal \$609.96 smcs; Fiddelke Heating \$102.42 smcs; Fire Com \$141.70 smcs; Flinn Paving \$3,793.35 smcs; Footjoy \$8,734.24 smcs; Fowler,S \$33.54 smcs; Fredrickson Co \$554.94 smcs; Frontier Communications \$207.37 smcs; Gale \$467.88 smcs; Galeton Gloves \$857.40 smcs; Galls \$48.22 smcs; Garrett Tires \$3,161.46 smcs; Gaver,J \$125.00 smcs; GE Money Bank \$1,377.46 smcs; Gempler \$122.25 smcs; Genealogical Publishing \$85.90 smcs; Gene's Tree \$5,445.00 smcs; Global Gov/Ed Solution \$147.48 smcs; Golfsmith Int'l \$394.70 smcs; Graham Tire \$455.94 smcs; Grainger \$761.00 smcs,co; Great Plains One Call \$308.25 smcs; Great Plains Safety \$360.00 smcs; H&H Distributing \$710.85 smcs; Hach \$150.47 smcs; Handango \$39.95 smcs; Hausmann Construction \$185,760.00 co; HD Supply \$3,557.28 smcs; Heartland Marketing \$219.98 smcs; Highsmith \$161.60 smcs; Holiday

Sinclair \$29.82 smcs; Holmes Plumbing \$409.06 smcs,co; Holmes,J \$58.71 smcs; Holz,C \$10.12 smcs; Hometown Leasing \$207.71 smcs; Hydro Tech \$767.00 smcs; ICMA RC \$9,561.00 ps; Infinisource \$99.00 smcs; IRS \$196,081.91 ps; Interstate Batteries \$179.60 smcs; J&A Traffic Products \$7,625.25 smcs; Jack Lederman \$4,799.79 smcs,co; Joseph's of Ky \$525.00 smcs; Jrs Western \$193.93 smcs; Judd Brothers Construction \$182,880.00 co; K&K Parts \$1,638.33 smcs; Ky Centre Vac \$3.50 smcs; Ky Chamber Comm \$5.00 smcs; Ky Clinic \$480.00 ps; Ky Concrete \$2,638.80 smcs,co; Ky Hub \$1,838.40 smcs; Ky Humane Society \$4,000.00 smcs; Ky Implement \$2,516.26 smcs; Ky Noon Rotary \$95.00 smcs; Ky Quality \$8.55 smcs; Ky Towing \$197.50 smcs; Ky United Way \$571.00 ps; KVFD \$1,280.00 smcs; Ky Warehouse \$411.95 smcs; Ky Yamaha \$283.80 smcs; KGFV \$60.00 smcs; Killion Motors \$229.91 smcs; Kmart \$9.78 co; Konica Minolta \$316.52 smcs; Kriz Davis \$152.11 smcs; LaserCare \$435.00 smcs; Law Enforcement Training \$100.00 smcs; Lerner Publishing \$1,446.74 smcs; Liberty Cleaners \$24.30 smcs; Lifeguard Store \$580.00 co; Linweld \$335.71 smcs; Littlite \$44.57 smcs; Lockmobile \$12.25 smcs; Lukaszewicz,M \$31.00 smcs; Luke,D \$240.90 smcs; Mac Tools \$13.14 smcs; Machines & Media \$757.00 smcs; Magic Cleaning \$2,450.00 smcs; Mail Express \$85.66 smcs; Maines Electric \$771.00 smcs; Marlatt Machine Shop \$786.99 smcs; Marshall Cavendish \$4,292.25 smcs; Matthew Bender \$276.36 smcs; McCarty,D \$90.00 smcs; McElhinny,D \$125.00 smcs; McMaster-Carr \$409.49 smcs; Menards \$3,579.89 smcs,co; Metlife \$6,155.98 ps; Michael Todd \$807.86 smcs; Mid Amer Signal \$1,532.00 smcs; Midland Molding \$50.00 smcs; Midway Chevrolet \$1,172.92 smcs; Midwest Turf \$2,011.01 smcs,co; Miller & Associates \$21,099.49 smcs,co; Miller Signs \$180.00 smcs; Moonlight Embroidery \$1,263.00 smcs; Mosbarger,B \$58.50 smcs; Moss & Barnett \$364.00 smcs; Motion Industries \$831.92 smcs; MSC/J&L Industrial Supply \$61.53 smcs; Municipal Pipe Tool \$435.31 smcs; Municipal Supply \$1,066.27 smcs; Napa All Makes Auto \$3,731.76 smcs,co; NASRO \$40.00 smcs; NCS Equipment \$60.00 smcs; NE Business Banking \$89,720.75 ds; NE Child Support \$5,595.78 ps; NE Community Foundation \$82.00 smcs; NE Dept Environmental \$11,056.48 smcs; NE Dept of Revenue \$30,118.74 ps; NE Forest Service \$15.00 smcs; NE Games & Parks \$1,000.00 smcs; NE Machinery \$3,626.77 smcs; NE Planning & Zoning \$280.00 smcs; NE Plastics \$1,245.95 co; NE Public Health \$4,073.00 smcs; NE Rural Water Ass'n \$330.00 smcs; NE Salt & Grain \$11,756.06 smcs; NE Section of AWWA \$50.00 smcs; NE Society of CPA's \$110.00 smcs; NE State Historical Society \$3,003.50 smcs; NE Truck Center \$123,119.57 smcs,co; NE Workforce Development \$1,322.42 ps; NEland Distributors \$946.00 smcs; Neopost \$6,000.00 smcs; NeRPA \$25.00 smcs; Network Solutions \$329.90 smcs; Newegg \$34.98 co; Newman Signs \$1,303.12 smcs; NFPA \$182.45 smcs; Northern Tool \$207.15 smcs; Northwest Electric \$3,195.61 smcs; Northwestern Energy \$21,981.18 smcs; NSVFA Fire School \$160.00 smcs; Office Max \$580.86 smcs; Officenet \$681.18 smcs,co; O'Keefe Elevator \$713.92 smcs; Omaha World Herald \$80.60 smcs; On Site Mobile Sharpening \$48.00 smcs; O'Reilly Auto \$1,955.79 smcs; Oriental Trading \$155.85 smcs; Orscheln \$1,211.50 smcs; Otto Environmental \$19,196.24 smcs; Overhead Door \$1,415.00 smcs; Oxford University Press \$167.44 smcs; Paramount \$244.19 smcs; Payflex Systems \$493.00 ps; PBD Ala-Graph Editions \$108.20 smcs; Pep Co \$51.10 smcs; Pepsi-Cola \$496.80 smcs; Perez,M \$254.30 smcs; Pioneer Door \$64.00 smcs; Pizza Hut \$108.87 smcs; Plains Tree Farm \$9,362.76 smcs; Planning Commissioners \$163.00 smcs; Platte Valley Comm \$1,619.68 smcs,co; Precision Industries \$30.57 smcs; Presto-X \$195.00 smcs; Provantage \$1,253.16 smcs,co; Pulliam,R \$40.00 smcs; Pump and Pantry \$2.01 smcs;

Quill \$67.55 smcs; Random House \$205.60 smcs; Ready Mixed Concrete \$809.72 smcs; Recorded Books \$2,460.36 smcs; Refind \$25.00 smcs; Reinke's Heating \$5,874.37 smcs,co; Rheome Tree \$230.00 smcs; RMV Construction \$1,000.00 co; Robins,T \$125.00 smcs; Runge,D \$18.57 smcs; Rylind Mfg \$638.00 smcs; Salina Blue Print \$450.00 smcs; Sanitation Products \$596.45 smcs; Sapp Brothers \$16,134.38 smcs; Schanou,J \$58.50 smcs; Sears \$486.99 smcs; Sensus Metering \$132.00 smcs; SF Analytical Lab \$218.00 smcs; Shell Oil \$15.00 smcs; Shelton Township Library \$15.00 smcs; Sherwin Williams \$894.83 smcs,co; Sign Center \$212.74 smcs; Skyhawke Technologies \$672.53 smcs; Smith Signs \$135.00 smcs; Snap-On Tools \$154.10 smcs; Softchoice \$573.00 co; Solid Waste Agency \$42,157.40 smcs; Specialized Products \$375.00 smcs; Sport Supply Group \$275.16 smcs; State of NE/AS Central \$3,865.50 smcs; State of NE/DAS Comm \$18.33 smcs; Steinbrinks Landscaping \$50.00 smcs; Stott,D \$58.50 smcs; Sun Life Financial \$29,241.61 smcs; Supershine Auto \$159.50 smcs; Sydow,J \$40.00 smcs; Target \$9.96 smcs; Taylor Made \$2,930.36 smcs; Technical Maintenance \$995.94 smcs; Tee's Plus \$1,305.00 smcs; Telephone Systems of NE \$4,400.76 smcs; Thomas Research Product \$123.00 smcs; Thome,B \$131.29 smcs; Thompson,J \$15.60 smcs; Tigerdirect \$1,603.94 co; Titan Machinery \$111,149.00 co; Titleist \$2,343.15 smcs; Tractor-Supply \$745.94 smcs; Trans Iowa Equipment \$450.00 smcs; Tri City Outdoor Power \$1,307.75 smcs,co; Tri-City Sign \$35,987.50 smcs,co; Turner Body Shop \$1,970.06 smcs; Tye & Rademacher \$10,839.85 smcs; United Way \$15.00 smcs; UNL Center for Applied Rural \$100.00 smcs; UNMC Web Revenue \$50.00 smcs; USA Blue Book \$210.04 smcs; USPS \$272.19 smcs; Van Diest Supply \$9,762.27 smcs; Van Wall \$826.30 smcs; Village Uniform \$424.75 smcs; Walgreens \$17.08 smcs; Wal-mart \$805.08 smcs; Walters Electric \$1,419.05 smcs,co; Ward Lab \$32.00 smcs; Watchguard Video \$142.50 co; West Payment Center \$423.96 smcs; West Villa Animal Hospital \$58.00 smcs; Wheeler,J \$107.00 smcs; Wicks Sterling Trucks \$1,114.35 smcs; Wiegand Security Service \$75.00 smcs; Wilke Donovans \$278.32 smcs; Wilkins Hinrichs Stober \$12,171.31 co; Williams Midwest House \$257.50 smcs; Williams,F \$21.60 smcs; Williams,M \$115.48 smcs; Witmer Associates \$120.87 smcs; Witmer Public Safety \$102.00 smcs; Wooden,T \$550.00 co; WPCI \$53.50 ps; Yant Equipment \$110.00 smcs; Yousendit \$9.99 smcs; Zapata,T \$35.00 smcs; Zimmerman Printers \$481.50 smcs; Zimniak,C \$450.00 co; Payroll Ending 3-28-2009 -- \$314,465.68. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve Change Order No. 7 showing an increase in the amount of \$3,667.00, and Application and Certificate for Payment No. 4 in the amount of \$248,705.10 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2009-44**.

RESOLUTION NO. 2009-44

WHEREAS, Hausmann Construction of Lincoln, Nebraska has performed services in connection with the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 7 showing

an increase in the amount of \$3,667.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Hausmann Construction and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$248,705.10 as shown on Exhibit "B" attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$2,879,000.00
Change Order No. 1 (11-25-2008)	- 21,081.00
Change Order No. 2 (11-25-2008)	- 40,000.00
Change Order No. 3 (11-25-2008)	- 25,000.00
Change Order No. 4 (11-25-2008)	+ 4,900.00
Change Order No. 5 (2-24-2009)	- 1,959.00
Change Order No. 6 (3-10-2009)	- 7,226.00
Change Order No. 7 (4-14-2009)	<u>+ 3,667.00</u>
Contract Sum to Date	\$2,792,301.00
Total Completed and Stored to Date	890,479.00
Retainage	89,479.90
Amount Due to Date	801,431.10
Less Previous Certificates for Payment	<u>552,726.00</u>
Current Payment Due	\$ 248,705.10

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. 7 as shown on Exhibit "A", and Application and Certificate for Payment No. 4, as shown on Exhibit "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

4. Approve the request from the Downtown Improvement Board, in conjunction with the Kearney Area Community Foundation, the Kearney Visitor's Bureau, and the Nebraska Winery and Grape Growers Association, to temporarily close the parking lot located north of the Museum of Nebraska Art from 6:00 a.m. on Wednesday, April 29, 2009 until 12:00 p.m. on Tuesday, May 5, 2009 for the 2nd Nebraska Wine and Jazz Festival.

5. Approve the application for a Special Designated License submitted LEROY SMITH, dba "George Spencer Vineyard" to dispense wine in connection with their Class ID-62962 liquor license inside an enclosed 100' x 180' fenced area located in the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, on May 1, 2009 from 3:00 p.m. until 12:00 a.m. and on May 2, 2009 from 10:00 a.m. until 12:00 a.m. in connection with the Wine and Jazz Festival.

6. Approve the request submitted by the Kearney Hub, the FirsTier Event Center, and the Kearney Volunteer Fire Department, in conjunction with Kidz Explore, to block off the west end of Platte Road in front of the FirsTier Event Center, 609 Platte Road,

on April 25, 2009 from 9:00 a.m. until 5:00 p.m. and on April 26, 2009 from 12:00 p.m. until 5:00 p.m.

7. Approve the bids received for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney and approve **Resolution No. 2009-45** awarding the bid to Concrete Workers of Kearney, Nebraska in the amount of \$140,907.00.

RESOLUTION NO. 2009-45

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 2, 2009 at 2:00 p.m. for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$254,355.00; and

WHEREAS, the said engineers have recommended the bid offered by Concrete Workers of Kearney, Nebraska in the sum of \$140,907.00 be accepted as the lowest responsible bid for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney.

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 Concrete Workers of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Concrete Workers of Kearney, Nebraska in the sum of \$140,907.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$254,355.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the bids received for the Centennial Park Ball Field Lighting Project and approve **Resolution No. 2009-46** awarding the bid to Ardent Lighting Group of Knoxville, Iowa in the amount of \$43,255.00.

RESOLUTION NO. 2009-46

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 2, 2009 at 2:00 p.m. for the Centennial Park Ball Field Lighting Project; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$54,800.00; and

WHEREAS, the said engineers have recommended the bid offered by Ardent

Lighting Group of Knoxville, Iowa in the sum of \$43,255.00 be accepted as the lowest responsible bid for the Centennial Park Ball Field Lighting Project.

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 Ardent Lighting Group of Knoxville, Iowa be and is the lowest responsible bidder for the Centennial Park Ball Field Lighting Project to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Ardent Lighting Group of Knoxville, Iowa in the sum of \$43,255.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$54,800.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the bids received for the 2009 Part I Improvements – 5th Avenue Asphalt Overlay Project and approve **Resolution No. 2009-47** awarding the bid to Vontz Paving Inc. of Ayr, Nebraska in the amount of \$225,641.50.

RESOLUTION NO. 2009-47

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 2, 2009 at 2:00 p.m. for the 2009 Part I Improvements – 5th Avenue Asphalt Overlay Project; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$191,050.00; and

WHEREAS, the said engineers have recommended the bid offered by Vontz Paving Inc. of Ayr, Nebraska in the sum of \$225,641.50 be accepted as the lowest responsible bid for the 2009 Part I Improvements – 5th Avenue Asphalt Overlay Project.

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 Vontz Paving Inc. of Ayr, Nebraska be and is the lowest responsible bidder for the 2009 Part I Improvements – 5th Avenue Asphalt Overlay Project to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Vontz Paving Inc. of Ayr, Nebraska in the sum of \$225,641.50 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$191,050.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Approve Revised Application and Certificate for Payment No. 10 and approve additional payment in the amount of \$51,189.59 submitted by Starostka Group and approved by Miller & Associates for the Northwest Well Field Improvements; Phase II - Water Transmission Main and approve **Resolution No. 2009-48.**

RESOLUTION NO. 2009-48

WHEREAS, Starostka Group Unlimited of Grand Island, Nebraska performed services in connection with the Northwest Well Field Improvements; Phase II – Water Transmission Main, and the City's engineer, Miller & Associates, filed with the City Clerk Application and Certificate for Payment No. 10 in the amount of \$302,094.11 and on February 24, 2009 the City Council passed and approved Resolution No. 2009-20 approving Application and Certificate for Payment No. 10 in the amount of \$302,094.11; and

WHEREAS, it has come to the City's attention that an error in subtracting the total amount of withholdings from the amount due was incorrect; that the amount should have been \$353,283.70; and

WHEREAS, Starostka Group Unlimited of Grand Island, Nebraska the City's engineer, Miller & Associates, have filed with the City Clerk Revised Application and Certificate for Payment No. 10 in the amount of \$353,283.70 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$4,098,297.20
Change Order – None	<u>.00</u>
Contract Sum to Date	4,098,297.20
Total Completed and Stored to Date	4,023,044.47
Retainage	201,152.11
Amount Due to Date	3,821,892.25
Less Previous Certificates for Payment	- 3,131,108.55
Late Completion (October 2007 – September 2008)	- 167,500.00
Late Substantial Completion (March 21, 2008 – December 19, 2008)	- 136,500.00
Late Final Completion (December 20, 2008 – February 24, 2009)	<u>- 33,500.00</u>
Amount Due	\$ 353,283.70
Payment Made on February 24, 2009	<u>\$ 302,094.11</u>
Current Payment Due	\$ 51,189.59

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Revised Application and Certificate for Payment No. 10, as shown on Exhibit "A", be and is hereby accepted and approved and to authorize the additional payment due to Starostka Group Unlimited in the amount of \$51,189.59.

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the Consultant Agreement between the City of Kearney and Kirkham Michael & Associates, Inc. to provide services for the preparation of the purchase of a new snow plow at the Kearney Regional Airport and approve **Resolution No. 2009-49** subject to approval by the Nebraska Department of Aeronautics and the Federal Aviation Administration.

RESOLUTION NO. 2009-49

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President of the Council be and is hereby authorized and directed to execute the Consultant's Agreement with Kirkham Michael & Associates for an Airport Improvement Program Project to provide services for the preparation of the purchase of a new snow plow at the Kearney Regional Airport. A copy of the Consultant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that approval of said Consultant Agreement is subject to approval by the Nebraska Department of Aeronautics and the Federal Aviation Administration

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve the application for a Special Designed License submitted by Alley Rose, Inc., dba "Alley Rose" in connection with their Class IK-21763 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion at the Buffalo County Fairgrounds located at 3807 Avenue N on May 23, 2009 from 6:00 p.m. until 1:00 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7511 – REPEAL ORDINANCE NO. 7477 AND VACATE EASEMENT ON LOT 11, ST. LUKE’S GOOD SAMARITAN VILLAGE

On November 11, 2009 the Council approved the application to vacate a 10-foot wide utility easement that was platted along the south boundary of Lot 2 of Block 3, Windsor Estates Seventh Addition. The vacation of the easement will allow the owners to perform a minor subdivision on the property to add land from a lot that is currently used for stormwater detention to increase the size of a developable lot, basically a lot line shift. The ordinance that was prepared did not indicate this was a utility easement and simply vacated it as a portion of the lot. The attached ordinance reflects the correction and this is housekeeping issue.

Council Member Kearney introduced Ordinance No. 7511, being Subsection 1 of Agenda Item V to repeal Ordinance No. 7477 and to vacate property described as a

tract of land being part of Lot 11, St. Luke's Good Samaritan Village, an addition to the City of Kearney, Buffalo County, Nebraska (3112 Antelope Avenue), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7511 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. 7511 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. 7511 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. 7512 – CREATE WATER DISTRICT NO. 2009-557

A Subdivision Agreement approved by the City Council on September 9, 2008 authorized improvement districts to serve Fountain Hills Third Addition. On November 25, 2008 several improvement districts were created. During the design of those districts it has been determined that an additional water and sanitary sewer district are needed before the paving of 11th Avenue south of 48th Street is completed in order to serve proposed lots shown on the preliminary plat in the future.

Council Member Kearney introduced Ordinance No. 7512, being Subsection 2 of Agenda Item V to create Water District No. 2009-557 in 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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. 7512 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. 7512 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. 7512 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. 7513 – CREATE SANITARY SEWER DISTRICT NO. 2009-497

A Subdivision Agreement approved by the City Council on September 9, 2008 authorized improvement districts to serve Fountain Hills Third Addition. On November 25, 2008 several improvement districts were created. During the design of those districts it has been determined that an additional water and sanitary sewer district are needed before the paving of 11th Avenue south of 48th Street is completed in order to serve proposed lots shown on the preliminary plat in the future.

Council Member Kearney introduced Ordinance No. 7513, being Subsection 3 of Agenda Item V to create Sanitary Sewer District No. 2009-497 in 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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. 7513 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. 7513 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. 7513 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. 7514 – CREATE PAVING DISTRICT NO. 2009-936

This pertains to the alley improvement located between 25th Street and 26th Street from Avenue A to Avenue B. The alley is in very poor condition and in need of repair. This project will have a major positive impact in the area. According to the City's paving assessment policy, the property owners would have to pay 75% of the cost of the improvements. However, in an attempt to improve the alleys in downtown Kearney, the Community Redevelopment Authority (CRA) will pay half of the 75% or 37.5% leaving the portion assessed to the property owners at 37.5% of the total cost of the project. It is estimated that the final assessed cost to the property owners, after the City pays 25% and the CRA pays 37.5%, will be in the neighborhood of \$45.00 per front footage.

Council Member Kearney introduced Ordinance No. 7514, being Subsection 4 of Agenda Item V to create Paving Improvement District No. 2009-936 in an alley lying between 25th Street and 26th Street from Avenue A to Avenue B, 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. 7514 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. 7514 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. 7514 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

ORDINANCE NO. 7515 – CONDITIONAL USE PERMIT TO JEFFREY AND LISA OVERTURF (PERTAINS TO PUBLIC HEARING 1)

Mayor Clouse stated Ordinance No. 7515 pertains to Public Hearing 1 regarding the Conditional Use Permit which was denied.

Moved by Lear seconded by Buschkoetter to deny Ordinance No. 7515 proposing to grant a Conditional Use Permit to Jeffrey and Lisa Overturf (Applicant and Owner) to locate and operate a sand and gravel dredging and mining operation, hauling gravel and sand off site on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of

Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (1/4 mile south of the intersection of 11th Street and 30th Avenue on the west). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ORDINANCE NO. 7516 – REZONE 5785 COTTONMILL AVENUE (PERTAINS TO PUBLIC HEARING 2)

Council Member Buschkoetter introduced Ordinance No. 7516, being Subsection 1 of Agenda Item VI to rezone from “District AG, Agricultural District” to “District RR-1, Rural Residential District (Rural Standards) District” property described as the north 330.0 feet of the west 368.0 feet of the Southwest Quarter of the Southwest Quarter of Section 20, Township 9 North, Range 16 West of the 6th P.M., containing 2.788 acres, more or less, Buffalo County, Nebraska (5785 Cottonmill Avenue), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7516 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7516 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. 7516 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. 7517 – REZONE 7143 17TH AVENUE (PERTAINS TO PUBLIC HEARING 5)

Council Member Buschkoetter introduced Ordinance No. 7517, being Subsection 1 of Agenda Item VI to rezone from “District AG, Agricultural District” to “District RR-1, Rural Residential District (Rural Standards) District” property described as being part of the South Half of the South Half of the Southwest Quarter of Section 14, Township 9 North, Range 16 West of the 6th P.M., containing 2.25 acres, more or less, Buffalo County, Nebraska (7143 17th Avenue), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the

ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7517 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7517 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. 7517 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. 7518 – VACATE PART OF TRACT 10, LITTLE PONDEROSA ACRES (PERTAINS TO PUBLIC HEARING 7)

Council Member Buschkoetter introduced Ordinance No. 7518, being Subsection 4 of Agenda Item VI to vacate part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., containing 3.26 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7518 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7518 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. 7518 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. 7519 – REZONE NORTH OF HIGHWAY 30, WEST OF THE LITTLE USA STORE (PERTAINS TO PUBLIC HEARING 7)

Council Member Buschkoetter introduced Ordinance No. 7519, being Subsection 5 of Agenda Item VI to rezone from “District AG, Agricultural District” to “District RR-1, Rural Residential District (Rural Standards) District” property described as being part of Tract 10, Little Ponderosa Acres, a subdivision of the East Half of the Southeast Quarter of the Southeast Quarter of Section 31, and the Southwest Quarter of the Southwest Quarter of Section 32, all in Township 9 North, Range 16 West of the 6th P.M., AND a tract of land being part of the Southeast Quarter of the Southwest Quarter of Section 32, Township 9 North, Range 16 West of the 6th P.M., containing 10.95 acres, more or less, all in Buffalo County, Nebraska (north of Highway 30, west of the Little USA Store), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7519 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7519 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. 7519 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.

UTILITY VOUCHER PROGRAM

Mayor Clouse opened for discussion the City of Kearney Utility Voucher Program and to consider approval of Resolution No. 2009-50.

City Manager Michael Morgan presented this matter to the Council. He stated that in order to provide assistance to local citizens who have been laid off their jobs, staff is proposing a City of Kearney Utility Voucher program. This program would provide up to \$50 to eligible individuals and will be funded from Keno Lottery Trust funds. City staff would work with local employers who would request vouchers and distribute them subject to the program requirements. Some of the requirements are:

- Must live within the City of Kearney.
- Individual must have been laid off since January 1, 2009.
- Must have been employed by a Buffalo County employer.
- Must use the voucher for payment of city water/wastewater/sanitation bill.
- Maximum of two (2) \$25 vouchers per person/residence.
- Program cost is capped at \$15,000.
- Program and vouchers expire September 30, 2009.

Although, this program offers only a small economic benefit, it sends a positive statement to our citizens and provides some relief during these difficult economic times.

Moved by Kearney seconded by Lammers to approve the City of Kearney Utility Voucher Program and approve **Resolution No. 2009-50**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-50

WHEREAS, to provide assistance to local citizens who have been laid off their jobs, the City of Kearney is proposing a City of Kearney Utility Voucher Program; and

WHEREAS, the City of Kearney Utility Voucher Program will provide a maximum of two Twenty-five Dollars (\$25.00) vouchers per person/residence: and

WHEREAS, the total program cost will not exceed Fifteen Thousand Dollars (\$15,000.00) and will be funded from the Kearney Lottery Trust funds; and

WHEREAS, City staff will work with local employers who would request vouchers and distribute them to their employees subject to the following program requirements:

- Eligible individuals must live within the City of Kearney.
- Eligible individuals must have been laid off since January 1, 2009.
- Eligible individuals must have been employed by a Buffalo County employer.
- Eligible individuals must use the voucher for payment of City of Kearney water/wastewater/sanitation bill.

WHEREAS, the City of Kearney Utility Voucher Program and vouchers will expire on September 30, 2009.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney Utility Voucher Program be and is hereby approved subject to the conditions set forth above.

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

COMMUNITY ORIENTED POLICING SERVICES (COPS) PROGRAM GRANT

Mayor Clouse opened for discussion a Grant Application to the Community Oriented Policing Services (COPS) Program for funds to be used for two additional police officers and to consider approval of Resolution No. 2009-51.

The Community Oriented Policing Services (COPS) Program provides 100 percent of entry-level salary and benefits for new police officers for three years, with one year of required retention after the grant period ends. COPS funds may be used to hire new officers or rehire recently laid off officers, fill unfunded vacancies and help prevent scheduled layoffs within law enforcement agencies. The American Recovery and Reinvestment Act set aside \$1 billion in COPS funding, to be allocated directly to local level governments through a competitive application process. Allocation is based on population and violent crime statistics as well as a minimum allocation to each state.

The application will request funding for salaries and benefits for two entry-level officers. These officers will be hired in anticipation of future needs of the community and budget constraints. The Kearney Police Department foresees requiring two additional officers in the next three to five years to meet the increasing demand of growing population and City annexation. This grant will allow these officers to be hired and receive on-the-job experience in advance of the inclusion of their salaries in the City budget.

The COPS grant will provide entry-level salary and benefits for officers for three years, but requires that any officer hired be retained for an additional year at the cost of the City. The City of Kearney will apply for \$339,570 to hire two officers. The City of Kearney will be required by the grant to provide any training and equipment costs as well as one year of salary and benefits.

Chief of Police Dan Lynch presented this matter to the Council. The COPS Grant program would pay full salaries, benefits and wages for the two employees for three years. After that time, the City would be obligated to retain these people for one additional year at its expense. That would be the limit of its obligation at this time. As the community continues to expand, the numbers are such that the City is not in bad shape, but as the City grows it will suffer some because of the increase in population. This is an opportunity for Kearney to get three years worth of funding at no expense to the City. The last time we added officers was in 2006 and 2007 (2 each year). In the last seven fiscal years, four officers have been added. The City currently has 52 sworn Police Officers.

In comparison to other first class cities in the area, Kearney is about in the middle as far as ratio of officers per thousand population. Kearney is at 1.74 percent compared to some communities at 2.23, 2.2 and 2.0 percent. The only community that has a similar amount of square miles is Bellevue which has a 1.69 ratio and 13.3 square miles of patrol area where Kearney has 12.82 square miles to patrol.

City Manager Michael Morgan stated when evaluating police staffing, it is always difficult to compare cities. There is a national norm that talks about three officers per thousand. He believed that as a community gets larger, that is less applicable. One of the things that make Kearney unique is that its population is not what is in the census. Kearney has college students who are not entirely counted, as well as regional centers so our daytime and evening numbers fluctuate.

Chief Lynch stated depending on whose figures you are looking at, Kearney fluctuates between 75,000 to 150,000 people in a given day which can be a challenge. There is

no guarantee that Kearney will receive the grant, but it is worth a try. City Manager stated that if Kearney is successful in being awarded the grant, it still comes back to City Council for approval. Given the information they have heard, it is likely that it could go to a much larger city that has had layoffs and that sort of thing. On average there are eight officers assigned to four shifts in Kearney, not counting their supervisors and the command staff.

City Manager Michael Morgan stated they just made a change through evaluation of overtime costs which are fairly high. The Police Department absolutely has no control with overtime. If there is a severe incident, they must go. The Chief and the command staff looked at various options. They decided to switch to a 12-hour shift to provide more coverage because they felt uncomfortable with the coverage limits they had. The 12-hour shift gives them more coverage and has reduced some of the overtime. This makes a fairly long day for them to be in a vehicle, but it is working by helping us some. That is the last measure available to benefit us by reducing the overtime and giving more time on the street with the same amount of staff.

Moved by Lammers seconded by Lear to approve submitting a Grant Application to the Community Oriented Policing Services (COPS) Program for funds to be used for two additional police officers and approve **Resolution No. 2009-51**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2009-51

WHEREAS, the American Recovery and Reinvestment Act has set aside \$1 billion in Community Oriented Policing Services (COPS) funding to be allocated directly to local level governments through a competitive application process; and

WHEREAS, the application being submitted by the City of Kearney is requesting funds for salaries and benefits for two entry level police officers to meet the increasing demand of growing population and City annexation; and

WHEREAS, the grant will provide entry level salary and benefits for two police officers for three years and the City of Kearney will be required to provide any training and equipment costs as well as retaining the officers for an additional year at the cost to the City.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that City administration is hereby authorized and directed to submit an application to the Community Oriented Policing Services Program.

PASSED AND APPROVED THIS 14TH DAY OF APRIL, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$334.59, PLATTE VALLEY STATE BANK - \$92,876.38, SCHOOL DISTRICT #7 - \$2,937.70

Moved by Buschkoetter seconded by Lammers that Open Account Claims in the amount of \$92,876.38 payable to Platte Valley State Bank, and in the amount of

\$334.59 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$2,937.70 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

UPDATE ON CAPITAL IMPROVEMENT PLAN

City Manager Michael Morgan updated the Council on the CIP. They will be coming back with some suggestions in the next few weeks as they have received requests from some groups in the community for some assistance in matching funds. Staff will compile those and bring them all back together. A specific project is the Kearney Regional Airport Terminal. That project was on the list at \$240,000 for 20 years for debt service using the Facilities Corporation. With what is happening with commercial air traffic, they are considering scaling that project down. They think that they can make some significant improvements to the terminal for less than \$500,000. They have looked at some of the major concerns: lack of restroom facilities on the secure side, inadequate space on the secure side for passengers and lack of vending facilities, some parking issues, and door and ADA issues. In addition, there are some façade improvements to consider. This will be left within the current sales tax funds. There are some funds set aside next year out of which they could use \$275,000 and they hope to have some additional funds when the stimulus projects are announced that the City would be able to use without issuing debt for a particular project. With the Council's approval, they will proceed with that and come back with some plans. It could be decided that it is not enough improvements for the money being considered. They have not addressed this with the architects at this point. The request is to be able to proceed with the drawings and have the ATC and Airport Advisory Board see what can be accomplished in that range.

STIMULUS FUNDS

City Manager Michael Morgan stated the rules of the stimulus funding scenarios are changing. Initially, engineering and other items were included in the funding and now they are not. It is suspected that the rules may change again before long. There have been no decisions, but the City still has two projects on the list. Director of Public Works Rod Wiederspan has been spending a lot of time at the Department of Roads responding to how things have to be done differently because these will be processed as a federal project (not a City or State project). This is a tremendous amount of work and they will try to keep the Council informed about the economic impact. They hope to get going so they do not lose any more money in the deal.

Director of Public Works stated that they are rewriting the book as they go through the process of the project. They are still waiting on the chapter on engineering so they can follow the procedure to hire an engineer according to the federal guidelines. The

timeline is that we have to have all that money obligated by March 1, 2010. The time is ticking away and it is a large project when you have to comply with the federal guidelines. They will work on it as quickly as they can, but it would be nice to get started.

The Highway 30 project received some concerns from the businesses on the short timeline. The State has now taken that project and made it a two-year project. Phase I will be from Avenue B to Avenue E to be completed this summer. Phase II will be the Avenue G intersection and Avenue I to Avenue L to be done the following year. The State wanted to make sure they could get Phase I completed, button up the project and still have access through the winter. It is on track to start July 20th which is right after the Cruise Nite weekend. The Cruise Nite weekend was the primary reason they pushed back their start date. They have not heard back whether or not they will receive stimulus money or how much it might be. They are still hopeful to get some.

CHANGE OF TIME FOR MAY 12, 2009 COUNCIL MEETING

Mayor Clouse stated that he was at the ribbon cutting for the National Guard Recruitment Center. They indicated that they will be having a deployment ceremony on May 12th at 7:30 p.m. He suggested the time of the Council meeting should be moved up so those on the Council who would like to attend that ceremony would be able to do so. It was suggested to move the Council meeting up to 5:30 p.m. on that day.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:45 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**