

*Kearney, Nebraska  
June 9, 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 June 9, 2009, in the Council Chambers at City Hall. Present were: Stanley 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; Lance Lang, City Planner; and Suzanne Brodine, Grants & Marketing Coordinator were also present. Some of the citizens present in the audience included: Don Engel, Pat Slack, Dave Sims, Jon Krebs, Bruce Bauer, William Olsen, Steve Altmaier from KGFW, Sara Giboney from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

### **INVOCATION**

There was no representative from the Kearney Ministerial Association to give the Invocation; therefore, the Council held a moment of silent prayer.

### **PLEDGE OF ALLEGIANCE**

Two 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.

### **ORAL COMMUNICATIONS – OFF-SALE LIQUOR ON SUNDAYS**

Jeff Wirth addressed the Council concerning amending the City Code to allow for off sale liquor on Sundays between the hours of 12:00 p.m. and 12:00 a.m. He is an attorney in Kearney representing a group of convenience store owners who are requesting to amend Section 3-1304, 3-1305, 3-1306 of the City Code to allow for off sale liquor on Sundays.

He gave a brief history of alcohol sales in Kearney on Sunday. In the early and mid-70's there were no alcohol sales (by the drink or on/off sale) allowed on Sunday. In 1977, there was a request made to pass an ordinance to allow liquor by the drink or on sale in Kearney that was put to a vote in November 1978 that lost by approximately 500 votes. In August of 1985, there was another request to allow for on sale liquor sales on Sundays from 6:00 p.m. to 12:00 a.m. The main reason cited for that request was to try to draw convention business to Kearney as many of them began or ended on Sunday. Originally, the talk was to allow a public vote. In October 1985, the Council passed the ordinance allowing for liquor by the drink and on sale on Sunday from 6:00 p.m. to 12:00 a.m. The opponents of the Sunday liquor sales gathered petitions and the Council received the referendum petitions and had a special election in January 1986. The ordinance allowing the on sale on Sunday was passed by approximately 90 votes. In December 1989, the City Code was amended to allow for extended hours if New Years Eve fell on a Sunday so that liquor could be sold until 1:00 a.m. and also to allow for off sale on Sunday if New Year's Eve fell on a Sunday. In January 1994, the ordinance was amended again to change the hours to 12:00 p.m. (noon) to midnight which extended the prior hours from 6:00 p.m. to midnight.

Some of the basis for the request is economics. Given the economic times everyone, including cities, counties, retailers, big retailers and huge corporations are all feeling the crunch. Companies are trying to maximize their profits and find ways to avoid laying off workers. The economic benefits to the various retailers is the main motivation for this request and represents 1/7 of their time since convenience stores are open on Sundays anyway. Although there was only a small group of convenience store owners present at the Council meeting, the vast majority of the convenience store owners that he interviewed are supportive of making this change to allow for off sale liquor on Sunday.

Currently, people can go outside the City limits either west or north of Kearney and buy alcohol. This obviously takes away from our retail environment within the City and goes without saying that it takes away from the tax base and the tax incentives that the City would have in allowing those sales inside the City limits. They do not believe that amending the City Code to allow these sales on Sundays would substantially increase DUI or the availability of alcohol to minor sales. He believed that Kearney is very fortunate to have a very pro-active law enforcement group that consistently and routinely have sting operations with the various retailers. They have a good educational program for the business owners and their employees about asking for IDs to make sure that at retail level minors are not being provided alcohol. He has been a criminal defense attorney for 20+ years and is currently the elected Buffalo County Public Defender and in his experience, he did not recall seeing any DUIs where a person was picked up for driving from the liquor store to their home. Most of the DUIs they deal with are from bars to home or bars to restaurants. He believed that being able to buy alcohol on a Sunday and going home to watch a football game would lead to less driving under the influence because they will not have to sit in a bar to do so.

Mr. Wirth further stated that one of the most important factors is other communities in Nebraska, in comparison to those similarly situated to Kearney; there is only one, Alliance that does not allow any off sale on Sunday. Holdrege and Scottsbluff are the two that allow beer and wine off sale, but hard liquor cannot be purchased off sale on Sunday. Columbus, Fremont, Grand Island, Hastings, Lexington, McCook, Norfolk and

North Platte all allow for both on sale and off sale on Sunday which allow for beer, wine and hard liquor. The request is to bring Kearney in line with those surrounding communities.

Mayor Clouse stated that the City Council would take this matter under advisement, but there will be no action taken at this time. If there is future action, public input will be allowed.

## **II. UNFINISHED BUSINESS**

1. Postponed until June 23, 2009 any action on the annual manufactured home court license for L&M Mobile Home Park, 1122 Central Avenue.
2. Postponed until August 25, 2009 any action on the annual manufactured home court license for Wood River Trailer Court, 865 West 78th Street.

## **III. PUBLIC HEARINGS**

### **LAND USE MAP AMENDMENT FOR 6540, 6620, 6630, 6670 EAST 39TH STREET**

Public Hearings 1 and 2 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Patrick Slack from Century 21 Midlands (Applicant) for W & S Investments, LLC, Jeanette L. DeBoer, Jerod Dalen Hahn, and Aurora Cooperative (Owners) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Agricultural Preserve" to "General Industrial" for tracts of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street) and to consider approval of Resolution No. 2009-72. Planning Commission recommend approval.

The applicant is requesting approval to rezone four tracts of land containing a combined total area of 2.18 acres located east of Kearney on the south side of Highway 30 and the Union Pacific Railroad tracks at the rail stop known as Buda. This property is located in the Two-Mile Extraterritorial Jurisdiction of the City of Kearney. The existing Aurora Cooperative building is located on the western most tract. The other three tracts lie to the east of the Aurora building on the north side of 39<sup>th</sup> Street and each contains a house. The Coop intends to purchase the three house lots, remove the houses and construct 3 one million gallon above ground storage tanks for liquid fertilizer. There are currently two ½ million gallon storage tanks adjacent to the railroad tracks. All four parcels are currently zoned agricultural. A Land Use Map Amendment and rezoning are required to bring this property into conformance. The four parcels will be vacated and combined to make one lot in the future.

The current land use designation for this property is Agricultural Preserve. The Land Use Map will be amended to General Industrial. The corresponding zoning is M-2, General Industrial District. The property will be rezoned from AG to M-2.

A twenty foot wide landscaped buffer yard is required along the east property line of newly acquired land to provide a buffer for the house to the east. The Coop also plans to erect a solid privacy fence along this property line. One conifer tree, minimum size of five to six feet tall (not including root ball or pot), shall be planted for each 500 square feet of bufferyard area.

Patrick Slack from Century 21 Midlands presented this matter to the Council. The rezoning request is for property known as Buda and is 2.18 acres. By default, these properties are currently zoned agricultural. Aurora Coop is currently in the process of purchasing those properties to gain desirable land that is in close proximity to their current operations. The current operations have been in place since the late 1970s. The M-2 district will allow for conforming operations for Aurora Coop. After purchasing these properties, Aurora Coop will be removing the improvements that are located on each of these tracts. They will prep the site for expansion of fertilizer storage. This will include three 1-million gallon storage tanks. Prior to the extension of the two-mile jurisdiction to the City of Kearney, Mr. Slack was working with Buffalo County on this and they had railroad right-of-way zoned as industrial. Some of Aurora Coop's current operations at this site are currently resting within the railroad right-of-way. Select Sprayers which is currently located on the corners of Highway 30 and Imperial Road is also zoned industrial with the County. M-2 zoning allows for the expansion of Aurora Coop's fertilizer storage capacity and current operations which creates the highest and best use of these properties. The use of the land is in line with the same land use in proximity to the railroad and the City of Kearney. With several businesses in and around the area having the different operations, this is a great opportunity for the City of Kearney to become consistent with the use.

Don Engel, 1403 7th Street, Gibbon, Nebraska, Western Sales and Service Coordinator for Aurora Coop, stated that the 1-million gallon size tank would be a standard size tank within the industry. They currently have two ½-million gallon tanks on the railroad right-of-way and the reason for the smaller tanks was due to space restraints. The million gallon tank will be same height as the ½-million gallon which is 32 feet tall. The 1-million gallon tanks are actually 20 foot bigger around than the ½-million gallon tank.

Mr. Engel stated that in answer to the environmental factor, 32 percent nitrogen will be stored in these tanks which is a non-hazardous material according to the EPA. They are closely regulated by the EPA and DEQ and these tanks would be built to those standards. When these tanks are erected, the seams are x-rayed so they know all the seams are sealed. A pad is put down under the tank, so if there should be a leak in the floor, rather than going into the ground, it would be able to be detected. Inside these tanks is also a rubber bladder, with leak detection material between it and the sidewall. If the rubber bladder should leak, it would be contained within the tank and they would be warned about the problem.

Council member Buschkoetter asked what kind of security they have for theft since some of their materials can be used for nefarious purposes. Mr. Engel stated this material does not have the ingredient that some other fertilizer products have been used for. These tanks are made to be locked up when they are not in use.

Mayor Clouse asked about the buffer and a fenced area from the neighbors. Mr. Engel

stated the property line to the east is where they intend to put a fence and some kind of landscaping. They will also have a driveway along there that will be wide enough to get semi-tractors and trucks through so the tanks are not going to be very close to the property line.

William Olsen, 6700 East 39th Street, voiced concerns with regard to this project. His property is just east of this site and their bedroom window is within about ten feet of the property line. One of the questions from the Planning Commission was regarding the extra traffic that will be on the road going to this site. It is a gravel road which has a tremendous amount of traffic on it now. When the grader grades the road in a morning, by noon it is washboard again. His concerns are the additional traffic and the affect it will have on the gravel road.

Mr. Engel stated they do not have any plans for additional road maintenance. It is maintained by the County and they set the schedule. His guess would be that traffic would increase about one-third over what it is now even though they have a lot of extra storage. Currently, a lot of their products are brought in during the off season by rail. It is advantageous to their company to bring this stuff in during the off-season and put it in storage and take advantage of the price breaks, etc.

Council member Lammers stated there is significant traffic anyway since it is an agricultural business and a spraying business. Mr. Engel stated from the first of March to the middle of August is the busiest time, after that it is not bad. They had access to Highway 30 to the west so a lot of their traffic went out that way until the railroad put in the third main line. The agreement was if they closed that outlet, the railroad would give the County some money to fix up the road for the extra traffic. He said approximately 75 percent of their traffic used to go out to the west rather than to the east. Now they have no choice. The County road only goes so far and then the rest is railroad right-of-way and there are a couple of houses along the way that are also on railroad right-of-way. He has talked with the County on a regular basis trying to get them to do something with the roadway. They did put some clay and some white rock on it about 4-5 years ago, but that is as far as it ever got.

City Manager Michael Morgan stated if the facility is properly zoned for this type of traffic then the responsible government entity would have to be advised and be responsible for the maintenance of that roadway within reason. This might not solve the entire problem because much of the area they use is railroad right-of-way and is not a true road. Mr. Olsen also shares this same road for access and although this is not a true commercial business, it would not generate as much traffic as some commercial. Mr. Morgan suggested the Director of Public Works can forward an inquiry to the County regarding the status of this road.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Patrick Slack from Century 21 Midlands (Applicant) for W & S Investments, LLC, Jeanette L. DeBoer, Jerod Dalen Hahn, and Aurora Cooperative (Owners) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from "Agricultural Preserve" to "General Industrial" for tracts of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6540, 6620, 6630, 6670

East 39th Street) and approve **Resolution No. 2009-72**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2009-72**

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 the following several tracts of land: part of Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, that lies south of the right-of-way of the Union Pacific Railroad Company and west of a line drawn at right angles to the south line of said Section 27 and 1,423 feet west of the southwest corner of said Section 27. AND a tract of land being part of Government Lot 3 located in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Section 27; thence westerly on the south line of said Section, a distance of 1,249.0 feet to the Actual Place of Beginning; thence continuing westerly on the aforesaid course a distance of 70.0 feet; thence northerly at right angles a distance of 188.58 feet to a point on the south right-of-way line of the Union Pacific Railroad; thence northeasterly on the aforesaid south right-of-way line a distance of 73.51 feet; thence southerly a distance of 211.0 feet to the place of beginning. AND part of Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: commencing at a point 1,423 feet west of the southeast corner of said Section 27, and running thence north along the east line of a tract of land sold to one, E.D. Gould to a point 200 feet south of the center of the main line of the Union Pacific Railroad Track, and running thence in a northeasterly direction and 200 feet distant and parallel to said railroad track to a point that would be 104 feet east of the said Gould tract, and running thence south, parallel to and 104 feet east of the said Gould tract to the south line of said Section 27, and running thence west along said south line, 104 feet to the place of beginning, in Buffalo County, Nebraska. AND a tract of land being part of Government Lot 3 located in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Section 27; thence westerly on the south line of said Section a distance of 1,156.0 feet to the Actual Place of Beginning; thence continuing westerly on the afore described course a distance of 93.0 feet; thence northerly at right angles a distance of 211.0 feet to a point on the south right-of-way line of the Union Pacific Railroad; thence northeasterly on the aforesaid south right-of-way line a distance of 102.1 feet; thence southerly a distance of 242.2 feet to the place of beginning, except that part being used for road purposes on the south side, subject to easements and restrictions or covenants of record, all tracts being located in Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street) from "Agricultural Preserve" to "General Industrial", 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 "Agricultural Preserve" to "General Industrial" the use classification for the areas described as follows: part of Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, that lies south of the right-of-way of the Union Pacific Railroad Company and west of a line drawn at right angles to the south line of said Section 27 and 1,423 feet west of the southwest corner of said Section 27. AND A tract of land being part of Government Lot 3 located in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Section 27; thence westerly on the south line of said Section, a distance of 1,249.0 feet to the Actual Place of Beginning; thence continuing westerly on the aforesaid course a distance of 70.0 feet; thence northerly at right angles a distance of 188.58 feet to a point on the south right-of-way line of the Union Pacific Railroad; thence northeasterly on the aforesaid south right-of-way line a distance of 73.51 feet; thence southerly a distance of 211.0 feet to the place of beginning. AND part of Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: commencing at a point 1,423 feet west of the southeast corner of said Section 27, and running thence north along the east line of a tract of land sold to one, E.D. Gould to a point 200 feet south of the center of the main line of the Union Pacific Railroad Track, and running thence in a northeasterly direction and 200 feet distant and parallel to said railroad track to a point that would be 104 feet east of the said Gould tract, and running thence south, parallel to and 104 feet east of the said Gould tract to the south line of said Section 27, and running thence west along said south line, 104 feet to the place of beginning, in Buffalo County, Nebraska. AND a tract of land being part of Government Lot 3 located in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Section 27; thence westerly on the south line of said Section a distance of 1,156.0 feet to the Actual Place of Beginning; thence continuing westerly on the afore described course a distance of 93.0 feet; thence northerly at right angles a distance of 211.0 feet to a point on the south right-of-way line of the Union Pacific Railroad; thence northeasterly on the aforesaid south right-of-way line a distance of 102.1 feet; thence southerly a distance of 242.2 feet to the place of beginning, except that part being used for road purposes on the south side, subject to easements and restrictions or covenants of record, all tracts being located in Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street).

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING FOR 6540, 6620, 6630, 6670 EAST 39TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Patrick Slack from Century 21 Midlands (Applicant) for W & S Investments, LLC, Jeanette L. DeBoer, Jerod Dalen Hahn, and Aurora Cooperative (Owners) to rezone from Distract AG, Agricultural District to District M-2, General Industrial District for tracts of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street). Planning Commission recommended approval.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Patrick Slack from Century 21 Midlands (Applicant) for W & S Investments, LLC, Jeanette L. DeBoer, Jerod Dalen Hahn, and Aurora Cooperative (Owners) to rezone from Distract AG, Agricultural District to District M-2, General Industrial District for tracts of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **CDBG PROGRAM INCOME REUSE FUNDS**

Mayor Clouse opened the public hearing concerning the change of intent of CDBG Program Income Reuse Funds for economic development activity and to consider approval of Resolution No. 2009-73.

Grants and Marketing Coordinator Suzanne Brodine stated the Buffalo County Economic Development Council voted at their last meeting to recommend to the City Council that \$66,000 of the CDBG Reuse Funds be converted to grant dollars for the purpose of helping with the cost of installing industrial and commercial infrastructure in an area generally described as 30th Avenue and West 11th Street.

These funds meet the CDBG Reuse Plan objective of “providing necessary infrastructure to businesses” as well as “creating or retaining jobs in Buffalo County, primarily for low- to moderate-income persons”.

Suzanne Brodine, Grants/Marketing Coordinator, stated that the CDBG Reuse funds up to this point have been used for loans. The County approved converting their portion of the Reuse funds to be used for the grant activity for economic development. The recommendation is to change the manner in which we used the City’s portion of the funds for grants instead of loans.

City Manager Michael Morgan stated that the original funds are the City’s and they revert them back to the Development Council. He stated that the City is in control of those funds so there would not be a conflict of converting the purpose.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing concerning the change of intent of CDBG Program Income Reuse Funds for economic development activity and approve **Resolution No. 2009-73**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2009-73**

WHEREAS, the Buffalo County Economic Development Council has recommended to the City Council that \$66,000.00 of the Community Development Block Grant (CDBG) Reuse Funds be converted to infrastructure grant dollars to be

used to install water, sewer and roadway improvements for an area described as 30th Avenue and 11th Street for future industrial and commercial growth; and

WHEREAS, the City Council has deemed it to be in the best interests of the City of Kearney to convert \$66,000.00 of the CDBG Reuse Funds as requested.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve converting \$66,000.00 of the Community Development Block Grant Reuse Funds to infrastructure grant dollars to be used to install water, sewer and roadway improvements for an area described as 30th Avenue and 11th Street for future industrial and commercial growth.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**IV. CONSENT AGENDA**

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

- 1. Approve Minutes of Regular Meeting held May 26, 2009.
- 2. Approve the following Claims:

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

Aflac \$2,721.66 Ps; Agri Coop \$13,186.10 Smcs; Alamar Uniforms \$411.13 Smcs; Alltel \$1,209.36 Smcs; Amax Contracting \$945.00 Smcs; AOSNC \$12,388.00 Co; B2B Computer Products \$2,242.50 Smcs; Baker & Taylor Books \$1,026.14 Smcs; Becker,A \$22.00 Smcs; Blackstone Audiobooks \$103.84 Smcs; Blessing \$1,000.00 Co; Bloomer,C \$14.50 Smcs; Bluecross Blueshield \$68,663.28 Smcs; Brodine,S \$800.00 Smcs; Brown Traffic Products \$15,980.00 Smcs; Buffalo Co Dist Court \$228.48 Ps; Buffalo Co Treasurer \$18,750.00 Smcs; Builders \$7,481.90 Smcs; Camera Doctor \$123.00 Smcs; Cash-Wa \$196.45 Smcs; Chad \$12.00 Ps; Charter \$619.94 Smcs; Chief Construction \$19,869.96 smcs,co; City of Ky \$269,780.87 smcs,ps; College Savings Plan of NE \$100.00 Ps; Copycat Printing \$66.70 Smcs; Craven,K \$27.88 Smcs; Credit Management Services \$240.93 Ps; Crossroads Welding \$2,922.00 Co; Cummins Central Power \$7,135.83 Smcs; Cybernetics \$3,603.95 Co; Dan Roeder Concrete \$157,979.85 Co; Dell \$4,866.76 Co; Depository Trust \$256,697.63 Ds; Designer Craft \$995.00 Smcs; Development Council \$2,025.16 Smcs; Doje's Forensic Supplies \$70.16 Smcs; DPC Industries \$5,419.40 Smcs; Dutton-Lainson \$35.81 Smcs; Eakes \$2,438.06 Smcs; Eickhoff,B \$80.00 Smcs; Eirich,T \$50.00 Smcs; Fankell,E \$29.03 Smcs; Fedex \$86.42 Smcs; Fiddelke \$75.00 Smcs; Forbes,M \$24.33 Smcs; Gale \$233.63 Smcs; Galls \$188.94 Smcs; Gangwish Turf \$33.00 Smcs; Garrett Tires & Treads \$4,174.14 Smcs; General Traffic Controls \$8,768.74 Smcs; George,M \$21.97 Smcs; Gienger,J

\$60.00 Smcs; Girl Scouts of America \$100.00 Smcs; Glock Professional \$300.00 Smcs; Grint,K \$106.98 Smcs; H&H Distributing \$1,393.70 Smcs; HD Supply \$4,645.84 Smcs; Heartland Surgery Center \$11,531.37 Smcs; Hilkemeier,J \$40.71 Smcs; Holiday \$77.20 Smcs; Holz,C \$29.88 Smcs; Hometown Leasing \$207.71 Smcs; ICMA RC \$4,766.68 Ps; Intellicom \$500.00 Smcs; IRS \$102,050.23 Ps; Intl Assn Electrical \$204.00 Smcs; Intoximeters \$189.00 Smcs; Jack Lederman \$240.41 Smcs; James,D \$1,000.00 Smcs; Junkin,D \$18.00 Smcs; Kayton Electric \$6,350.00 Co; Ky Crete \$376.00 Smcs; Ky Hub \$1,097.60 Smcs; Ky Humane Soc \$4,000.00 Smcs; Ky Towing \$300.00 Smcs; Ky United Way \$856.50 Ps; Ky Visitors Bureau \$25,519.11 Smcs; Ky Winnelson \$402.32 Smcs; Kirkwood,M \$58.83 Smcs; Konica Minolta \$155.23 Smcs; Kowalek,G \$49.14 Smcs; Lang,L \$60.60 Smcs; LCL Truck Equipment \$3,239.00 Smcs; Magic Cleaning \$1,700.00 Smcs; Mason Motors \$4,654.74 Co; McCarty,D \$1.00 Smcs; McInturf,R \$33.02 Smcs; Metlife \$8,896.86 Ps; Midlands Contracting \$120,357.20 Co; Miller & Associates \$49,268.25 Co; Misko Sports \$4,534.27 Smcs; Moonlight Embroidery \$90.00 Smcs; Municipal Supply \$45,521.68 Smcs; NASRO \$40.00 Smcs; NE Child Support \$2,837.74 Ps; NE Dept of Revenue \$44,722.18 Ps; NE DOL/Office of Elevator \$200.00 Smcs; NE Library Commission \$4,016.50 Smcs; NE Mosquito & Vector \$70.00 Smcs; NE Press Advertising \$590.00 Smcs; NE Public Health \$3,486.00 Smcs; NE Safety & Fire \$150.00 Smcs; NEland Distributors \$1,118.00 Smcs; Neopost \$6,000.00 Smcs; Nichols,K \$32.47 Smcs; Nielsen,M \$26.89 Smcs; Northwestern Energy \$887.62 Smcs; NSA \$2,356.00 Smcs; Office Depot \$844.86 Smcs; Officenet \$504.00 Smcs; O'Keefe Elevator \$1,550.50 Smcs; Oldham,D \$44.43 Smcs; Orr,L \$35.00 Smcs; Paramount Linen \$16.17 Smcs; Pat's Plumbing \$600.00 Smcs; Paulsen \$191,043.45 Co; Payflex Systems \$493.00 Ps; Physio-Control \$303.41 Smcs; Platte Valley Comm \$1,062.70 smcs,co; Powerplan \$2,234.29 Smcs; Presto-X \$195.00 Smcs; Protech \$2,390.00 Smcs; Pulliam,R \$40.00 Smcs; Quill \$178.10 Smcs; Random House \$21.60 Smcs; Recorded Books \$718.63 Smcs; Red Willow Co \$1,820.00 Smcs; Sahling Kenworth \$2,852.85 Smcs; Sam's Club \$1,443.70 Smcs; Sanchez,B \$55.00 Smcs; Sands,M \$23.84 Smcs; Sapp Brothers \$17,308.17 Smcs; Sherwin-Williams \$36.72 Smcs; Sirchie Finger Print Lab \$155.01 Smcs; Snap-On Tools \$340.00 Smcs; Snow,T \$50.00 Smcs; Solid Waste Agency \$46,880.08 Smcs; St of NE/AS Central \$3,592.65 Smcs; St of NE/DAS Comm \$18.51 Smcs; Statewide Collection \$41.33 Smcs; Steele,K \$50.41 Smcs; Steinbrink Landscaping \$2,950.00 Co; Story,G \$103.40 Smcs; Stott,D \$10.33 Smcs; Strategic Insights \$675.00 Smcs; Sun Life Financial \$29,241.61 Smcs; Sungard Public Sector \$10,178.83 Smcs; Sydow,J \$40.00 Smcs; Theis,J \$60.00 Smcs; Thurston Heating \$442.52 Smcs; Tye & Rademacher \$10,567.87 Smcs; US Cellular \$40.00 Smcs; Underwriters Labs \$550.00 Smcs; Village Uniform \$503.62 Smcs; VS Visual Statement \$1,096.20 Smcs; Water Products \$5,629.30 Smcs; Weiss,J \$38.40 Smcs; West Villa Animal Hospital \$126.67 Co; Wilke-Donovan \$18.50 Smcs; Zimmerman Printers \$156.09 Smcs; Zubrod,D \$35.00 Smcs; Payroll Ending 5-23-2009 -- \$330,594.99. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

**3.** Approve Application and Certificate for Payment No. 6 in the amount of \$258,705.00 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. 2009-74.**

**RESOLUTION NO. 2009-74**

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 Application and Certificate for Payment No. 6 in the amount of \$258,705.00 as shown on Exhibit "A" 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)	+ 3,667.00
Change Order No. 8 (5-12-2009)	+ <u>3,072.00</u>
Contract Sum to Date	\$2,795,373.00
Total Completed and Stored to Date	1,1445,129.00
Retainage	144,512.90
Amount Due to Date	1,300,616.10
Less Previous Certificates for Payment	<u>1,041,911.10</u>
Current Payment Due	\$ 258,705.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 6, as shown on Exhibit "A", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**4.** Accept the report from the City Clerk on the sufficiency of objection/protest filed in connection with Paving Improvement District No. 2009-937, Water District No. 2009-558, Sanitary Sewer District No. 2009-498 for 16th Street from a point 131 feet west of vacated Avenue P thence east a distance of 441 feet.

**5.** Approve the application for a Special Designated License submitted by Kearney Event Center in connection with their Class CK-66275 liquor license to dispense beer, wine and distilled spirits an enclosed fenced area (temporary beer garden) in front of the arena in the parking lot of the Kearney Event Center, 609 Platte Road, on July 3, 2009 (alternate date is July 4, 2009) from 5:00 p.m. until 1:00 a.m. for the July 4th Celebration.

**6.** Approve the application for a Special Designated License submitted by KEARNEY BBQ CO., dba Skeeter Barnes in connection with their Class I-55865 liquor license to dispense beer, wine and distilled spirits at Scorr Marketing, 2201 Central

Avenue, Suite A, on July 9, 2009 from 4:00 p.m. until 9:00 p.m. for a business anniversary and appreciation event.

7. Approve the application for a Special Designated License submitted by KEARNEY BBQ CO., dba Skeeter Barnes in connection with their Class I-55865 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on August 15, 2009 from 4:00 p.m. until 12:00 a.m. for a wedding reception.

8. Approve the 2009 Recovery Justice Assistance Grant for the Kearney Police Department to go towards the purchase of an automated fingerprint identification system and a QUICK Start mobile computing and bar coding system for evidence management and approve **Resolution No. 2009-75**.

**RESOLUTION NO. 2009-75**

WHEREAS, the Kearney Police Department, in conjunction with the Buffalo County Sheriff's Department, is making application for the 2009 ARRA Byrne Justice Assistance Grant with funds going toward the purchase of an automated fingerprint identification system and a QUICK Start mobile computing and bar coding system for evidence management.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Grant Application and other related documents on behalf of the City of Kearney.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

9. Approve the Joint City of Kearney-Buffalo County 2009 ARRA Byrne Justice Assistance Grant Program Award Interlocal Agreement the purchase of an automated fingerprint identification system and a QUICK Start mobile computing and bar coding system for evidence management and approve **Resolution No. 2009-76**.

**RESOLUTION NO. 2009-76**

WHEREAS, the Kearney Police Department, in conjunction with a grant awarded to the Buffalo County Sheriff's Office, will apply awarded funds towards the purchase of an automated fingerprint identification system and the purchase a QUICK Start mobile computing and bar coding system for evidence management; and

WHEREAS, the grant program identifies the City of Kearney and Buffalo County as disparate jurisdictions and requires a joint application; and

WHEREAS, the City and County believe it to be in their best interests to enter into an Interlocal Agreement with regard to the JAG funds.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Joint City of Kearney-Buffalo County 2009 ARRA Byrne Justice Assistance Grant Program Award Interlocal Agreement the purchase of an

automated fingerprint identification system and a QUICK Start mobile computing and bar coding system for evidence management, attached as Exhibit A and made a part hereof by reference, be and is hereby approved.

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

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7524 – REPEAL ORDINANCE NO. 7520 CREATING PAVING DISTRICT NO. 2009-937**

The City received an email from a property owner requesting to improve 16th Street near Avenue P by providing paving. In reviewing the area, the City determined that it would be beneficial to install water and sanitary sewer prior to the placement of the concrete street. On May 12, 2009 the City Council passed and approved Ordinances creating paving, water and sanitary sewer for 16th Street from a point 131 feet west of vacated Avenue P thence east a distance of 441 feet.

Administration received written objections from some of the property owners within the proposed districts. It appears there is approximately 800 feet of assessable footage with 534 feet in objection to the creation of paving, water and sanitary sewer districts which represents 66.75 percent. Section 16-620 of the Nebraska Revised Statutes states “If the owners of the record title representing more than fifty percent of the front footage of the property abutting or adjoining and continuous or extended street, cul-de-sac, or alley of the district, or portion thereof which is closed at one end, and who were such owners at the time the ordinances creating the districts were published, shall file with the city clerk, within 20 days (30 days for water and sewer) from the first publication of said notice, written objections to the improvements of a district, said work shall not be done in said district under said ordinance, but said ordinance shall be repealed.” Since the objection for the districts do represent more than fifty percent, the districts will need to be repealed. Attached are three ordinances repealing the paving, water and sanitary sewer districts.

Council Member Clouse introduced Ordinance No. 7524, being Subsection 1 of Agenda Item V to repeal Ordinance No. 7520 creating Paving Improvement District No. 2009-937 for 16th Street from a point 131 feet west of vacated Avenue P thence east a distance of 441 feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear.

Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7524 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7524 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7524 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. 7525 – REPEAL ORDINANCE NO. 7521 CREATING WATER DISTRICT NO. 2009-558**

Council Member Clouse introduced Ordinance No. 7525, being Subsection 2 of Agenda Item V to repeal Ordinance No. 7521 creating Water District No. 2009-558 in 16th Street from a point 131 feet west of vacated Avenue P thence east a distance of 441 feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7525 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7525 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7525 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. 7526 – REPEAL ORDINANCE NO. 7522 CREATING SEWER DISTRICT NO. 2009-498**

Council Member Clouse introduced Ordinance No. 7526, being Subsection 3 of Agenda Item V to repeal Ordinance No. 7522 creating Sanitary Sewer District No. 2009-498 in

16th Street from a point 131 feet west of vacated Avenue P thence east a distance of 441 feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7526 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7526 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7526 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. 7527 – REZONING FOR 6540, 6620, 6630, 6670 EAST 39TH STREET (PERTAINS TO PUBLIC HEARING 2)**

Council Member Lammers introduced Ordinance No. 7527, being Subsection 1 of Agenda Item VI to rezone from Distract AG, Agricultural District to District M-2, General Industrial District for tracts of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (6540, 6620, 6630, 6670 East 39th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7527 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 Lear seconded by Buschkoetter that Ordinance No. 7527 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. 7527 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.

### **MANAGER APPLICATION FOR THE VENUE RESTAURANT & LOUNGE**

Mayor Clouse opened for discussion the Manager Application of Bruce Bauer submitted by VRK LLC, dba Venue Restaurant & Lounge in connection with their Class C-78777 liquor license located at 110 2nd Avenue South.

Bruce Bauer, 1907 West 35th Street, Kearney, presented this matter to the Council. He recently bought out the previous partner that was a managing member that had the liquor license for the Venue. Mr. Bauer was also named on that license. The Venue has been involved in 2-3 stings since he started both for nicotine and alcohol and had no problems or issues. In Lincoln if someone has been arrested for DUI, they must name the last place they were at and they had not had incidences involving their business. He was not sure if that was the same in Kearney.

Mayor Clouse stated that the Venue has had no violations since their opening and have complied with all the training.

Mr. Bauer stated they do not get a lot of minors in their restaurant/bar. They do go through an extensive training program with their managers and make use of their black book. He has a good friend that is on the State Patrol who comes in about once every six months and talks to staff about proper IDs, what people are doing to make fake IDs. Their policy is that if there is ever a question, they just tell them that they are unable to serve them and get a manager to talk to the customer. They try to keep their policy as simple as possible. He believed that the couple of people that they had to turn away were involved in the sting. The only other time they would have issues is if there is a wedding going on in the hotel. They are vigilant about that and have communication with the Holiday Inn when those events are taking place.

Moved by Buschkoetter seconded by Clouse to approve the Manager Application of Bruce Bauer submitted by VRK LLC, dba Venue Restaurant & Lounge in connection with their Class C-78777 liquor license located at 110 2nd Avenue South. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **ANNEXATION POLICY AND EXTENSION OF TWO-MILE EXTRATERRITORIAL JURISDICTION**

Mayor Clouse opened for discussion the City of Kearney Annexation Policy and extension of the Two-Mile Extraterritorial Jurisdiction and to consider approval of Resolution No. 2009-77. Planning Commission recommended approval and requested additional language be added regarding adequate notice to affected property owners

and zoning administrators in Buffalo or Kearney Counties when the two-mile boundary is extended.

City Manager Michael Morgan presented this matter to the Council. As was discussed recently at the Planning Commission meeting, there are many potential benefits to annexation of “new” land into the corporate boundary of the City and consideration of a corresponding increase in the two-mile Extraterritorial Jurisdiction (ETJ). Annexation has occurred on a regular basis in Kearney yet the City has not adopted a formal Annexation Policy. City Administration believes it is important to establish a clear policy for annexation and extension of the two-mile ETJ.

The benefits of annexation include:

- Opportunity to guide growth and development at the urbanized fringe.
  - Planning and zoning.
  - Transportation and roadway development.
  - Acquisition of right-of-way and easements.
  - Environmental preservation.
  - Code enforcement.
  - Establishment of development standards.
  - Reduction of urban sprawl.
  - Incremental utility and infrastructure extensions.
  - Prevention of anticipated undesirable development patterns.
- Incorporation of areas of strategic importance to the City of Kearney.
- Increase in property tax base.
- Preservation of quality of life.

The benefits of regulating land in the ETJ:

- City regulation of land uses previously in the jurisdiction of Buffalo or Kearney Counties.
  - Regulation consistent with established City policies and regulations.

Moved by Clouse seconded by Kearney to adopt the City of Kearney Annexation Policy and extension of the Two-Mile Extraterritorial Jurisdiction and approve **Resolution No. 2009-77**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2009-77**

WHEREAS, there are many potential benefits to annexation of “new” land into the corporate boundary of the City and consideration of a corresponding increase in the two-mile Extraterritorial Jurisdiction; and

WHEREAS, it is important to establish a clear policy for annexation and extension of the two-mile Extraterritorial Jurisdiction; and

WHEREAS, the Planning Commission has recommended approval to the City Council of the policy for annexation and extension of the two-mile Extraterritorial Jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the “Policy for Annexation of Property into the Corporate

Limits of the City of Kearney and Extension of the Two-Mile Extraterritorial Jurisdiction Line” be and is hereby adopted and approved. A copy of the Policy is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**RESOLUTION OF INTENT TO ANNEX EAST HIGHWAY 30 FROM ANTELOPE AVENUE TO CHERRY AVENUE**

Mayor Clouse opened for discussion Resolution No. 2009-78 on the intent to annex the following tract of land: a tract of land being U.S. Highway 30 from the intersection of Antelope Avenue located on the west line of Government Lot 1, Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, thence east to the intersection of Cherry Avenue and U.S. Highway 30 located on the east line of said Section 32, as the same is located within part of Government Lots 1 and 5; and part of the Northeast Quarter of the Southwest Quarter of said Section 32 and lying north of the north right-of-way line of the Union Pacific Railroad and south of Lots 1 and 2 of Vantage Industrial Park, Buffalo County Nebraska; and part of the Northwest Quarter of the Southeast Quarter of said Section 32 lying north of the north right-of-way line of the Union Pacific Railroad; and part of the South Half of the Northeast Quarter of said Section 32, lying north of the north right-of-way line of the Union Pacific Railroad and abutting the east line of said Section 32 at Cherry Avenue, all in Buffalo County, Nebraska and to set the public hearing date for June 23, 2009 at 7:00 p.m.

City Manager Michael Morgan presented this matter to the Council. The Council annexed Kearney Crete and Block, Morris Press and Cabelas. To clarify the ownership and maintenance of East Highway 30, the City is proceeding to annex it to make it part of the City limits.

Moved by Kearney seconded by Lammers to approve **Resolution No. 2009-78** on the intent to annex the following tract of land: a tract of land being U.S. Highway 30 from the intersection of Antelope Avenue located on the west line of Government Lot 1, Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, thence east to the intersection of Cherry Avenue and U.S. Highway 30 located on the east line of said Section 32, as the same is located within part of Government Lots 1 and 5; and part of the Northeast Quarter of the Southwest Quarter of said Section 32 and lying north of the north right-of-way line of the Union Pacific Railroad and south of Lots 1 and 2 of Vantage Industrial Park, Buffalo County Nebraska; and part of the Northwest Quarter of the Southeast Quarter of said Section 32 lying north of the north right-of-way line of the Union Pacific Railroad; and part of the South Half of the Northeast Quarter of said Section 32, lying north of the north right-of-way line of the Union Pacific Railroad and abutting the east line of said Section 32 at Cherry Avenue, all in Buffalo County, Nebraska and to set the public hearing date for June 23, 2009 at 7:00 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

**RESOLUTION NO. 2009-78**

WHEREAS, the City of Kearney, Nebraska in accordance with Section 16-117 of the Nebraska Revised Statutes is considering the annexation of contiguous or adjacent lands, lots, tracts, streets or highway as are urban or suburban in character and a plan for extending city services to the following described tract of land: A tract of land being U.S. Highway 30 from the intersection of Antelope Avenue located on the west line of Government Lot 1, Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, thence east to the intersection of Cherry Avenue and U.S. Highway 30 located on the east line of said Section 32, as the same is located within part of Government Lots 1 and 5; and part of the Northeast Quarter of the Southwest Quarter of said Section 32 and lying north of the north right-of-way line of the Union Pacific Railroad and south of Lots 1 and 2 of Vantage Industrial Park, Buffalo County Nebraska; and part of the Northwest Quarter of the Southeast Quarter of said Section 32 lying north of the north right-of-way line of the Union Pacific Railroad; and part of the South Half of the Northeast Quarter of said Section 32, lying north of the north right-of-way line of the Union Pacific Railroad and abutting the east line of said Section 32 at Cherry Avenue, all in Buffalo County, Nebraska.

WHEREAS, the City Council will conduct a public hearing on June 23, 2009 to receive testimony from all interested parties and/or individuals; and

WHEREAS, the plan outlining the City services, including but not limited to: (a) water, sanitary sewer, storm sewer, refuse collection, are currently being provided and maintained by the City of Kearney and no additional utility improvements will be required; and (b) a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City and the general land use pattern in the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that a plan outlining the City services available to the above-described property, together with a map showing the current boundaries of the City, a map showing the proposed boundaries of the City after annexation, and a map showing the general land use pattern in the land proposed for annexation is hereby adopted and approved and shall be available for inspection during regular business hours in the office of the City Clerk.

BE IT FURTHER RESOLVED that a public hearing on the proposed annexation shall be held at 7:00 p.m. on June 23, 2009, or as soon thereafter as the matter may be heard, in the City Council Chambers located at City Hall, 18 East 22nd Street, Kearney, Nebraska to receive testimony from all interested parties and/or individuals.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to publish in the *Kearney Hub* at least once, not less than ten days preceding the date of the public hearing, a copy of this Resolution and a map drawn to scale delineating the land proposed for annexation.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to send by first-class mail, a copy of the resolution providing for the public hearing to the school board of the school district including the lands proposed for annexation.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**RESOLUTION OF INTENT TO ANNEX PLATTE RIVER COMMERCIAL PARK,  
PLATTE RIVER COMMERCIAL PARK SECOND ADDITION, NORTH ACRE THIRD,  
BUFFALO COMMONS RETIREMENT VILLAGE**

Mayor Clouse opened for discussion Resolution No. 2009-79 on the intent to annex the following tracts of land: Lot 1, Block 1, Platte River Commercial Park, a subdivision being part of Government Lot 1, part of Government Lot 2, part of Government Lot 4 and part of Government Lot 5 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Lots 1 and 2 of Block 1, Platte River Commercial Park Second Addition, a subdivision being part of Government Lot 2 and part of Government Lot 4 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Lot 1 of Block 2 and Lot 1 of Block 3, North Acre Third, an addition being part of the Southeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; Lots 1 and 2, together with all of 56th Street abutting said Lot 2, Buffalo Commons Retirement Village, a subdivision being part of the South Half of the Southeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to set the public hearing date for June 23, 2009 at 7:00 p.m.

City Manager Michael Morgan presented this matter to the Council. There are five tracts of land that were platted and developed in the past, but were not annexed at that time for various reasons. These properties are now annexable and the City proposes to annex them into the corporate limits. Some of these properties were obligated to future annexation without protest by subdivision agreement when the property was platted.

TRACTS A and B – Platte River Commercial Park; Lot 1, Block 1, Platte River Commercial Park; Lots 1 and 2, Block 1, Platte River Commercial Park Second Addition. These tracts are located on the east side of Antelope Avenue north of Kearney Crete and Block. All tracts are developed and occupied by businesses, are contiguous to City limits, and connected to City services. A subdivision agreement was prepared and executed in 2000 for Lot 1, Block 1 of Platte River Commercial Park and Lot 1, Block 1, Platte River Commercial Park Second.

TRACT C – Lot 1, Block 2 and Lot 1, Block 3 of North Acre Third Addition. There are two lots remaining from the original subdivision. The other lots have been vacated and replatted. The two lots are located on the west side of 4th Avenue, north and south of West 60th Street respectively. The lots are currently vacant but contiguous to the City limits and City services are available. A subdivision agreement was prepared and executed in 1996.

TRACT D – Lots 1 and 2, Buffalo Commons Retirement Village. This property is located at the northwest corner of the intersection of 56th Street and 4th Avenue. The site is developed as a retirement village, is contiguous to City limits and is served by City services. A subdivision agreement was prepared and executed in 1996.

Since these properties are now contiguous to the City limits and connected to City services, or readily available to connect to said services, staff is recommending annexation at this time. The City Attorney has sent letters to the property owners informing them of the City's intent to annex. Based on a favorable recommendation from Planning Commission, the City Council will approve the Resolution of Intent, set the public hearing for June 23, 2009 and prepare an ordinance of annexation and bring these properties into the corporate limits of the City of Kearney. Annexation of these properties will not affect the Two-Mile Extra Territorial Jurisdiction line.

Moved by Lammers seconded by Lear to approve **Resolution No. 2009-79** on the intent to annex the following tracts of land: Lot 1, Block 1, Platte River Commercial Park, a subdivision being part of Government Lot 1, part of Government Lot 2, part of Government Lot 4 and part of Government Lot 5 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Lots 1 and 2 of Block 1, Platte River Commercial Park Second Addition, a subdivision being part of Government Lot 2 and part of Government Lot 4 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; Lot 1 of Block 2 and Lot 1 of Block 3, North Acre Third, an addition being part of the Southeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; Lots 1 and 2, together with all of 56th Street abutting said Lot 2, Buffalo Commons Retirement Village, a subdivision being part of the South Half of the Southeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to set the public hearing date for June 23, 2009 at 7:00 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2009-79**

WHEREAS, the City of Kearney, Nebraska in accordance with Section 16-117 of the Nebraska Revised Statutes is considering the annexation of contiguous or adjacent lands, lots, tracts, streets or highway as are urban or suburban in character and a plan for extending city services to the following described tract of land:

#### **TRACT A – PLATTE RIVER COMMERCIAL PARK**

Lot 1, Block 1, Platte River Commercial Park, a subdivision being part of Government Lot 1, part of Government Lot 2, part of Government Lot 4 and part of Government Lot 5 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

#### **TRACT B – PLATTE RIVER COMMERCIAL PARK SECOND ADDITION**

Lots 1 and 2 of Block 1, Platte River Commercial Park Second Addition, a subdivision being part of Government Lot 2 and part of Government Lot 4 located in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

#### **TRACT C – NORTH ACRE THIRD**

Lot 1 of Block 2 and Lot 1 of Block 3, North Acre Third, an addition being part of the Southeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

#### **TRACT D – BUFFALO COMMONS RETIREMENT VILLAGE**

Lots 1 and 2, together with all of 56th Street abutting said Lot 2, Buffalo Commons Retirement Village, a subdivision being part of the South Half of the Southeast Quarter

of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.

WHEREAS, the City Council will conduct a public hearing on June 23, 2009 to receive testimony from all interested parties and/or individuals; and

WHEREAS, the plan outlining the City services, including but not limited to: (a) water, sanitary sewer, storm sewer, refuse collection, are currently being provided and maintained by the City of Kearney and no additional utility improvements will be required; and (b) a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City and the general land use pattern in the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that a plan outlining the City services available to the above-described properties, together with a map showing the current boundaries of the City, a map showing the proposed boundaries of the City after annexation, and a map showing the general land use pattern in the land proposed for annexation is hereby adopted and approved and shall be available for inspection during regular business hours in the office of the City Clerk.

BE IT FURTHER RESOLVED that a public hearing on the proposed annexation shall be held at 7:00 p.m. on June 23, 2009, or as soon thereafter as the matter may be heard, in the City Council Chambers located at City Hall, 18 East 22nd Street, Kearney, Nebraska to receive testimony from all interested parties and/or individuals.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to publish in the *Kearney Hub* at least once, not less than ten days preceding the date of the public hearing, a copy of this Resolution and a map drawn to scale delineating the land proposed for annexation.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to send by first-class mail, a copy of the resolution providing for the public hearing to the school board of the school district including the lands proposed for annexation.

PASSED AND APPROVED THIS 9TH DAY OF JUNE, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIMS: NPPD - \$168.11, PLATTE VALLEY STATE BANK - \$45,664.10, SCHOOL DISTRICT #7 - \$2,849.90**

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$45,664.10 payable to Platte Valley State Bank, and in the amount of \$168.11 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$2,849.90 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

## **VII. REPORTS**

### **IMPROVEMENTS NEAR KEARNEY CATHOLIC HIGH SCHOOL**

City Manager Michael Morgan updated the Council on the improvement of the intersection of 35<sup>th</sup> Street and Avenue A. The improvements will help with the traffic entering Avenue A from the east.

### **AIRPORT ROAD**

City Manager Michael Morgan updated the Council on Airport Road. The project is nearing completion with landscaping and signage remaining to be completed.

### **RENOVATION OF AIRPORT TERMINAL**

City Manager Michael Morgan stated they are working with a consultant on the renovation of the Airport Terminal instead of constructing a new facility.

## **VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 7:50 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**