

Kearney, Nebraska
July 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 July 14, 2009, in the Council Chambers at City Hall. Present were: Randy Buschkoetter, Vice-President of the Council; Michaelle Trembly, City Clerk; Council Members Don Kearney, Bruce Lear, and Bob Lammers. Absent: Mayor Stanley Clouse. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Karen Lueck, Shannon Thompson, Charles McGraw, Trent Snow, Don Engel, Mitch Humphrey, Sue Balfany, Judy Sickler, Damon Day, Kent Cordes, Sara Giboney from Kearney Hub, Steve Altmaier from KGFW Radio.

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

I. ROUTINE BUSINESS

INVOCATION

There was no representation from the Kearney Ministerial Association, so the Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

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

FINAL PLAT FOR AURORA SUBDIVISION

Vice-President Buschkoetter opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Aurora Cooperative Elevator Company (Owner) for the Final Plat for Aurora Subdivision of Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., containing 2.38 acres, more or less, Buffalo County, Nebraska (south of railroad tracks, ¼ mile west of Imperial Avenue) and to consider approval of Resolution No. 2009-93. Planning Commission recommended approval.

The applicant is requesting approval to combine four tracts of land containing a combined total area of 2.18 acres into a subdivision. You will recall this property from last month when it was rezoned for liquid fertilizer storage for Aurora Co-op. The site is located east of Kearney on the south side of Highway 30 and the UP Railroad tracks at the rail stop known as Buda. This property is located in the Two-Mile Extraterritorial Jurisdiction of the City of Kearney and has never been platted. The separate tracts are currently described by metes and bounds. State law requires any tract of land less than 10 acres be placed in a subdivision by preparing and filing a subdivision plat. All of this property was recently rezoned to M-2.

The Preliminary Plat was approved by Planning Commission at the June 19, 2009 meeting. The Preliminary and Final plat consist of a one lot subdivision, 2.18 acres in size. There is no subdivision agreement or Public Works Plan required. The co-op building encroaches into the front yard setback the way it is located on the lot. If it is ever destroyed and rebuilt it must comply with the setbacks required for the zoning district.

Trenton Snow and Don Engel were present to answer any questions.

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 Trenton Snow (Applicant) for Aurora Cooperative Elevator Company (Owner) for the Final Plat for Aurora Subdivision of Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 3 in Section 27, Township 9 North, Range 15 West of the 6th P.M., containing 2.38 acres, more or less, Buffalo County, Nebraska (south of railroad tracks, ¼ mile west of Imperial Avenue) and approve **Resolution No. 2009-93**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-93

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Aurora Subdivision, a subdivision being part of Government Lot 3 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 and assuming the south line of said Section 27 as

bearing west and bearings contained herein are relative thereto; thence west on aforesaid south line a distance of 1156.0 feet to the ACTUAL PLACE OF BEGINNING; thence west continuing on the aforesaid south line a distance of 845.5 feet to a point on the south right-of-way line of the Union Pacific Railroad; thence N74°14'35"E on the aforesaid south right-of-way line a distance of 892.53 feet; thence said south right-of-way line S01°08'18"W a distance of 242.2 feet to the place of beginning, containing 2.38 acres, more or less, of which 0.60 acres, more or less, are presently being used for road purposes on the south side, all in 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, Buffalo 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 JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

LAND USE MAP AMENDMENT AT 11TH STREET AND AVENUE H

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

Vice-President Buschkoetter opened the public hearing on the proposed amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Mixed Use 1 for the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H) and to consider approval of Resolution No. 2009-94. On a split vote, Planning Commission recommended approval and suggesting, but not requiring, the landscaping for RYDE Transport be similar to the landscaping for Brown Transfer located to the east.

The applicant is requesting approval to rezone a tract of land containing a combined total area of 2.9 acres located east of Kearney on the south side of 11th Street between Avenue H and Avenue G if extended south. A Land Use Map amendment and rezoning are required to bring this property into conformance. This parcel of land consisting of multiple platted lots and known as South Park Addition will be vacated and combined to make one lot in the future. The intended use for this property is for offices and a bus storage facility for RYDE Transit. The current land use designation for this property is "Low Density Residential". If approved, the Land Use Map will be amended to "Mixed Use 1- Neighborhood Mixed Use."

The corresponding zoning is C-3, General Commercial District. The property will be rezoned from R-3 to C-3. Adjacent zoning to the east is M-1 and to the west is C-0. The proposed C-3 zone provides a transition between the lighter commercial zoning and the industrial zoning. The Planning Commission questioned whether C-3 zoning is necessary. Would a less intensive commercial zone provide for this use? Staff reminded

the Commission of the commercial and industrial zoning already in the area and the opportunity for transitional zoning. The proposed use fits best in C-3 zoning.

Charles McGraw, 16 West 11th Street, Transportation Director for Community Action Partnership of Mid-Nebraska and RYDE Transit, presented this matter to the Council. RYDE stands for Reach Your Destination Easily. The reason for their rezoning request is for them to build an office and a bus storage facility for their public transportation vehicles here in Kearney. RYDE Transit has applied for Aero-funds to construct this facility in Kearney. RYDE Transit has providers in Buffalo, Adams, Franklin, Kearney and Gosper Counties. RYDE serves about 3,000 square miles and a population base of about 85,000. The construction plans for the building follow the Lead Certification for energy and environmental design including recycled wastewater, ground storage heat pumps, natural lighting and landscape buffers. They want it to be a state of the art facility, recognizing world transportation in Nebraska. They are also working with ARP and Nebraska Public Transportation Coalition to work with some regional transportation out of this location and to coordinate some of that as well.

Council member Buschkoetter asked Mr. McGraw to discuss the suggestion that the Planning Commission had in terms of requiring additional buffering and landscaping on 11th Street. Mr. McGraw stated in working with their conceptual design, one of the things they did was work with Lead Certification requirements which go beyond the expectations suggested by the Planning Commission for the 11th Street buffer. Council member Buschkoetter also asked Mr. McGraw to address some of the concerns of the neighbors at the proposed site since this was a little different zoning for this area. Mr. McGraw said that 10th Street will be vacated and they looked at putting the cul-de-sac in to accommodate fire trucks, etc. so they could get turned around at the end of Avenue G.

Shannon Thompson, 920 East 26th Street, Principal of the Duncan Thompson Group, stated dealing with RYDE and their qualifications for some stimulus money and transportation authority money, they had to identify certain Lead compliances. A great portion of the Lead compliance is lowering the carbon footprint. There will be a double buffer, privacy fence for the residential side and a large number of plantings. The Lead requirements are a specific number of trees based on the overall footprint. They are adding trees in addition to a landscape firm on what is proposed to be the future residential area of this part of town. The street side will mirror and go beyond the grounds to the east. This will have the same overall landscape features that Brown Transportation put in with their addition. By this facility utilizing as much green space as possible, they are enhancing the overall view just as Brown's has done and then some. The street appeal of the facility is going to be greatly enhanced. The permitting process will include a much more complete set of drawings.

In order to more fully explain this, it is better to look at how they got to where they are now. The Duncan Thompson Group has been working with Mr. McGraw and his staff for 6-9 months and has been dealing with the federal government in terms of his association getting federal money. They had found some unusual requirements in helping them get their funding regarding the design. In the course of them getting some TSA money, they will have to provide a very detailed plan and schematic not only of the facility, but how they are going to achieve their Lead ratings. The plan and schematic

will included the detailed landscaping plan. They would be willing to put language in the agreement to assure the landscaping and green space will be included.

City Manager Michael Morgan stated in the development of the process and prior to issuing a permit, City staff can make sure that what is being proposed tonight is consistent with what is submitted. He believed staff can determine what their expectations on paper are when they get to that point. The Planning Commission approved it with a recommendation of exceeding the Code requirements for landscaping.

Council member Kearney stated the rezoning is the key; the neighbors built their homes on the north side with the expectations it would be R-1/R-2 zoning. Now a commercial piece of property will be there instead. His concern was the comments from the neighborhood he received after Brown Transfer was approved to be located in that area several years ago. Mr. Thompson stated they anticipate meeting with DRT, Max Richardson and Lance Lange before the time of permitting. There are a number of regulatory hoops they need to jump through going back to the funding sources that will require documentation and proof that they have had some interaction with local government. At that time, staff would have an opportunity to insert their recommendations into the overall permit before issuing an occupancy permit.

Council member Lammers stated he was not too concerned because in order for them to get the money for the overall project, they are going to have to meet all of the landscaping guidelines.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the proposed amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Mixed Use 1 for the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H) and approve **Resolution No. 2009-94**. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-94

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 south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H) from Low Density Residential to Mixed Use 1, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Low Density Residential to Mixed Use 1 the use classification for the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H).

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

REZONING AT 11TH STREET AND AVENUE H

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Community Action Partnership of Mid-Nebraska (Applicant) and Mid Nebraska Community Services (Owner) to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-3, General Commercial District for the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H). On a split vote, Planning Commission recommended approval and suggesting, but not requiring, the landscaping for RYDE Transport be similar to the landscaping for Brown Transfer located to the east.

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 Community Action Partnership of Mid-Nebraska (Applicant) and Mid Nebraska Community Services (Owner) to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-3, General Commercial District for the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H). Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

LAND USE MAP AMENDMENT NORTH OF 56TH STREET AND EAST OF 11TH AVENUE

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

Vice-President Buschkoetter opened the public hearing on the proposed amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential and Medium Density Residential to Mixed Use 1 for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 15.57 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and to consider approval of Resolution No. 2009-95. Planning Commission recommended approval.

The applicant is requesting approval to develop 18.07 acres for a Church and a commercial building site. The property is located north of 56th Street and east of 11th Avenue if extended north. This project requires an amendment to the Future Land Use Map, rezoning, subdivision platting, and annexation.

The current land use designation for this property on the Future Land Use Map of the City of Kearney Comprehensive Development Plan is "Low Density and Medium Density Residential." The proposed designation is "Mixed Use 1." The property is currently zoned Agricultural. The proposed rezoning is 1.9 acres contained in a corner lot to C-2, Community Commercial District, and 13.38 acres to R-2, Urban Residential Mixed Density District for the church site and .0359 acres also to R-2 for Outlot A, an outlot intended for future access to the church site from the north.

The Preliminary Plat was approved by Planning Commission last month at the June 19, 2009 meeting. The Preliminary and Final Plat consist of a three-lot subdivision with one outlot and two buildable lots. The commercial lot shown as Lot 2 at the southwest corner of the development is 1.90 acres. The church lot is Lot 1 consisting of 13.38 acres and Outlot A contains .0359 acres. The subdivision will be known as Spruce Hollow Estates Fourth Addition and is a total of 18.07 acres including the outlot. 11th Avenue is platted as a 100-foot wide right-of-way extending north from 56th Street approximately 380 feet. A short cul-de-sac, 57th Street Place, is approximately 310 feet deep and extends east from 11th Avenue to provide access into the church lot. Staff offers the following comments:

- a) There will be no access allowed to 56th Street. Access for both the commercial lot and the church lot shall be taken from 11th Avenue and 57th Street Place.
- b) A Public Works Plan has been provided. There will be no building permits issued until public infrastructure is constructed in 11th Avenue and in 57th Street Place in accordance with the approved Public Works Plan, including the future force main sewer that will be required to serve future development north of this subdivision.
- c) Connection fees must be paid for the 56th Street frontage before connecting to City sewer and water.
- d) The church lot and commercial lot can connect to water and sewer in 56th Street.

By way of Outlot A, the proposed subdivision is contiguous to the city limits and it can be served with city services. There is adequate capacity as demonstrated in the approved Public Works Plan. Therefore, staff recommends that this property be annexed as an addition to the City of Kearney.

Future development of the Wilson property located east of this tract was discussed at Planning Commission. Mitch Humphrey representing Staphanie Vavra (Doug Wilson's daughter), the current owner of the Wilson property, asked for consideration of how the Wilson property might be accessed in the future and suggested that the layout of Spruce Hollow Estates Fourth Addition be modified to better accommodate future development of the Wilson property. City Planner stated that whoever develops property first and plats roadways determines the roadway network, assuming the City Council approves the plat. Adjacent parcels that develop later are expected to tie into

the established road network. There is no reason to adjust any of the Spruce Hollow plat for consideration of adjacent property that may not develop for years from now. In the future, when the Wilson property is developed the development plans for the Wilson property must be designed to tie into surrounding development.

Kent Cordes from Miller & Associates presented this matter to the Council. Some of the area has already been platted and is slightly different than what is shown on the development plans that were presented 2-3 years ago. The streets have changed slightly from the development plan presented in 2007 for Spruce Hollow Estates Third. This is the future site of Faith Christian School. There are two other commercial lots, the future home of Prince of Peace Catholic Church and their proposed site on the east side. The future plan for the site shows some of the changes that have occurred. Spruce Hollow Estates and Spruce Hollow Estates Second were updated, final platted and have been constructed and ready for home buyers.

The existing zoning adjacent to the property to the east is zoned C1/PD. There is a commercial property zoned C-2 directly south across 56th Street. Spruce Hollow Estates Third was zoned commercial and is south of that which is north of the Northridge Retirement Center. DT Development developed Spruce Hollow Estates and Spruce Hollow Estates Second into residential. The request is to zone the smaller commercial lot (approximately 1.9 acres) to C-2 and the larger parcel to R-2 which is planned for the future Baptist Church site.

They have also included an outlot that is zoned R-2 which would give them connectivity to this outlot and future green space in the overall development plan. There will also be a storm water management area, as well as, a green space park area (hike/bike trail area). They want to allow pedestrian access to the future church site so they have platted a 30-foot wide outlot there to provide that access. The other benefit of that outlot is for future sewer service. They will need to construct another lift station, a force main that will bring sewer back to 56th Street. They have platted an easement along the east side of this property and that outlot lies over the top of it so there will be an easement that people cannot build on anyway, so it makes sense to use that for connectivity to the future green space. Currently, it is platted as an outlot in Spruce Hollow Estates Second. This outlot is in a flood plane so they cannot build in that area. The developers decided to keep it more as an amenity with some parks and trails.

Mr. Cordes stated he has worked with the land owner to the south to extend the trail system and in conjunction with Neal Lewis and City staff have outline an overall future plan for hike/bike trails through this entire area. There are about 800 acres controlled by those two developers.

Mr. Cordes stated the three platted lots to the east belong to the Wilson property. There is a driveway that kind of comes through the middle of one of those lots. That driveway is used only for emergency access, such as if they would need to get a fire truck in there. There is an agreement in place for an emergency access into Spruce Hollow Estates Second. The home that is there connects to 60th Street which is where their access comes from.

This is a unique parcel concerning the public works plan. There is an existing lift station

for sanitary sewer south of the property. Wastewater flows from the west in a gravity main down to this lift station and is pumped backed up through a force main to the top of the hill where it goes back into a gravity main. This gravity main is not deep enough to the north to serve a lot more distance as development continues to the north. For that reason, they will have to build a lift station further north with a force main bringing that wastewater back. Their intention is to eventually remove the existing lift station and have accounted for that in their future plans for development. They have worked with City staff to identify how the sewer will work. The plan is to initially serve two lots with gravity back to the manhole which will be served by the existing lift station. At the same time, they are going to build a gravity main that will flow to the north under the existing pavement as necessary. It will be plugged until such time as this main extends north to the future force main. They will disconnect where they are draining back into the lift station, so all that water will go to the new lift station that the developer will have to construct in the future.

Because of that fact, they are not going to be able to develop any further north than this until they get that future lift station in place. They have an existing 16-inch water main along the north side of 56th Street which they will connect to. They will also extend a 12-inch main up 11th Avenue and 57th Street Place to provide service to the two lots and future services as the road extends. There is an existing culvert under 11th Avenue that will be extended to drain the storm water across 56th Street and continue it to the flood plane area. There is natural drainage that flows to the Wood River.

Mitch Humphrey, representing the Wilson family, in particular Staphanie Vavra, voiced concerns on behalf of the family. The Wilson family is the owner of the property to the east of the proposed tract. She expressed her respect for the plan that Miller & Associates put together for the DT Development and believed that they are doing it the right way. They are taking a large piece of property and making a master plan and putting it together piece by piece so that it works. Ms. Vavra has some concerns regarding this particular phase. Her father, Doug Wilson, developed the three lots on top of the hill. At the time, no one recognized that 56th Street would develop like it is developing today. There was a design for a frontage road on the front of those three commercial lots, but they agree that is not going to be built. They believe that access to those lots should be to the north side of the three lots via a public road.

At the Planning Commission meeting, they voiced concerns about accessibility to those three lots through a connecting road through DT Development's ground. He has been working with Ms. Vavra and her family to lay out a preliminary plat. They are aware of a preliminary plat that DT Development presented in 2006 that shows a connecting road in the general location of the north side of the lots. Their concern is the lack of connectivity and would like to discuss that at the meeting set with Ben Hirschfield and Kent Cordes on Friday. It would have been ideal to have their meeting before this Council meeting, but Friday was the first time that Ms. Vavra could be here.

In looking at their preliminary plat, there is a street that runs north and south and t's off into a cul-de-sac that provides one access point to a church that is growing. In his mind that demonstrates there is going to be a bottleneck getting in and out of that church. He doubts that the City wants to have another driveway from that church onto 56th Street, particularly with the corridor there and the slopes along 56th Street. It is not his plan or

his project as far as the platting is concerned, but he would like to hold discussions concerning access. He did have one suggestion that he made at the Planning Commission meeting which was to develop a cul-de-sac on the eastern edge of the DT Development ground in line with the north side of the lot that they have for the Tami Addition which would potentially provide another exit for the church goers. He did not know if that would work, but he believed a discussion with the neighbors would have been good in this case. The new updated preliminary plat seems to show an angling road coming in from the northwest. The concept that he has worked up, but has not worked with the City on too much, terminates in a cul-de-sac in that general location. He is not sure this conception for a road will work for this property, but it is a possibility. He has a lot of faith in what Mr. Cordes does and he has done a good job with DT Development in trying to match adjoining property owners with each phase when they can.

If the Council chooses to approve this project as is, they will have to react accordingly in the development of their property. Ms. Vavra has a property that is a little difficult to develop because there is a low area that drains some water under 56th Street to the north. The access issues to 56th Street are difficult which the City staff has been aware of for several years since the Wilsons contacted them to find a way to develop this property should the City expand to the north.

Council member Lammers stated there had been ample time for the Wilsons to work with DT Development about this access since that had been presenting plans for the development of the adjacent land since 2006. He asked why this had not been discussed prior to this Council meeting.

Mr. Humphrey stated that he understood what Mr. Lammers was saying, but the plans that he had been creating and putting together for the Wilson property were based on the current preliminary plat that is on file with the City. They recognized that issue. There was a DRT meeting regarding the connectivity points. When the proposal for this 15 acres came in, it was somewhat of a left turn based upon what they have recorded of record, it caused some consternation on their part. He understands how things fall, but he wanted to take the opportunity to voice her concerns.

Mr. Cordes stated that what Mr. Humphrey referred to was the angling road in their future plan. Mr. Hirschfield and the church have an agreement for a future access to the north from this property. However, they do not know exactly where that is going to be located along the north side. They have an agreement in principle that there will be a secondary access provided. One of their thoughts is they would prefer that secondary access be on their property because DT Development controls when that happens. If they rely on a secondary access from the east and their property does not develop for 10-15 years and out is developed, then we are somewhat hamstrung. This way they are in control to make sure that the property has adequate access. Secondly, the closer the contours are, the steeper the hill. The Wilson's metal building sits up on quite a hill. That would make a pretty good difference in elevation for the street to come through at this location on the back side of those lots. They are not exactly sure, but short of doing some serious grading out there, he did not know if that was an acceptable location.

Part of this also comes back to the church because the church has entered into an

option to purchase this property and decided to exercise that option. At that point, DT Development needs to figure out a way to get the property conveyed to them. It is a large enough property that they could sell it off as a metes and bounds description. That means that they do not have to do a subdivision or a plat; however, it is cleaner and easier if they do plat the ground. That is the process that Mr. Hirschfield chose to follow, to make sure that it is platted, subdivided, zoned and annexed. This process will allow the City limits to extend as they grow. From that Mr. Hirschfield can simply sell this particular lot of this subdivision. The option to purchase the land was based on a certain described property.

DT Development is a little reluctant to change the boundaries of that without the approval from the church. Mr. Cordes stated they would have liked to have had this meeting sooner, but it did not work out prior to this meeting, but are still interested in discussing with the Wilson family what options they have. Mr. Humphrey did request to continue this item for two weeks. In talking with Mr. Hirschfield, he elected not to continue this for a couple of reasons. One reason is if they continue this, if they do elect to change something, they have to start the process over again which means back to Planning Commission and then back to Council. If it is approved at this meeting and they elect to make some changes they can do that process by vacating a plat, replatting it, but it goes back to Planning Commission and so on. Their preference is to have the Council approve tonight. They will still meet on Friday to see if there are areas that they can work together on. If it warrants replatting, they would look at doing that. If it does not, then everything is done and the process is complete. DT Development is willing to work with them. In fact, it was Mr. Hirschfield's idea after Planning Commission when Mr. Humphrey raised these issues that we contact them. Mr. Hirschfield made first contact with them in that regard.

Mr. Humphrey stated that this is one of the few plats that he has put together that shows a proposed road going to the north that is suppose to be used for access to a church that could be built next week with only one access point. He is a little confused at that comment so he wanted to voice concerns for that issue. Once the Council approves this plat, he wanted the Council to be aware that they do not have to have any platting that recognized an access point to the north. He added that he appreciates Mr. Hirschfield's willingness to discuss this, but with all that said it would have been great to have had that discussion first.

City Manager Michael Morgan stated that if Mr. Cordes would like to add the second access as it was discussed with the DRT, it could be added to the Council motion to require it. Mr. Cordes stated that they would be open to that being included in the motion. Although, they have signed a subdivision agreement, but they would be open to amending the subdivision agreement to show that access to the north. They will provide a copy of the agreement to the church. Mr. Cordes stated the church has said that they are 3-5 years out from building so we are a ways ahead of the game in that respect. It is possible that the commercial lot area and the additional road area may be developed before the church, if they find a buyer for that parcel. The infrastructure in 11th Avenue and 57th Street Place would happen at the time.

City Manager suggested that a condition of a certain date be required or within a certain date of when the church is completed. That could be determined later, so that an

established date would not have to be moved later. Mr. Cordes stated they would have been happy to have another access off 56th Street, but that does not fit with the City street plan. City Manager stated the City's concern is limited access on 56th Street. Council member Lammers stated he would not have a problem with an access built within two years after the completion of the church. There is only so much space up there to put two access exits up there which is further hindered by the slope in the area. Council member Buschkoetter stated that actually it would be just adding what was not put in because they were not quite ready for it. It has been agreed upon with the church so this would just solidifying it.

Moved by Buschkoetter seconded by Kearney to close the hearing and approve the proposed amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential and Medium Density Residential to Mixed Use 1 for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 15.57 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and approve **Resolution No. 2009-95**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-95

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 located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Southwest Quarter; thence N00°40'09"W (an assumed bearing, with all other bearings shown hereon relative thereto) on the east line of said Southwest Quarter a distance of 50.00 feet; thence S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 709.64 feet to the Actual Point of Beginning; thence continuing S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 300.00 feet; thence N00°24'58"W a distance of 278.08 feet; thence N89°44'09"E a distance of 300.00 feet; thence S00°15'51"E a distance of 276.12 feet to the Point of Beginning, said tract containing 1.90 acres, more or less, AND a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Southwest Quarter; thence N00°40'09"W (an assumed bearing, with all other bearings shown hereon relative thereto) on the east line of said Southwest Quarter a distance of 50.00 feet to the Actual Point of Beginning; thence S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 709.64 feet; thence N00°15'51"W a distance of 276.12 feet; thence S89°44'09"W a distance of 40.00 feet; thence N00°15'51"W a distance of 53.00 feet; thence northerly, westerly and southwesterly along a curve to the left having a central angle of 164°55'48", a radius of 50.00 feet, and an arc length of 143.93 feet; thence S89°44'09"W a distance of 20.11 feet; thence N07°39'49"W a distance of 162.82 feet; thence N30°18'01"W a distance of 223.82 feet; thence N36°59'06"E a distance of 148.98 feet; thence S68°08'34"E a distance of 314.37 feet; thence N89°28'46"E a distance of 575.85 feet; thence N00°40'01"W parallel with said east line a distance of 438.70 feet; thence S44°15'13"E a distance of 43.51 feet to said east line; thence

S00°40'01"E on said east line a distance of 1107.06 feet to the Point of Beginning, said tract containing 13.67 acres, more or less, all in Buffalo County, Nebraska all in Buffalo County, Nebraska from Low Density Residential and Medium Density Residential to Mixed Use 1, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Low Density Residential and Medium Density Residential to Mixed Use 1 the use classification for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Southwest Quarter; thence N00°40'09"W (an assumed bearing, with all other bearings shown hereon relative thereto) on the east line of said Southwest Quarter a distance of 50.00 feet; thence S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 709.64 feet to the Actual Point of Beginning; thence continuing S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 300.00 feet; thence N00°24'58"W a distance of 278.08 feet; thence N89°44'09"E a distance of 300.00 feet; thence S00°15'51"E a distance of 276.12 feet to the Point of Beginning, said tract containing 1.90 acres, more or less, AND a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: referring to the southeast corner of said Southwest Quarter; thence N00°40'09"W (an assumed bearing, with all other bearings shown hereon relative thereto) on the east line of said Southwest Quarter a distance of 50.00 feet to the Actual Point of Beginning; thence S89°31'08"W parallel with the south line of said Southwest Quarter a distance of 709.64 feet; thence N00°15'51"W a distance of 276.12 feet; thence S89°44'09"W a distance of 40.00 feet; thence N00°15'51"W a distance of 53.00 feet; thence northerly, westerly and southwesterly along a curve to the left having a central angle of 164°55'48", a radius of 50.00 feet, and an arc length of 143.93 feet; thence S89°44'09"W a distance of 20.11 feet; thence N07°39'49"W a distance of 162.82 feet; thence N30°18'01"W a distance of 223.82 feet; thence N36°59'06"E a distance of 148.98 feet; thence S68°08'34"E a distance of 314.37 feet; thence N89°28'46"E a distance of 575.85 feet; thence N00°40'01"W parallel with said east line a distance of 438.70 feet; thence S44°15'13"E a distance of 43.51 feet to said east line; thence S00°40'01"E on said east line a distance of 1107.06 feet to the Point of Beginning, said tract containing 13.67 acres, more or less, all in Buffalo County, Nebraska all in Buffalo County, Nebraska.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

REZONING NORTH OF 56TH STREET AND EAST OF 11TH AVENUE

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) to rezone from District AG, Agricultural District to District C-2, Community Commercial District AND to District R-2, Urban Residential Mixed-Density District for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 15.57 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue). Planning Commission recommended approval.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) to rezone from District AG, Agricultural District to District C-2, Community Commercial District AND to District R-2, Urban Residential Mixed-Density District for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 15.57 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue). Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

FINAL PLAT FOR SPRUCE HOLLOW ESTATES FOURTH ADDITION

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the Final Plat and Subdivision Agreement for Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 18.07 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and to consider approval of Resolution No. 2009-96. Planning Commission recommended approval.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the Final Plat and Subdivision Agreement for Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 18.07 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and approve **Resolution No. 2009-96** subject to the second access be constructed within two years from the date the church has completed its facility. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-96

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: beginning at the southeast corner of the Southwest Quarter of said Section 23 and assuming the south line of said Southwest Quarter (also the centerline of 56th Street) as bearing S89°31'08"W and all bearings contained herein are relative thereto; thence S89°31'08"W and on said south line a distance of 1099.64 feet; thence N00°24'58"W a distance of 326.57 feet to the beginning a of a tangent curve to the left having a central angle of 06°53'31", a radius of 450.00 feet, an arc length of 54.13 feet; thence N82°41'31"E perpendicular to said curve a distance of 100.00 feet; thence N89°44'09"E a distance of 145.58 feet; thence N07°39'49"W a distance of 162.82 feet; thence N30°18'01"W a distance of 223.82 feet; thence N36°59'06"E a distance of 148.98 feet; thence S68°08'34"E a distance of 314.37 feet; thence N89°28'46"E a distance of 575.85 feet; thence N00°40'01"W a distance of 438.70 feet; thence S44°15'13"E a distance of 43.51 feet to the northwest corner of Lot 5 of Block 3, Spruce Hollow Second Addition to the City of Kearney, Buffalo County, Nebraska and the east line of said Southwest Quarter; thence S00°40'01"E on said east line a distance of 1157.06 feet to the place of beginning, containing 18.07 acres, more or less, all in Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabits of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

ANNEXATION OF SPRUCE HOLLOW ESTATES FOURTH ADDITION

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

Vice-President Buschkoetter opened the public hearing on the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the annexation of Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo

County, Nebraska for property described as a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 18.07 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and to consider approval of Resolution No. 2009-97. Planning Commission recommended approval.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the annexation of Spruce Hollow Estates Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 18.07 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th Avenue) and approve **Resolution No. 2009-97**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-97

WHEREAS, an Application has been submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the inclusion of Spruce Hollow Estates Fourth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly described as follows: beginning at the southeast corner of the Southwest Quarter of said Section 23 and assuming the south line of said Southwest Quarter (also the centerline of 56th Street) as bearing S89°31'08"W and all bearings contained herein are relative thereto; thence S89°31'08"W and on said south line a distance of 1099.64 feet; thence N00°24'58"W a distance of 326.57 feet to the beginning of a tangent curve to the left having a central angle of 06°53'31", a radius of 450.00 feet, an arc length of 54.13 feet; thence N82°41'31"E perpendicular to said curve a distance of 100.00 feet; thence N89°44'09"E a distance of 145.58 feet; thence N07°39'49"W a distance of 162.82 feet; thence N30°18'01"W a distance of 223.82 feet; thence N36°59'06"E a distance of 148.98 feet; thence S68°08'34"E a distance of 314.37 feet; thence N89°28'46"E a distance of 575.85 feet; thence N00°40'01"W a distance of 438.70 feet; thence S44°15'13"E a distance of 43.51 feet to the northwest corner of Lot 5 of Block 3, Spruce Hollow Second Addition to the City of Kearney, Buffalo County, Nebraska and the east line of said Southwest Quarter; thence S00°40'01"E on said east line a distance of 1157.06 feet to the place of beginning, containing 18.07 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on June 19, 2009 on the inclusion of Spruce Hollow Estates Fourth Addition within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Spruce Hollow Estates Fourth Addition an addition to the City of Kearney, Buffalo County, Nebraska;

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on July 14, 2009 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Spruce Hollow Estates Fourth Addition shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Spruce Hollow Estates Fourth Addition within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Kearney that Subsections 1 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

1. Approve Minutes of Regular Meeting held June 23, 2009.

2. Approve the following Claims:

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

3M \$6,480.00 Smcs; 4Imprint \$993.32 Smcs; Ace Hardware \$407.55 smcs,co; Adams,D \$60.55 Smcs; Adobe Systems \$346.68 Smcs; Aflac \$2,721.66 Ps; Alamar Uniforms \$1,185.49 smcs,ps; Alley Rose \$10.00 Smcs; Allied Electronics \$229.01 Smcs; Alltel \$1,270.55 Smcs; Amazon \$78.14 Smcs; Amer Cemetery \$85.00 Smcs; Amer Electric \$23.35 Smcs; Amer Fence \$88.16 Smcs; Amer First Aid \$116.00 Smcs; Amick,C \$63.91 Smcs; Amsan \$900.44 Smcs; Amtrontech \$51.83 Smcs; Anderson Brothers \$243.72 Smcs; Anderson Ford Lincoln \$17,189.00 Co; APA On-Line Merchandise \$87.84 Smcs; Apple Market \$47.66 Smcs; Arrow Seed \$631.00 Smcs; Ask Supply \$3,002.10 smcs,co; ASP Enterprises \$995.80 Smcs; Aurora Coop \$1,072.09 Smcs; B2B Computer Products \$376.00 Co; Baird Holm \$70.00 Smcs; Baker & Taylor Books \$4,784.23 Smcs; Bamford \$160.00 Smcs; Barcodes \$100.00 Smcs; Batterybarn \$41.90 Smcs; BBC Audiobooks \$515.22 Smcs; Beacon Athletics \$824.00 Smcs; Beckenhauer,T \$208.00 Smcs; Bennett,T \$777.75 Smcs; Bertholf,R \$106.99 Smcs; Best Lock \$370.00 Smcs; Blackstone Audiobooks \$469.72 Smcs; Blake,S \$23.04 Smcs; Bloomer,C \$35.58 Smcs; Bluecross Blueshield \$85,766.98 Smcs; Boogaarts \$14.08 Smcs; Bosselman \$1,600.24 Smcs; Bowerman,C \$46.47 Smcs;

Brilliance Audio \$399.34 Smcs; Broadfoot's \$256.00 Smcs; Brodart Company \$68.18 Smcs; Brown Traffic Products \$73.50 Smcs; Buffalo Co Dist Court \$267.54 Ps; Buffalo Co Sheriff \$109,652.06 Smcs; Buffalo Co Treasurer \$90.00 Co; Buffalo Co Weed District \$234.19 Smcs; Buffalo Outdoor Power \$736.26 smcs,co; Builders Warehouse \$1,445.68 smcs,co; Buydigcom \$138.99 Smcs; Cabela's \$103.98 Smcs; Campingsurvivalcom \$166.11 Smcs; Carquest \$207.13 Smcs; Cash-Wa \$1,055.05 Smcs; Central Hydraulic Systems \$7,526.93 Smcs; CH Diagnostic \$445.00 Smcs; Chad \$8.00 Ps; Charter \$289.96 Smcs; Charter Media \$1,179.50 Smcs; Chief Construction \$17,120.76 Co; Chiefs Choice \$90.72 Smcs; Cinema Entertainment \$202.00 Smcs; City of Ky \$197,566.36 smcs,ps; Clevenger Oil \$671.66 Smcs; CNA Surety \$40.00 Smcs; Cold Spring Granite \$180.00 Smcs; College Savings Plan of NE \$100.00 Ps; Comfort Suites \$721.24 Smcs; Computer Warehouse #4 \$44.97 Co; Concrete Workers \$50,702.60 Co; Conseco Life Ins \$24.00 Ps; Construction Rental \$736.25 Smcs; Control Masters \$54.50 Smcs; Copycat Printing \$1,299.88 Smcs; Corporate Edge \$2,822.00 Smcs; CPS \$4,158.16 Smcs; Creative Teacher \$46.62 Smcs; Credit Management Services \$240.93 Ps; Crossroads Ford \$788.79 Smcs; Cummins Central Power \$1,222.58 Smcs; D&M Security \$64.50 Smcs; Diamond Vogel Paint \$125.12 Smcs; Danielson \$1,855.93 Smcs; Dell \$1,123.23 smcs,co; Dent Popper \$475.00 Smcs; Department of Ins \$60.00 Smcs; Depository Trust \$510,692.49 Ds; Deterdings \$18,312.46 Smcs; Dish Network \$27.42 Smcs; Disney Educational Products \$57.45 Smcs; Dollar-General \$14.12 Smcs; DPC Industries \$11,769.81 Smcs; Dreyer,D \$87.71 Smcs; DRI Server \$104.86 Smcs; Dutton-Lainson \$247.86 Smcs; Eakes \$2,404.10 Smcs; Earl May \$793.24 Smcs; Ecolab \$31.00 Smcs; Eirich,T \$50.00 Smcs; Elliott Equipment \$1,538.94 Smcs; Emed \$740.90 Smcs; Encyclopedia Britannica \$1,395.00 Smcs; Engraving AW \$763.50 Smcs; Erpelding,D \$2.76 Smcs; Eynetich,P \$1.00 Smcs; Fairbanks Int'l \$3,375.80 Smcs; Farmers Union \$28.50 Smcs; Fastenal \$1,124.41 Smcs; Fiddelke Heating \$239.35 Smcs; Fisher,S \$23.82 Smcs; Fleming,K \$22.17 Smcs; Frontier \$16,097.41 Smcs; Gale \$375.93 Smcs; Galetton Gloves \$838.40 Smcs; Gansemer,T \$30.00 Smcs; Garrett Tires \$4,678.30 Smcs; GE Money Bank \$1,602.59 Smcs; Gealys Greenhouse \$73.48 Smcs; GL Sports \$484.32 Smcs; Glatte,L \$114.00 Smcs; Goff,R \$100.00 Smcs; Gooch Brake \$1,486.18 Smcs; Gopher Sport \$461.10 Smcs; Graham Tire \$597.79 Smcs; Grainger \$2,047.85 Smcs; Graphics Factory \$9.95 Smcs; Great Amer Outdoor \$125.90 Smcs; Great North American \$276.21 Smcs; Great Plains One Call \$564.74 Smcs; Great Plains Safety \$150.00 Smcs; Greyhouse Publishing \$206.05 Smcs; Gronewoller,S \$35.10 Smcs; Grupe,B \$195.00 Smcs; Guildcraft \$35.92 Smcs; H&H Distributing \$2,625.55 Smcs; Hach Co \$795.83 Smcs; Hamilton Caster \$376.33 Smcs; Harshbarger,K \$659.50 Smcs; Hasbrotoyshopcom \$66.25 Smcs; Hastings \$20.00 Smcs; HD Supply \$4,913.87 Smcs; Hellman,M \$100.00 Smcs; Hobby-Lobby \$281.90 Smcs; Holdrege Soft Water \$1.38 Smcs; Holiday \$88.41 Smcs; Holmes Plumbing \$874.19 Smcs; Hometown Leasing \$207.71 Smcs; Hooker Brothers \$441.60 Smcs; Hornungs Pro Golf \$677.08 Smcs; Hull,B \$84.53 Smcs; Hydrologic \$286.68 Smcs; IAET \$75.00 Smcs; ICMA \$4,990.53 smcs,ps; Info USA Marketing \$367.00 Smcs; Inside the Tape \$275.00 Smcs; IRS \$107,836.17 Ps; Int'l Code Council \$50.00 Smcs; Interstate All Battery \$25.00 Smcs; IPEX \$750.00 Smcs; IPMA \$360.00 Smcs; J&A Handy Crafts \$35.02 Smcs; Jack Lederman \$2,079.45 Smcs; Jack's Uniforms \$159.49 Smcs; Johnson Controls \$854.06 Smcs; Johnston,D \$52.19 Smcs; Jones Automotive \$230.19 Smcs; Jones,S \$19.42 Smcs; K&K Parts \$155.92 Smcs; Ky Centre Vac \$227.90 Smcs; Ky Clinic \$864.00 Ps; Ky Glass \$149.80 Smcs; Ky Hub \$3,680.34 smcs,co; Ky Humane Society \$4,000.00 Smcs; Ky Implement \$1,172.69

Smcs; Ky Liquor \$28.89 Smcs; Ky Noon Rotary \$95.00 Smcs; Ky Towing \$300.00 Smcs; Ky United Way \$571.00 Ps; Ky Warehouse \$3,112.68 Smcs; Ky Winlectric \$899.01 Smcs; Ky Winnelson \$19.42 Smcs; Ky Yamaha \$42.78 Smcs; Kewanna Screen Printing \$48.83 Smcs; KGFW/KQKY/KRNY \$981.92 Smcs; Kipp Brothers \$159.30 Smcs; Kirkham Michael \$443.60 Co; Kirkwood,M \$23.40 Smcs; Klein,K \$14.59 Smcs; Konica Minolta \$537.08 Smcs; Kowalek,G \$97.20 Smcs; Krav Maga Worldwide \$1,400.00 Smcs; League of NE Municipalities \$272.00 Smcs; Lesco \$872.32 Smcs; Lifeguard Store \$284.00 Smcs; Lincoln Truck Center \$77.04 Smcs; Linweld \$112.09 Smcs; Lips Printing \$112.50 Smcs; Lockmobile \$55.00 Smcs; Loescher,M \$159.00 Smcs; Logan Contractors \$390.10 Co; Look What's Cookin' \$9.90 Smcs; Madden,D \$49.99 Smcs; Magic Cleaning \$1,700.00 Smcs; Mail Express \$195.12 Smcs; Marlatt Machine Shop \$551.25 Smcs; Mast,A \$15.72 Smcs; McMaster-Carr \$487.05 Smcs; Menards \$2,854.73 smcs,co; Metlife \$6,152.25 Ps; Microfilm Imaging \$2,590.00 Smcs; Midlands Contracting \$410.50 Smcs; Midway Chevrolet \$635.80 Smcs; Midwest Labs \$21.90 Smcs; Midwest Turf \$361.18 Smcs; Milco Environmental \$7,883.71 Smcs; Milestek Corp \$32.84 Co; Miller & Associates \$10,522.65 Co; Miller Signs \$160.00 Smcs; Minitex \$1,015.00 Smcs; Misko Sports \$92.45 Smcs; Moonlight Embroidery \$1,452.75 Smcs; Motorola \$25,091.00 Smcs; Municipal Supply \$6,986.66 Smcs; Napa All Makes Auto \$5,618.53 Smcs; Nathan's Curb Grinding \$109.00 Co; Nature-Watch \$262.90 Smcs; NCS Equipment \$37.95 Smcs; NE Child Support \$2,532.89 Ps; NE Dept of Environmental \$15,846.42 Smcs; NE Dept of Revenue \$70,283.85 smcs,ps; NE Dept of Weights \$49.10 Smcs; NE Library Ass'n \$41.40 Smcs; NE Machinery \$367.38 Smcs; NE Press Advertising \$1,305.00 Smcs; NE Public Health \$3,075.00 Smcs; NE Salt & Grain \$24,355.02 Smcs; NE Sports Council \$2,000.00 Smcs; NE Truck & Equipment \$24.34 Smcs; NE Truck Center \$158.87 Smcs; Neland Distributors \$2,125.20 Smcs; Need Decals \$62.95 Smcs; Neopost \$6,000.00 Smcs; Netshops \$492.11 Smcs; Nevco \$772.84 Smcs; Newegg \$83.87 Co; Noffke,M \$78.00 Smcs; Norm's Plumbing \$1,342.89 Smcs; Northgate Vet \$239.00 Smcs; Northwestern Energy \$4,085.79 Smcs; Office Max \$1,943.88 smcs,co; Officenet \$1,709.52 smcs,co; Olson,W \$145.00 Smcs; O'Meara,B \$27.24 Smcs; On Site Mobile Sharpening \$49.00 Smcs; O'Reilly Auto \$1,530.79 Smcs; Oriental Trading \$344.05 Smcs; Orscheln \$895.07 Smcs; Overhead Door \$1,500.00 Smcs; Paramount Linen \$576.73 Smcs; Pat's Plumbing \$845.00 Smcs; Payflex Systems \$493.00 Ps; PDGA \$162.00 Smcs; PGA Member \$471.00 Smcs; Plains Tree Farm \$1,050.00 Smcs; Platte River Radio \$1,029.00 Smcs; Platte Valley Comm \$1,447.31 smcs,co; Precision Industries \$459.57 Smcs; Presto-X \$136.00 Smcs; Protech \$2,249.00 Co; Provantage \$242.77 Smcs; Pulliam,R \$40.00 Smcs; Quality Inn Suites \$66.95 Smcs; Quill \$704.15 Smcs; Quinn,J \$400.00 Smcs; Radioshack \$15.25 Smcs; Random House \$404.00 Smcs; RDJ Specialties \$1,548.67 Smcs; Reams \$167.42 Smcs; Recognition Unltd \$777.30 Ps; Recorded Books \$2,195.05 Smcs; Reinke's Heating \$2,312.87 Smcs; Renchen,L \$67.00 Smcs; Rhode Island Novelty \$78.39 Smcs; Richardson,K \$35.00 Smcs; Rick's Sod Farm \$429.00 Smcs; RNDC-Eagle Division \$261.28 Smcs; Robinson,D \$75.00 Smcs; RT Corp \$356.50 Smcs; Ruh,D \$49.99 Smcs; S&S Worldwide \$402.38 Smcs; Safe Center \$24.21 Smcs; Sahling Kenworth \$888.04 Smcs; Sanitation Products \$56.54 Smcs; Sapp Brothers \$26,860.30 Smcs; Schwan's \$869.51 Smcs; Sesna,D \$173.50 Smcs; Setcom Corp \$369.39 Smcs; S-F Analytical Lab \$490.00 Smcs; Sherwin Williams \$590.73 Smcs; Shop EZ \$5.33 Smcs; Simmons Gun Specialties \$441.09 Smcs; Snap-On Tools \$267.00 Smcs; Snow,T \$50.00 Smcs; Solid Waste Agency \$48,686.15 Smcs; Sorensen Group \$20,419.47 Co; Sowl,L \$39.99 Smcs; Sribner,B

\$49.99 Smcs; Stansbury Construction \$9.90 Smcs; State of NE/AS Central \$3,817.02 Smcs; Steinbrink's Landscaping \$3,523.26 Smcs; Stellar Industries \$246.16 Smcs; Sterling Distributing \$241.44 Smcs; Stone,M \$125.00 Smcs; Stumps \$70.45 Smcs; Sun Development \$126.80 Smcs; Sun Life Financial \$29,241.61 Smcs; Sungard \$51,220.00 Smcs; Sunmart \$210.88 Smcs; Sunny Communications \$857.00 Co; Super Shine Auto \$33.50 Smcs; Supershine Auto Care \$8.25 Smcs; SWANA \$171.00 Smcs; Sydow,J \$40.00 Smcs; Target \$519.77 Smcs; Theis,J \$60.00 Smcs; Thome,B \$619.50 Smcs; Thompson,K \$153.50 Smcs; Tincher Ford Mercury \$125,330.00 Co; Titan Machinery \$202.29 Smcs; Titleist \$3,656.33 Smcs; Tomlinson,E \$40.00 Smcs; Tractor-Supply \$1,112.79 Smcs; Trans Iowa Equipment \$193.04 Smcs; Tri City Outdoor Power \$542.16 smcs,co; Tri-Cities Group \$223.65 Smcs; TruGreen ChemLawn \$319.20 Smcs; Tye & Rademacher \$11,390.69 Smcs; U-Haul \$98.23 Smcs; Uline \$456.36 Smcs; United Air \$15.00 Smcs; United Seeds \$1,450.00 Smcs; Upbeat \$1,435.00 Smcs; UPS \$88.19 Smcs; Upstart \$98.34 Smcs; US Plastics \$196.13 Smcs; USA Blue Book \$712.06 Smcs; USPS \$1,182.40 Smcs; Valley Forklift \$67.51 Smcs; Van Diest Supply \$198.90 Smcs; Vessco \$1,089.18 Smcs; Vidprof Access \$189.95 Smcs; Village Uniform \$410.30 Smcs; W.T. Cox Subscriptions \$9,025.76 Smcs; Wal-mart \$1,714.86 smcs,ps; Walsh,C \$28.60 Smcs; Walters Electric \$414.58 Smcs; Ward Labs \$304.80 Smcs; Water Products \$394.05 Smcs; We Care Tree Care \$75.00 Co; White,F \$32.10 Smcs; Wiederspan,R \$270.63 Smcs; Wilke Contracting \$31,972.00 Co; Wilke Donovans \$216.91 smcs,co; Wilkins Hinrichs Stober \$7,920.00 Co; Wilmot,P \$7.93 Smcs; Yousendit \$109.99 Smcs; Payroll Ending 6-20-2009 -- \$359,272.68 and payroll ending 7-4-2009 -- \$360,941.59. 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 the Standard Contract for Engineering Services for the City of Kearney, Nebraska and approve **Resolution No. 2009-98**.

RESOLUTION NO. 2009-98

WHEREAS, the City Administration has recommended to the Council that a uniform, consistent policy with regard to the employment of professional services for the procurement of routine civil, structural, mechanical, and electrical engineering services, be adopted by the City of Kearney; and

WHEREAS, the City has developed a standard uniform engineering services contract; and

WHEREAS, adoption of a standard policy will give fair and equal treatment to all professionals, firms or companies seeking to provide professional engineering services to the City.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Contract for Engineer Services, marked as Exhibit "1", attached hereto and made a part hereof by reference, be and is hereby adopted as the standard Contract for Engineer Services for the City of Kearney.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

4. Approve Application and Certificate for Payment No. 8 in the amount of \$271,804.69 submitted by Paulsen, Inc. and approved by Kirkham Michael for the construction of the Airport Road Relocation Project and approve **Resolution No. 2009-99**.

RESOLUTION NO. 2009-99

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the construction of the Airport Road Relocation Project, and the City's engineer, Kirkham Michael, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$292,299.98 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$1,501,718.55</u>
Contract Sum to Date	1,501,718.55
Total Completed and Stored to Date	1,295,473.10
Retainage	129,547.31
Amount Due to Date	1,165,925.79
Less Previous Certificates for Payment	<u>1,165,925.79</u>
Current Payment Due	\$ 292,299.98

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. 8 as shown on Exhibit "A", be and is hereby accepted and approved.

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

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

5. Approve the Employment Agreement between the City of Kearney and Michael Morgan and approve **Resolution No. 2009-100**.

RESOLUTION NO. 2009-100

WHEREAS, the City Council of the City of Kearney, Nebraska, do hereby fix, prescribe and limit salary and wages to be paid by this City to the City Manager, pursuant to the authority granted in Section 1-301 of the Code of the City of Kearney, Nebraska, and Section 19-620 of the Nebraska Revised Statutes.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be paid an annual salary of One Hundred Fifty Thousand Six Hundred Forty-eight Dollars (\$150,648.00) effective July 1, 2009; said salary to be paid bi-weekly from any City funds in such proportionate amounts as the City Manager may determine.

BE IT FURTHER RESOLVED that the Vice-President of the Council be and is hereby authorized and directed to execute the Employment Agreement.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

6. Approve the request submitted by the Downtown Improvement Board to occupy the sidewalks in the downtown area and to block off Central Avenue from Railroad Street to 25th Street, excluding the intersections, on July 23, 2009 from 8:00 a.m. until 8:00 p.m. and on July 24 and 25, 2009 from 8:00 a.m. until 6:00 p.m. for Sidewalks Sales; and to close the south half of the parking lot located north of the Museum of Nebraska Art on July 25, 2009 from 9:00 a.m. to 11:00 a.m. for a bicycle decorating competition.

7. Approve **Resolution No. 2009-101** to comply with the requirements of the Nebraska Local Public Agencies (LPA) Manual for federal-aid transportation projects for Consultant Services Evaluation and Selection; Financing, Accounting and Record Keeping; Uniform Relocation Assistance and Real Property Acquisition Policies Act; the National Environmental Policy Act; and designate Rodney Wiederspan and Bruce Grupe as the Responsible Charge for projects.

RESOLUTION NO. 2009-101

WHEREAS, the Nebraska Department of Roads (NDOR), as the recipient of Federal transportation funds for the State, is responsible for ensuring that all Federal funds are expended in accordance with applicable laws and regulations; and

WHEREAS, NDOR is responsible for establishing State policy, developing procedures, and providing oversight to the Local Public Agency (LPA) on Federal-aid transportation projects and provides project coordination, quality assurance, and adequate supervision of the program; and

WHEREAS, the City of Kearney, also known as the LPA is responsible for the selection, planning, programming, environmental investigation, design, right-of-way acquisition, construction, and maintenance of their projects, including inspection oversight and the development of necessary project documentation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska will comply with the requirements of the LPA Guidelines Manual for Federal-Aid Projects regarding Consultant Services Evaluation and Selection; Financing, Accounting and Record Keeping; Uniform Relocation Assistance and Real Property Acquisition Policies Act; and the National Environmental Policy Act.

BE IT FURTHER RESOLVED that Rodney Wiederspan, Director of Public Works, and Bruce Grupe, City Engineer, be and are hereby designated as the Responsible Charge of Federal-aid transportation projects.

BE IT FURTHER RESOLVED that the Vice-President of the Council be and is hereby authorized and directed to execute the Local Public Agency (LPA) Financial Management Systems Certification. A copy of said Certificate, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

8. Approve Change Order No. 9 in the amount of \$39,900.00 submitted by Blessing, LLC and approved by Brungardt Engineering for the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and approve **Resolution No. 2009-102.**

RESOLUTION NO. 2009-102

WHEREAS, Blessing, LLC has performed services in connection with the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and the City's engineer, Brungardt Engineering, have filed with the with the City Clerk Change Order No. 9 showing an increase in the amount of \$39,900.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,004,396.00
Change Order No. 1 (4-8-2008)	- 136,500.00
Change Order No. 2 (10-14-2008)	+ 9,872.50
Change Order No. 3 (10-28-2008)	+ 3,241.00
Change Order No. 4 (10-28-2008)	+ 4,380.00
Change Order No. 5 (10-28-2008)	+ 12,517.30
Change Order No. 6 (12-23-2008)	- 3,450.60
Change Order No. 7 (3-24-2009)	+ 1,386.00
Change Order No. 8 (3-24-2009)	+ 2,494.80
Change Order No. 9 (7-14-2009)	<u>+ 39,900.00</u>
Contract Sum to Date	\$ 938,237.00

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. 9 as shown on Exhibit "A" be and is hereby accepted and approved.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

9. Approve the T-Hangar C-4 Lease Agreement between the City of Kearney and Dennis McGowan/Capital Holdings 149, LLC for storage at the Kearney Regional Airport and approve **Resolution No. 2009-103.**

RESOLUTION NO. 2009-103

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar C-4 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Dennis McGowan, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

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

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

10. Approve the Elizabeth Stratton Memorial 5K Run/Walk scheduled for August 15, 2009 starting at 8:00 a.m. and beginning at the Archway Monument, west on 1st Street, north on Avenue M, and east on the hike-bike trail back to the Archway Monument.

11. Approve Application and Certificate for Payment No. 7 in the amount of \$350,942.40 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. 2009-104**.

RESOLUTION NO. 2009-104

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. 7 in the amount of \$350,942.40 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	1,835,065.00
Retainage	183,506.50
Amount Due to Date	1,651,558.50
Less Previous Certificates for Payment	<u>1,300,616.10</u>
Current Payment Due	\$ 350,942.40

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. 7, as shown on Exhibit "A", be and are hereby accepted and approved.

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

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

12. Grant an irrigation pipeline easement to RHOJCOAMT Partnership for a tract of

land being 10.0 feet in width and part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2009-105.**

RESOLUTION NO. 2009-105

WHEREAS, the City of Kearney has been working with RHOJCOAMT Partnership to locate an irrigation pipeline for irrigation purposes on a tract of land being 10.0 feet in width and part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the southwest corner of Section 3 and assuming the west line of the Southwest Quarter of Section 3 as bearing N01°21'24"E and all bearings contained herein are relative thereto; thence N01°21'24"E and on the west line of the Southwest Quarter of said Section 3 a distance of 2164.82 feet to a point on the south line of a tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, recorded June 2, 1998, in the Office of the Buffalo County Register of Deeds; thence leaving the west line of the Southwest Quarter of said Section 3, N83°40'54"E and on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, a distance of 102.91 feet to the ACTUAL PLACE OF BEGINNING, said point being the northeast corner of a tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, recorded June 30, 1999, in the Office of the Buffalo County Register of Deeds; thence leaving the northeast corner of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and continuing N83°40'54"E and on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, a distance of 1402.00 feet; thence leaving the south Line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, N01°21'24"E and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 10.09 feet to a point being 10.0 feet northerly of as measured at right angles from the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958; thence S83°40'54"W and parallel with the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958 a distance of 1402.00 feet; thence S01°21'24"W and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 10.09 feet to the place of beginning, all located in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney hereby grants an irrigation pipeline easement to RHOJCOAMT Partnership. A copy of the Easement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

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

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

13. Approve the Plans and Specifications for the 2009 Part 6 Improvements for Fire

Station #1 Generator Replacement and set the bid opening date for August 4, 2009 at 2:00 p.m.

14. Approve the bids received for the 2009 Part 4 Improvements consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 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; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition; Water District No. 2008-554 for 48th Street from the east lot line of Lot 10, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition and approve **Resolution No. 2009-106** awarding Bid A (Water and Sewer) to Midlands Contracting in the amount of \$306,030.20 and award Bid B (Paving) to Dan Roeder Concrete in the amount of \$468,373.25.

RESOLUTION NO. 2009-106

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on June 3, 2009 at 2:00 p.m. for the 2009 Part 4 Improvements consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 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; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition; Water District No. 2008-554 for 48th Street from the east lot line of Lot 10, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$475,137.00 for Bid A (water and sewer) and \$594,624.00 for Bid B (paving); and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$306,030.20 be accepted as the lowest responsible bid for Bid A (water and sewer); and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$468,373.25 be accepted as the lowest responsible bid for Bid B (paving).

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 Midlands Contracting, Inc. of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 4 Improvements – Bid A – consisting of Water District No. 2008-554 for 48th Street from the east lot line of Lot 10, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$306,030.20 be and is hereby accepted.

BE IT FURTHER RESOLVED that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 4 Improvements – Bid B consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 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; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition; to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete of Kearney, Nebraska in the sum of \$468,373.25 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$475,137.00 for Bid A (water and sewer) and \$594,624.00 for Bid B (paving) 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 JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

15. 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 August 11, 2009 from 4:00 p.m. until 9:00 p.m. for a business anniversary and appreciation event.

16. Approve the application for a Special Designated License submitted by VRK, LLC dba Venue Restaurant & Lounge in connection with their Class C-78777 liquor license to dispense beer, wine and distilled spirits at the Great Platte River Road Archway Monument, 3060 1st Street, on August 1, 2009 from 5:00 p.m. until 12:00 a.m. for a reception subject to the City receiving the Certificate of Insurance.

17. Approve the Application for a Special Designated License submitted by NIGHT LIFE CONCEPTS, INC., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Outdoor Arena, formerly known as the Exposition Building, located at the Buffalo County Fairgrounds, 3807 Avenue N, on July 30 and 31, 2009 from 4:00 p.m. until 12:00 a.m., and on August 1 and 2, 2009 from 12:00 p.m. until 12:00 a.m. for the Buffalo County Fair subject to the City receiving the Certificate of Insurance.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7531 – SELL VACATED EAST 17 FEET OF 1ST AVENUE

Ordinance No. 3517 was passed by the City Council on April 13, 1982. This ordinance vacated the east and west 17 feet of 1st Avenue as it abuts Lots 251, 253, 324 and 326 of Southwest Quarter School Section Addition which is located between 27th Street and 28th Street. On April 29, 2009 the City received an email request from Joanna Willis, one of the property owners of Lot 324, to purchase some vacated right-of-way. The City had this strip of right-of-way appraised by IPEX. The estimated value of this right-of-way is \$2,532.00. The property owner wishes to proceed with the purchase of this strip of public right-of-way.

Council Member Kearney introduced Ordinance No. 7531, being Subsection 1 of Agenda Item V to sell the vacated east seventeen feet of 1st Avenue as it abuts Lot 324, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (28 West 28th Street) to Jennifer Harvey and Joanna Willis, 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: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7531 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None.

Clouse absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7531 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7531 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. 7528 – ANNEXATION OF EAST HIGHWAY 30 FROM ANTELOPE AVENUE TO CHERRY AVENUE

Ordinance No. 7528 annexes East Highway 30 from Antelope Avenue to Cherry Avenue. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." The first reading of the ordinance by title was on June 23, the second reading on July 14 and the final reading on July 28.

Council Member Lear moved that Ordinance No. 7528, being Subsection 1 of Agenda Item VI to annex 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, be placed on second reading by title only. Council Member Buschkoetter seconded the motion to place on second reading. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried. City Clerk read Ordinance No. 7528 on second reading by title only.

ORDINANCE NO. 7528

An Ordinance of the City of Kearney, Nebraska, to extend the boundaries and include within the corporate limits of, and to annex to the City of Kearney, Nebraska a tract of land being 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; to provide service benefits thereto; to confirm zoning classifications; to repeal all ordinances and resolutions or parts thereof in conflict herewith; and to provide for publication in pamphlet form by authority of the City Council and effective date of this ordinance.

ORDINANCE NO. 7529 – ANNEXATION OF PLATTE RIVER COMMERCIAL PARK, PLATTE RIVER COMMERCIAL PARK SECOND ADDITION, NORTH ACRE THIRD, BUFFALO COMMONS RETIREMENT VILLAGE

Ordinance No. 7529 annexing Platte River Commercial Park, Platte River Commercial Park Second Addition, North Acre Third, and Buffalo Commons Retirement Village. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." The first reading of the ordinance by title was on June 23, the second reading on July 14 and the final reading on July 28.

Council Member Buschkoetter moved that Ordinance No. 7529, being Subsection 2 of Agenda Item VI to annex the following tracts of land: Lot 1 of 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, be placed on second reading by title only. Council Member Kearney seconded the motion to place on second reading. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried. City Clerk read Ordinance No. 7529 on second reading by title only.

ORDINANCE NO. 7529

An Ordinance of the City of Kearney, Nebraska, to extend the boundaries and include within the corporate limits of, and to annex to the City of Kearney, Nebraska the following tracts of land: Lot 1 of 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; to provide service benefits thereto; to confirm zoning classifications; to repeal all ordinances and resolutions or parts thereof in conflict herewith; and to provide for publication in pamphlet form by authority of the City Council and effective date of this ordinance.

**ORDINANCE NO. 7532 – REZONING AT 11TH STREET AND AVENUE H
(PERTAINS TO PUBLIC HEARING 3)**

Council Member Kearney introduced Ordinance No. 7532, being Subsection 3 of Agenda Item VI to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-3, General Commercial District the south 15 feet of Lots 2 and 23, all of Lots 3 through 22 inclusive, all in Block 2, South Park Addition to the City of Kearney, Buffalo County, Nebraska (11th Street and Avenue H), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7532 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7532 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7532 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. 7533 – REZONING NORTH OF 56TH STREET AND EAST OF 11TH AVENUE (PERTAINS TO PUBLIC HEARING 5)

Council Member Lear introduced Ordinance No. 7533, being Subsection 4 of Agenda Item VI to rezone from District AG, Agricultural District to District C-2, Community Commercial District AND to District R-2, Urban Residential Mixed-Density District for a tract of land located in part of the Southwest Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., containing 15.57 acres, more or less, Buffalo County, Nebraska (north of 56th Street and east of 11th 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 Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7533 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Kearney that Ordinance No. 7533 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7533 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.

OPEN ACCOUNT CLAIMS: NPPD - \$177.05, PLATTE VALLEY STATE BANK - \$46,813.93

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$46,813.93 payable to Platte Valley State Bank, and in the amount of \$177.05 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Lear abstained. Clouse absent. Motion carried.

SHADE STRUCTURE AT HARMON PARK

Vice-President Buschkoetter stated the agenda was amended on Monday to include the request to partially fund shade structure adjacent to the Harmon Park Tennis Courts.

Sue Balfany presented this matter to the Council. They had anticipated 35 players to

participate in the Justin Balfany Memorial tennis tournament and to date they have 60 players signed up. They are also going to have a fund raising bar-b-que on July 18th and have had an outpouring of support for that event. She thanked all of the businesses in town for their consideration.

Council member Lammers asked if there are any other covered areas around the tennis courts now. The tables are movable that can be moved in the area. The shade structure would be directly behind the light brick building that is already there and extend over the sidewalk. It would stand from the south courts to the north courts.

Moved by Lammers seconded by Lear to approve the request to partially fund a shade structure adjacent to the Harmon Park Tennis Courts. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

SCOREBOARD AT MEMORIAL FIELD

Vice-President Buschkoetter stated the agenda was amended on Monday to also include the request to partially fund a new digital scoreboard for Memorial Field.

Damon Day, Health and Sports Center, presented this matter to the Council. They have secured half of the funding for this project from a silent private donor for the UNK Baseball program. They are requesting that the City help fund the other half for a new scoreboard at Memorial Field. With the City's help and the community's help, they have been able to do a tremendous amount of improvements at Memorial Field. The transformation of the field in the last six month has been amazing and continues to get better. The current scoreboard is about 10-11 years old and was one of the first ones to use remote control and LED lighting and is outdated by current technology. They have had a considerable amount of mechanical issues with it and it is time to upgrade. The total cost is estimated at \$80,000.00.

He has talked with Neal Lewis and Ken Roth and there has been some talk about hard lining of the scoreboard so that if there are any issues in the future, it could be flipped from remote to hard line and doing some things from an electrical standpoint to make sure that we have the proper power. They do not know what the cost to move it from the current location in left field to a safer location much further from home plate and the left center gap. Where it is located, it gets beat up on a regular basis. They have checked with Daktronics about netting, but that can cause some distortion with the high winds. They recommended moving it to a safer location and making it more sturdily built. They roughly figured that between 120 and 160 games are played there during the year. The only days they do not play is when there is snow on the ground.

Moved by Lear seconded by Buschkoetter to approve the request to partially fund a new digital scoreboard for Memorial Field. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

VII. REPORTS

UPDATE ON 5TH AVENUE

City Manager updated the Council on 5th Avenue. This project is underway. The contractor got in there quickly after they solicited proposals. The three new concrete streets are under construction. They have a completion date in mid August.

UPDATE ON HIGHWAY 30 PROJECT

City Manager updated the Council on the Highway 30 project. He reminded everyone that the State of Nebraska is the one doing the work on Highway 30 and not the City of Kearney. The City would have preferred that they had waited to start until Cruise Nite was over. They decided to work a few days and take the medians out and pave that so they can come in after Cruise Nite and hit it hard. We have been told by the State that they will be out of there by Cruise Nite.

UPDATE ON SAFE ROUTES TO SCHOOL GRANT

City Manager updated the Council on the Safe Routes to School grant. He visited with citizens regarding the Safe to School Walking Grant. That project has been delayed for almost two years through federal intervention. The City has been very frustrated with that. One of their concerns is that the grant stipulates some very specific requirements as to where sidewalks have to go and the separation from the street. They are going to take a hard look over the next few days, as to exactly where these sidewalks are proposed. In some cases, they are creating a hardship for the public that have had amenities such as fences, large mature trees, etc. to see if we can find a balance. We hope to get some relief from some of these federal requirements as to the separation from the curb. They like to receive those federal funds, but they also want to make sure that we are working with homeowners, who did not expect a sidewalk and maybe did not want a sidewalk and now the City is putting one in. The new sidewalk standards have gone from three feet wide to five feet wide under federal law. You add the distance from the curb and a 5-foot walk, you can image how much distance that is taking. The example of the citizen who voiced concerns about the sidewalk that was about to be put in being 17 feet into his property, shows he was paying attention. There are some citizens that might not be as attentive until it is done. City staff has been instructed to take a hard look at all these areas before proceeding.

VIII. ADJOURN

Moved by Buschkoetter seconded by Kearney that Council adjourn at 8:17 p.m. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

ATTEST:

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

MICHAELLE E. TREMBLY
CITY CLERK