

Kearney, Nebraska
July 28, 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 28, 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; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Jim Lynaugh, Airport Manager; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Craig Bennett, Kyle Hansen, Laurie Koeppe, Jacque Haupt, Margaret Clark, Joe Barber, Xan Barber, Sara Giboney from Kearney Hub, Steve Altmaier from KGFW Radio, NTV.

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

I. ROUTINE BUSINESS

INVOCATION

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

LAND USE MAP AMENDMENT EAST OF 30TH AVENUE, SOUTH OF UPRR, NORTH OF 16TH STREET

Public Hearings 1, 2, 3, 4, and 5 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 Mixed Use 1 and Medium Density Residential to Light Industrial for a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and to consider approval of Resolution No. 2009-107. Planning Commission recommended approval.

The applicant is requesting approval to develop 42.13 acres for a 240,000 square foot warehouse and distribution center for the Buckle. The property is located south of the Union Pacific Railroad tracks on the east side of the 30th Avenue overpass. Proposed 16th Street extended east from 30th Avenue comprises the southerly border of the tract. This project requires an amendment to the Future Land Use Map, rezoning, subdivision platting, annexation, and approval of Development Plans.

The current land use designation for this property on the Future Land Use Map of the City of Kearney Comprehensive Development Plan is a mixture of "Mixed Use 1" and "Medium Density Residential." The proposed designation is amended to "Light Industrial." The property is currently zoned part M-2, General Industrial and part Agricultural. The proposed rezoning is to M-1/PD, Limited Industrial Planned Development Overlay District. The planned district designation is required by the zoning ordinance as any development exceeding 20 acres in M-1 zoning is automatically considered a planned development. The reduction in intensity from M-2 to M-1 is desirable and, in terms of land use, the warehousing/distribution facility is an excellent fit along the railway corridor.

The Preliminary and Final Plat consist of a one-lot subdivision containing 42.13 acres to be known as Buckle Second Addition. The Preliminary Plat was approved by Planning Commission on July 17, 2009. A Site Development Plan for drainage and utilities and a Public Works Plan have been provided. 30th Avenue will be widened to four lanes to 11th Street. 16th Street will be extended from 30th Avenue east approximately 1,600 feet, terminating in a cul-de-sac until further development occurs to the east. Plans are for municipal water and sanitary sewer to be bored under the railroad tracks and extended south in 30th Avenue right-of-way to 11th Street, and east in 11th Street to the Yanney Park area. Water and sewer will also be located in 16th Street and sewer service to the warehouse facility will be available from 16th Street. Water will loop through the site from 16th Street back to 30th Avenue. It is anticipated that these infrastructure improvements will cost approximately \$4.1 million. Anticipated funding for these infrastructure improvements is dependent upon potential Tax Increment Financing (TIF) monies requested from the Kearney Area Community Redevelopment Authority (CRA) and grant funding from several sources. The improvements will not be funded by general obligation or taxpayer money. Stormwater detention is required and two separate basins are shown on the Public Works Plan, one to the south along 16th

Street and one towards the northeast corner of the site. Site drainage will be split accordingly. The Public Works Plan contains stormwater calculations from the consulting engineer. The water main that will loop through the property requires a 20-foot wide water main easement which can be dedicated under separate instrument once the final location is established. No Subdivision Agreement is required.

The proposed subdivision is contiguous to the city limits along the UPRR tracks and an adjacent 80-foot wide drainage easement owned by the City of Kearney. The site will be served with city services. The feasibility and adequate capacity is demonstrated in the approved Public Works Plan. Therefore, staff recommends that this property be annexed as an addition to the City of Kearney. The area of land to be annexed is somewhat larger than the amount of land contained in the subdivision because the annexation area includes 30th Avenue right-of-way and the City-owned drainage easement.

The site plan depicts a 240,000 square foot building which consists primarily of warehouse space but also includes some two-story office space, 12,770 square feet per floor, at the southeast corner of the building. The building will be approximately 35 feet tall and the exterior appearance will be similar to the Buckle's existing warehouse facility on West Highway 30. Photographs of the existing building are included in the Development Plan application. There are 14 truck bays proposed on the east wall of the building and 33 truck bays along the south wall. Truck parking is located in these areas as well. Truck parking and unloading areas will feature gated access points for security. Employee and visitor parking is separate from truck parking and unloading areas and is located in two areas, one along 16th Street and the other in a larger parking lot to the south and east of the building. 138 parking stalls are required for passenger vehicles and 412 are proposed. The Landscape Plan shows the site to be well landscaped especially along 16th Street and in the passenger parking lot. Refuse collection, trash dumpsters, recyclables, etc. will be stored towards the northeast corner of the site until they can be loaded and removed from the site.

Kyle Hansen, legal counsel for The Buckle, stated the company was founded 1948 as Mill's Clothing Company and Kearney has been the headquarters ever since. They are excited as they begin the planning process for building a new distribution facility that they are able to look at some sites within the Kearney area. They are excited about the site that they have chosen because of its proximity to their current facility. With their growth plan, they hope to be able to continue to thrive and grow in Kearney. She expressed their appreciation to the City leaders for helping make this possible, as well as for the whole community support. The Buckle has a wonderful work force here and never has a problem hiring good capable people to work at their facility. The economy is already great in the City of Kearney and she believed they can only make it better by continuing to do more of the things they are doing. She was pleased to report as of July 29, they have 401 stores in 40 states and counting.

Craig Bennett from Miller & Associates presented this matter to the Council. This is actually a one-lot subdivision, although it is 40 acres in size. The proposed Land Use Map from the comprehensive plan shows that a portion of this is a mixed use and a portion on the northeast corner to be medium density residential. This is different than what we expect to see along the railroad tracks in this area, so the proposal is for some rezoning that would change a little from this Land Use Map. However, the existing Land

Use Map on the 40 acres currently has a good portion of it as M-2. They are requesting to reduce the density of the type of development from M-2 to M-1. The M-1 that is being proposed is an M-1/PD and the reason it is a PD is because it is over 20 acres per regulations.

If you were to drive out there, you would see a portion where no corn has been allowed to be planted and is basically the boundary where this proposed site is going to be located. There is drainage from northwest to southeast and about six foot of fall across the property. On the north side, it is hinged by an out fall ditch which they will be using as part of their out fall drainage. The final plat shows 30th Avenue along the west side and proposed 16th Street along the south side of this one-lot subdivision. The Plat also shows 16th Street as a 66-foot wide street that would ultimately be a collector street to possibly tie in with 16th Street that we will see in the future east of there. They envision this would collect and connect across the open field, across the tailrace and then to 16th Street. The only other infrastructure on this property is some gas lines that are located along the east side of the viaduct. Primarily, everything else is just on open cornfield.

One of the other parts of this plan is annexation. The legal description of the annexation is somewhat larger in the number of acres; it is about 45 acres compared to the plat which is 40 acres. The reason being is they are annexing all of 30th Avenue that is adjacent or contiguous to this plat at this time. The City currently obtained right-of-way on the west side when the viaduct was built so that will also be annexed and tied into the City limits at the same time. From an infrastructure standpoint, the site currently has water and sewer on the north side of the railroad tracks, but they are not available to connect onto, at least from a sanitary sewer or water standpoint. This is part of an overall development plan both for this project and for this whole area to extend water from the intersection of Kea West Road and 11th Street (northwest corner of Yanney Park), west along 11th Street and north along 30th Avenue going underneath the railroad tracks and tying into the existing water infrastructure there. They will also be extending water east along 16th Street. Sanitary Sewer will also be following a similar route.

The beauty of this project is that a few years ago they did a master sewer study plan to determine how they could increase growth and development in southwest Kearney. In the late 90's, they brought an infrastructure connection district here that would have brought sanitary sewer to this point. On the overall master sewer study plan, it showed extending this trunk main sewer out here to serve and make it available for the rest of southwest Kearney to attach onto gravity sewer with no lift stations. This is exciting for them to follow the actual sewer study plan as this unfolds.

The rezoning from M-1 to M-1/PD requires them to have a development plan so they can show with the PD what is going to be on site, the size of the building, area for parking, drainage and other features. Their plan shows the entrance is on 16th Street (a public street). Their tractor/trailer traffic would come in off of 16th Street and would back up to the loading docks which would be located along the south side of a 240,000 square foot building. There would be areas for trailers that were empty or ready to be unloaded to be stacked. There would also be employee parking on the south and southeast side. The proposed cul-de-sac is a 70-foot radius which is much larger than the minimum 45-foot radius required by City Code and will allow the tractor/trailers to turn around and circulate back out to 16th Street. As tractor/trailer traffic comes into the

south side to unload, there will also be an outbound site which is located on the east side. The reason they are developing in the furthest away location from 30th Avenue is because of our climate. In the winter time, it is better to have a loading dock on the south side for snow, frost and freezing conditions. With this being an open site, they have chosen to start building with the best available loading dock areas for this site. This is a distribution center which is the primary goal.

They have left land undeveloped along the north and west side of this 40 acres so they can expand at another time in the future if they choose to add on to the north side or west side with more loading docks. There will be a public water line that will come into this site and they will also be extending a water line that will be permanently located at a future time when they tie down where the water will be entering the building. They are currently working with architects on plans for those particulars. At a later time there will be a 20-foot utility easement located for water purposes that will be filed. The landscaping will be located along 16th Street in accordance with City Code for M-1 which would include the 10-foot green space, tree planting and spacing one every 50 feet. There are several other green space areas that will be used for detention cells.

Council member Buschkoetter stated that their current distribution center has lovely landscaping with grass in the big open field around their site. He wanted to know what the plan is for the undeveloped area around this new site. Mr. Bennett responded he did not believe that grass in that area is in the plan. Ultimately, the undeveloped land (about 20 acres) would have a crop, perhaps like alfalfa, in the field for the time being until they are ready to build out.

Council member Buschkoetter also asked about the amount of truck traffic this will generate in this southwest part of town. Mr. Bennett stated that in terms of the existing distribution center the current inbound traffic for trucks and tractor/trailers primarily happens between 6:00 a.m. and 10:00 a.m. The low end of that traffic is 4-6 trucks. The high end of that traffic is around 8-10 trucks. He asked to keep in mind those are inbound trucks from states, such as California bringing in merchandise and their primary route is Highway 30. They anticipate that same inbound traffic circulation would be coming in on West Highway 30 and turning south onto 30th Avenue to the new distribution center. The outbound traffic at the current location happens between 12:00 p.m. and 6:00 p.m.

Counting the pup trailer traffic, currently it is a low of six to as high as 14. He explained that two pup trailers can be connected to a tractor/trailer, so they actually could be counted as three and seven. A pup trailer is not really a technical term; it is a tractor with a trailer and then another hitch and a trailer. The trailers are shorter and often two are connected together. The outbound would be more geared toward circulation that could go either east or west. He stated that obviously with growth, they anticipate more trucks than they have now at the current facility.

Council member Lammers asked if there will be four lanes on 30th Avenue down to 11th Street. Mr. Bennett stated this current plan is for the actual portion of this project. The overall plan includes the infrastructure for paving improvements for 30th Avenue which is currently 2-lanes until you get to 11th Street. 30th Avenue will be widened to four lanes and the intersection improved to accommodate the anticipated traffic.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the proposed amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 1 and Medium Density Residential to Light Industrial for a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and approve **Resolution No. 2009-107**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-107

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 being 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 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING; thence continuing N01°58'22"E and on the west line of the Southwest Quarter a distance of 33.0 feet to a point on the south line of a tract of land quitclaimed to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and described in Inst. 1999-3655 and recorded May 4, 1999 in the Office of the Buffalo County Register of Deeds, said point also being on the centerline of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said deeded tract a distance of 33.0 feet to a point on the east line of a public road, said point being the southeast corner of said deeded tract; thence N01°58'22"E and on the east line of said public road and the east line of said deeded tract a distance of 164.13 feet to the southwest corner of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence leaving the east line of said public road S88°01'38"E and on the south line of said deeded tract a distance of 12.0 feet to the southeast corner of said deeded tract; thence N06°59'16"E and on the easterly line of said deeded tract a distance of 651.36 feet; thence N01°58'22"E and continuing on the easterly line of said deeded tract a distance of 381.36 feet to the northeast corner of said deeded tract, said point also being on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence N84°17'39"E and on the south line of said deeded tract a distance of 1390.86 feet; thence S01°58'22"W and leaving the south line of said deeded tract and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; thence N89°27'04"W and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01°25'25" an arc distance of 50.51 feet to a point of tangency; thence tangent N88°01'38"W a distance of 250.0 feet to the Point of Beginning, containing 42.13 acres, more or less, of which 0.03 acres, more or less are presently being used for road purposes on the west side, all in Buffalo County, Nebraska from Mixed Use 1 and Medium Density Residential to Light Industrial, and

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

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

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Mixed Use 1 and Medium Density Residential to Light Industrial the use classification for a tract of land being 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 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING; thence continuing N01°58'22"E and on the west line of the Southwest Quarter a distance of 33.0 feet to a point on the south line of a tract of land quitclaimed to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and described in Inst. 1999-3655 and recorded May 4, 1999 in the Office of the Buffalo County Register of Deeds, said point also being on the centerline of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said deeded tract a distance of 33.0 feet to a point on the east line of a public road, said point being the southeast corner of said deeded tract; thence N01°58'22"E and on the east line of said public road and the east line of said deeded tract a distance of 164.13 feet to the southwest corner of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence leaving the east line of said public road S88°01'38"E and on the south line of said deeded tract a distance of 12.0 feet to the southeast corner of said deeded tract; thence N06°59'16"E and on the easterly line of said deeded tract a distance of 651.36 feet; thence N01°58'22"E and continuing on the easterly line of said deeded tract a distance of 381.36 feet to the northeast corner of said deeded tract, said point also being on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence N84°17'39"E and on the south line of said deeded tract a distance of 1390.86 feet; thence S01°58'22"W and leaving the south line of said deeded tract and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; thence N89°27'04"W and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01°25'25" an arc distance of 50.51 feet to a point of tangency; thence tangent N88°01'38"W a distance of 250.0 feet to the Point of Beginning, containing 42.13 acres, more or less, of which 0.03 acres, more or less are presently being used for road purposes on the west side, all in Buffalo County, Nebraska.

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

REZONING EAST OF 30TH AVENUE, SOUTH OF UPRR, NORTH OF 16TH STREET

Public Hearings 1, 2, 3, 4, and 5 were discussed together but voted on separately.

Vice-President Buschkoetter opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) to rezone from District M-2, General Industrial District and District AG, Agricultural District to District M-1/PD, Limited Industrial Planned Development Overlay District for a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street).

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) to rezone from District M-2, General Industrial District and District AG, Agricultural District to District M-1/PD, Limited Industrial Planned Development Overlay District for a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street). Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

FINAL PLAT FOR BUCKLE SECOND ADDITION

Public Hearings 1, 2, 3, 4, and 5 were discussed together but voted on separately.

Vice-President Buschkoetter opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for the Final Plat for Buckle Second Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and to consider approval of Resolution No. 2009-108.

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 Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for the Final Plat for Buckle Second Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and approve **Resolution No. 2009-108**. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-108

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Buckle Second Addition to the City of Kearney,

Buffalo County, Nebraska for a tract of land being 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 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING; thence continuing N01°58'22"E and on the west line of the Southwest Quarter a distance of 33.0 feet to a point on the south line of a tract of land quitclaimed to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and described in Inst. 1999-3655 and recorded May 4, 1999 in the Office of the Buffalo County Register of Deeds, said point also being on the centerline of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said deeded tract a distance of 33.0 feet to a point on the east line of a public road, said point being the southeast corner of said deeded tract; thence N01°58'22"E and on the east line of said public road and the east line of said deeded tract a distance of 164.13 feet to the southwest corner of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence leaving the east line of said public road S88°01'38"E and on the south line of said deeded tract a distance of 12.0 feet to the southeast corner of said deeded tract; thence N06°59'16"E and on the easterly line of said deeded tract a distance of 651.36 feet; thence N01°58'22"E and continuing on the easterly line of said deeded tract a distance of 381.36 feet to the northeast corner of said deeded tract, said point also being on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence N84°17'39"E and on the south line of said deeded tract a distance of 1390.86 feet; thence S01°58'22"W and leaving the south line of said deeded tract and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; thence N89°27'04"W and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01°25'25" an arc distance of 50.51 feet to a point of tangency; thence tangent N88°01'38"W a distance of 250.0 feet to the Point of Beginning, containing 42.13 acres, more or less, of which 0.03 acres, more or less are presently being used for road purposes on the west side, 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 inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

ANNEXATION OF BUCKLE SECOND ADDITION

Public Hearings 1, 2, 3, 4, and 5 were discussed together but voted on separately.

Vice-President Buschkoetter opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for the annexation of Buckle Second Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in part of the Southwest Quarter and part of the Southeast Quarter and part of the Southeast Quarter of the Northeast Quarter of Section 3, and part of the East Half of the Southeast Quarter of Section 4, all in Township 8 North, Range 16 West of the 6th P.M., and including an 80-foot wide strip of land used for drainage purposes and owned by the City of Kearney immediately abutting the above described parcel to the north, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and to consider approval of Resolution No. 2009-109.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Kearney to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for the annexation of Buckle Second Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land located in part of the Southwest Quarter and part of the Southeast Quarter and part of the Southeast Quarter of the Northeast Quarter of Section 3, and part of the East Half of the Southeast Quarter of Section 4, all in Township 8 North, Range 16 West of the 6th P.M., and including an 80-foot wide strip of land used for drainage purposes and owned by the City of Kearney immediately abutting the above described parcel to the north, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and approve **Resolution No. 2009-109**. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-109

WHEREAS, an Application has been submitted by Kent Cordes from Miller & Associates (Applicant) for DT Development, Inc. (Owner) for the inclusion of Buckle Second 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 and part of the Southeast Quarter and part of the Southeast Quarter of the Northeast Quarter of Section 3, and part of the East Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska, and all lying south of the Union Pacific Railroad right-of-way and being more particularly described as follows: referring to a point common to the southwest corner of Section 3 and the southeast corner of Section 4 and assuming the west line of the Southwest Quarter of said Section 3 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING, said point being on the south line of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said 16th Street (if extended), and leaving the west line of said Southwest Quarter a distance of 250.0 feet

to a point of curvature; thence on a 2033.0 foot radius curve to the left, forming a central angle of $01^{\circ}25'25''$ an arc distance of 50.51 feet to a point of tangency; thence tangent $S89^{\circ}27'04''E$ and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet; thence $N01^{\circ}58'22''E$ and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; to a point on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence $S84^{\circ}17'39''W$ and on the south line of said deeded tract a distance of 1493.6 feet to a point that intersects the west line of the Southwest Quarter of said Section 3; thence $S01^{\circ}58'22''W$ and on the west line of the Southwest Quarter a distance of 20.24 feet to a point on the south right-of-way line of the Union Pacific Railroad in Section 4; thence $S84^{\circ}17'46''W$ and on the south railroad right-of-way line a distance of 40.36 feet to the northeast corner of Lot 1, KNAPP'S ADDITION, a subdivision being part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence $S01^{\circ}58'22''W$ and on the east line of said Lot 1, KNAPP'S ADDITION a distance of 271.57 feet to the southeast corner of said Lot 1, said point also being the northeast corner of Lot 1, KNAPP'S SECOND SUBDIVISION a subdivision being part of the East Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence $S01^{\circ}58'22''W$ and on the east line of said Lot 1, KNAPP'S SECOND SUBDIVISION a distance of 120.1 feet to a point that intersects the west line of a tract of land deeded to the City of Kearney and described in Inst. 1999-5082 and recorded June 23, 1999 in the Office of the Buffalo County Register of Deeds; thence $S08^{\circ}09'50''W$ and on the west line of said deeded tract a distance of 231.82 feet; thence $S31^{\circ}34'38''W$ a distance of 101.21 feet; thence $S01^{\circ}58'22''W$ parallel with and 115.0 feet west of the east line of said Southeast Quarter a distance of 115.0 feet; thence $S88^{\circ}01'38''E$ a distance of 65.0 feet; thence $S01^{\circ}58'22''W$ parallel with and 50.0 feet west of the east line of said Southeast Quarter a distance of 330.0 feet to the southwest corner of said deeded tract thence continuing $S01^{\circ}58'22''W$ a distance of 33.0 feet to a point on the south line of 16th Street; thence $S88^{\circ}01'38''E$ and on the south line of 16th Street a distance of 50.0 feet to the point of beginning, and including an eighty-foot (80') wide strip of land used for drainage purposes and owned by the City of Kearney immediately abutting the above described parcel to the north, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on July 17, 2009 on the inclusion of Buckle Second 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 Buckle Second 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 28, 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 Buckle Second 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 Buckle Second 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 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

DEVELOPMENT PLANS EAST OF 30TH AVENUE, SOUTH OF UPRR, NORTH OF 16TH STREET

Public Hearings 1, 2, 3, 4, and 5 were discussed together but voted on separately.

Vice-President Buschkoetter opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for Planned District Development Plan Approval for the construction of a new distribution center on property to be zoned District M-1/PD, Limited Industrial Planned Development Overlay District and described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and to consider approval of Resolution No. 2009-110.

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 Craig Bennett from Miller & Associates (Applicant) for The Buckle, Inc. (Owner) for Planned District Development Plan Approval for the construction of a new distribution center on property to be zoned District M-1/PD, Limited Industrial Planned Development Overlay District and described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and approve **Resolution No. 2009-110**. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-110

WHEREAS, The Buckle, Inc. has applied for Planned District Development Plan Approval for the construction of a new distribution center on property to be zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as a tract of land being 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 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING; thence continuing N01°58'22"E and on the west line of the Southwest Quarter a distance of 33.0 feet to a point on the south line of a tract of land quitclaimed to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and described in Inst. 1999-3655 and recorded May 4, 1999 in the Office of the Buffalo County Register of Deeds, said

point also being on the centerline of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said deeded tract a distance of 33.0 feet to a point on the east line of a public road, said point being the southeast corner of said deeded tract; thence N01°58'22"E and on the east line of said public road and the east line of said deeded tract a distance of 164.13 feet to the southwest corner of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence leaving the east line of said public road S88°01'38"E and on the south line of said deeded tract a distance of 12.0 feet to the southeast corner of said deeded tract; thence N06°59'16"E and on the easterly line of said deeded tract a distance of 651.36 feet; thence N01°58'22"E and continuing on the easterly line of said deeded tract a distance of 381.36 feet to the northeast corner of said deeded tract, said point also being on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence N84°17'39"E and on the south line of said deeded tract a distance of 1390.86 feet; thence S01°58'22"W and leaving the south line of said deeded tract and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; thence N89°27'04"W and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01°25'25" an arc distance of 50.51 feet to a point of tangency; thence tangent N88°01'38"W a distance of 250.0 feet to the Point of Beginning, containing 42.13 acres, more or less, of which 0.03 acres, more or less are presently being used for road purposes on the west side, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of The Buckle, Inc. for Planned District Development Plan Approval for the construction of a new distribution center on property to be zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as a tract of land being 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 as bearing N01°58'22"E and all bearing contained herein are relative thereto; thence N01°58'22"E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.21 feet to the ACTUAL POINT OF BEGINNING; thence continuing N01°58'22"E and on the west line of the Southwest Quarter a distance of 33.0 feet to a point on the south line of a tract of land quitclaimed to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, and described in Inst. 1999-3655 and recorded May 4, 1999 in the Office of the Buffalo County Register of Deeds, said point also being on the centerline of 16th Street as set out and platted on "KNAPP'S SECOND SUBDIVISION" to the City of Kearney; thence S88°01'38"E and on the south line of said deeded tract a distance of 33.0 feet to a point on the east line of a public road, said point being the southeast corner of said deeded tract; thence N01°58'22"E and on the east line of said public road and the east line of said deeded tract a distance of 164.13 feet to the southwest corner of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence leaving the east line of said public road S88°01'38"E and on the south line of said deeded tract a distance of 12.0 feet to the southeast corner of said deeded tract; thence N06°59'16"E and on the easterly line of said deeded tract a distance of 651.36 feet; thence

N01°58'22"E and continuing on the easterly line of said deeded tract a distance of 381.36 feet to the northeast corner of said deeded tract, said point also being on the south line of a tract of land deeded to the City of Kearney and described in Inst. 1998-3958 and recorded June 2, 1998 in the Office of the Buffalo County Register of Deeds; thence N84°17'39"E and on the south line of said deeded tract a distance of 1390.86 feet; thence S01°58'22"W and leaving the south line of said deeded tract and parallel with the west line of the Southwest Quarter of said Section 3 a distance of 1383.24 feet; thence N89°27'04"W and parallel with the south line of the Southwest Quarter of said Section 3 a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01°25'25" an arc distance of 50.51 feet to a point of tangency; thence tangent N88°01'38"W a distance of 250.0 feet to the Point of Beginning, containing 42.13 acres, more or less, of which 0.03 acres, more or less are presently being used for road purposes on the west side, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) be approved.

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

CDBG GRANT RECOVERY FUNDS FOR INFRASTRUCTURE IMPROVEMENTS IN SOUTHWEST KEARNEY

Vice-President Buschkoetter opened the public hearing on the application to the Nebraska Department of Economic Development for a Community Development Block Grant Recovery Funds for infrastructure improvements in southwest Kearney for business development and to consider approval of Resolution No. 2009-111.

The purpose of this public hearing is to receive public input on the grant application to be submitted by the City of Kearney on behalf of The Buckle. The application will be made to the Nebraska Department of Economic Development for a Community Development Block Grant Recovery Funds in the category of Economic Development Funds. If the City agrees to serve as a sponsor for the application, CDBG-R funds will be available to them that would not have been otherwise.

The City of Kearney, Nebraska is requesting \$865,000 for economic development activities. Eight hundred fifty thousand dollars (\$850,000) is for infrastructure development, and \$15,000 is for the general administration of the grant. Matching funds in the amount of \$1,387,000 will come from tax increment financing funds. Additional funds of \$1,763,000 will bring the total project to a minimum of \$4,015,000. No persons will be displaced as a result of CDBG assisted activities. The business will create 40 full-time positions, with 21 of those positions benefiting low-income families.

Tax increment financing funds will be used as matching funds. The City of Kearney will be constructing paving, water and sewer improvements in 16th Street, 30th Avenue and 11th Street.

Jacque Haupt from Miller & Associates presented this matter to the Council. Although the City is very familiar with Community Development Block Grant funds, they were also given an opportunity for Recovery Funds which are stimulus funds. The City was able

to request \$856,000 to be used for business development and economic development. The Buckle project is the project that these funds are being used for. The funds will be used for development of 40 full time equivalent positions or funds to enable this with 21 of those positions benefiting low income families. The money will be used for infrastructure development that will create these positions.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the application to the Nebraska Department of Economic Development for a Community Development Block Grant Recovery Funds for infrastructure improvements in southwest Kearney for business development and approve **Resolution No. 2009-111**. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

RESOLUTION NO. 2009-111

A RESOLUTION TO AUTHORIZE THE MAYOR OF THE CITY OF KEARNEY, NEBRASKA TO APPLY FOR A COMMUNITY DEVELOPMENT BLOCK GRANT RECOVERY FUNDING GRANT, AND TO EXECUTE ANY RELEVANT DOCUMENTS REFERENCING INSTALLATION OF INFRASTRUCTURE IN RELATION TO A DISTRIBUTION AND WAREHOUSE PROJECT

WHEREAS, the City of Kearney, Nebraska is an eligible local government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant Program; and

WHEREAS, the City of Kearney, Nebraska has obtained its citizen's comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application, and received favorable public comment respecting the application in the amount of \$865,000 for infrastructure and grant administration costs.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents, or other memoranda between the City of Kearney, Nebraska, and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

IV. CONSENT AGENDA

Moved by Lear seconded by Buschkoetter that Subsections 1 through 8 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

1. Approve Minutes of Special Meeting held on July 9, 2009, Regular Meeting held July 14, 2009, and Special Meeting held July 16, 2009.
2. Approve the following Claims:

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

Ace Hardware \$184.23 smcs; Ace Irrigation \$242.70 smcs; ADS-Hydra Stop \$1,859.04 co; Agri Coop \$3,156.32 smcs; Al-Jon \$1,047.17 smcs; Allied Electronics \$30.71 smcs; Amazon \$164.65 smcs; Amer Electric \$1,185.91 smcs; Amer First Aid \$631.45 smcs; Amer Library \$230.00 smcs; Amsan \$805.23 smcs; Anderson Brothers \$91.50 smcs; Apple Market \$12.37 smcs; Arehart,M \$39.99 smcs; Arnold,J \$10.00 smcs; Ask Supply \$189.52 smcs; Aurora Coop \$18.40 smcs; Auto Glass Center \$177.78 smcs; Baker & Taylor \$4,578.63 smcs; Baker,P \$400.00 smcs; Barnes & Noble \$28.99 smcs; Barney Abstract \$525.00 smcs,co; Bear Frame & Alignment \$55.95 smcs; Bernan Associates \$377.31 smcs; Best Lock \$183.27 smcs; Blackstone Audiobooks \$109.69 smcs; Blessing Construction \$7,850.00 smcs; Bluecross Blueshield \$186,313.62 smcs; Bobs Super Store \$64.59 smcs; Bokenkamp,J \$20.63 smcs; Bookmark \$168.57 smcs; Bosselman \$5,535.91 smcs; Boxwood Tech \$200.00 smcs; Brilliance Audio \$112.26 smcs; Broadfoot's \$1,126.50 smcs; Brown Traffic Products \$15,980.00 co; Bryan Rock Products \$1,814.45 smcs; Buckle \$691.00 smcs; Buffalo Co Dist Court \$267.54 ps; Buffalo Outdoor Power \$80.90 smcs; Builders \$2,813.32 smcs,co; Buycom \$129.72 smcs; Cabela's \$272.30 smcs; Caldwell,V \$14.00 smcs; Carquest \$559.20 smcs; Carrot-Top Industries \$347.76 smcs; Caseys \$89.60 smcs; Cash-Wa \$7,109.49 smcs; CED Enterprise \$109.00 smcs; Central Auto Electric \$125.91 smcs; Central District Health Dept \$2,987.00 smcs; Central Hydraulic Systems \$3,275.92 smcs; Central NE Bobcat \$12.10 smcs; Chamberlain Group \$42.30 smcs; Charter \$449.96 smcs; Chemguard \$1,553.82 smcs; Chemsearch \$356.13 smcs; Chesterman \$4,354.90 smcs; Chief Supply \$340.83 smcs; Cisec \$35.00 smcs; City Glass \$57.55 smcs; City of Ky \$8,600.98 ps; Civic Plus \$79.00 smcs; Cold Spring Granite \$850.60 co; College Savings Plan of NE \$100.00 ps; Computer Hardware \$49.95 smcs,co; Conseco Life Ins \$24.00 ps; Construction Rental \$2,206.54 smcs,co; Control Masters \$3,280.60 smcs; Copycat Printing \$859.51 smcs; Cordova,T \$39.00 smcs; Core Products \$296.03 smcs; CPS \$484.34 smcs; Credit Management \$332.47 ps; Crossroads Ford \$45.47 smcs; Croston,M \$19.77 smcs; Crown Awards \$307.88 smcs; Cummins Central Power \$32.68 smcs; D&D Industries \$120.00 smcs; D&S Lighting \$79.74 smcs; Dawson Co PPD \$29,555.70 smcs; DDHS Public Health \$102.00 smcs; Dell \$796.62 smcs; Demco \$708.09 smcs; Depository Trust \$37,389.10 ds; Deterdings \$1,079.19 smcs; Devall,B \$7,093.30 co; Diamond Vogel Paint \$154.99 smcs; Divotech Golf \$125.59 co; Dmilaco Sports \$120.00 smcs; Dutton-Lainson \$501.24 smcs; Eakes \$2,132.88 smcs,co; Earl May \$18.99 co; Ecolab \$31.00 smcs; ESU 10 \$455.00 co; Eileens Cookies \$17.75 smcs; Elliott Equipment \$440.87 smcs; Embassy Suites \$1,398.75 smcs; EMC Ins \$1,281.08 smcs; ERC Wiping Products \$102.28 smcs; Eustis Body Shop \$145.00 smcs; Exhaust Pros \$37.00 smcs; Expression Wear \$51.36 smcs; Fairbanks \$40,700.19 smcs,co; Fastenal \$1,111.04 smcs; Fiddelke \$65.00 smcs; Fireguard \$1,064.38 smcs; Firehouse Subscription \$52.00 co; Florida Micro \$603.06 smcs; Footjoy \$409.16 smcs; Forrest,K \$14.00 smcs; Fowler,L \$363.85 smcs; Fox,G \$59.99 smcs; Gale \$361.53 smcs; Galls \$147.48 smcs; Gamet,M \$3.21 smcs; Gangwish Turf \$368.03 smcs,co; Garrett Tires \$598.75 smcs; General Traffic Controls \$232.01 smcs; Georgia Fountain Supply \$344.00 smcs; Geotech Environmental \$764.80 smcs; Godfather's Pizza \$41.46 smcs; Golf Course Superintendent \$160.00 smcs; Gooch

Brake \$75.60 smcs; Gordons Small Engine \$10.00 smcs; Govcnctn \$955.00 smcs; Graham Tire \$1,987.07 smcs; Grainger \$1,017.12 smcs; Graphicsfactorycom \$9.95 smcs; Greyhouse Publishing \$412.10 smcs; Grupe,B \$156.00 smcs; H&H Distributing \$988.10 smcs; Hach \$600.23 smcs; Harley Davidson \$231.28 smcs; Harshbarger,K \$23.00 smcs; Hastings \$24.59 smcs; Hausmann Construction \$350,942.40 co; Heartland Scuba Center \$144.00 smcs,co; Highsmith \$296.36 smcs; Hilton's Handyman \$1,120.00 smcs; Hobby-Lobby \$958.18 co; Holiday \$61.21 smcs; Holiday Inn \$79.97 smcs; Holmes Plumbing \$2,033.26 smcs; HP Home Store \$246.50 smcs; Hydrologic \$2,200.53 smcs; ICMA RC \$4,796.55 ps; Intellicom \$1,300.00 co; IRS \$110,614.52 ps; Int'l Code Council \$1,371.11 smcs; Interstate All Battery \$224.50 smcs; Jack Lederman \$377.08 smcs; Johnson Hardware \$98.00 smcs; Jottodesk \$78.17 co; Just Blinds \$238.90 smcs; K&K Parts \$235.28 smcs; Ka-Boomer's \$100.00 smcs; Ky Clinic \$35.00 smcs; Ky Concrete \$8,123.53 smcs,co; Ky Glass \$69.46 smcs; Ky Hub \$427.20 smcs; Ky Implement \$1,814.87 smcs; Ky Liquor \$22.53 smcs; Ky Warehouse \$1,903.15 smcs; Ky Winlectric \$369.72 smcs; Kegley,K \$48.11 smcs; Ky Winnelson \$3.33 smcs; KHGI/KWNB TV \$150.00 smcs; Killion Motors \$506.91 smcs; Kirkham Michael \$1,909.55 co; Kmart \$452.55 smcs,co; Konica Minolta \$202.77 smcs; Korth,D \$7.28 smcs; Kowalek,G \$362.70 smcs; Labels Direct \$103.69 smcs; Labertus,A \$14.00 smcs; Landsend \$161.49 smcs; Laser Art Design \$206.00 smcs; Lawson Products \$219.97 smcs; Leadership Ky \$400.00 smcs; Lego Shop at Home \$76.88 smcs; Lesco \$161.88 smcs; Linweld \$122.84 smcs,co; Lockmobile \$45.00 smcs; LT Navigo Wireless \$1,974.50 smcs; Lucky's \$183.27 smcs; Magic Cleaning \$5,460.00 smcs; Market Place Garage \$30.00 smcs; Marlatt Machine Shop \$97.11 smcs; Menards \$3,003.11 smcs; Mendez,C \$20.00 smcs; Mennard,M \$80.00 smcs; Metlife \$16.20 ps; Mid-American Specialties \$522.09 smcs; Mid-Iowa Solid Waste \$1,015.24 smcs; Midland Molding \$25.00 smcs; Midwest Turf \$195.61 smcs; Miller & Associates \$14,454.12 co; Miller Signs \$3,600.00 co; Misko Sports \$20.97 smcs; Mollring,A \$150.00 smcs; Moonlight Embroidery \$1,664.00 smcs; Moore Construction \$17.29 smcs; NAFI \$45.00 smcs; Napa All Makes Auto \$1,807.34 smcs; Nashville Wraps \$1,404.57 smcs; National Hole In One \$240.00 smcs; NCS Equipment \$421.96 smcs; NE Child Support \$2,532.89 ps; NE Dept of Aeronautics \$1,725.00 er,ds; NE Dept of Revenue \$70,772.82 smcs; NE Equipment \$111.63 smcs; NE Truck & Equipment \$113.84 smcs; NE Truck Center \$1,417.50 smcs; NE Workforce Development \$3,388.00 ps; NEland Distributors \$404.00 smcs; Netknacks Tennis Award \$32.50 smcs; Nevco Scoreboard \$95.90 smcs; Newegg \$1,025.19 co; Newman Signs \$394.08 smcs; NMC Exchange \$9,270.00 co; Norm's Plumbing \$368.75 smcs; Northwest Electric \$1,041.75 smcs,co; Northwestern Energy \$582.60 smcs; Northwestern University \$1,200.00 smcs; Oeltjen,B \$6.15 smcs; Officemax \$777.57 smcs; Officenet \$329.00 smcs; O'Keefe Elevator \$601.00 smcs; O'Reilly Auto \$1,143.34 smcs; Oriental Trading \$332.77 smcs; Orscheln \$945.23 smcs; Paramount \$540.20 smcs; Party America \$17.74 smcs,co; Paulsen \$271,804.69 co; Paynor Doors of NE \$3,204.00 smcs; Paypal \$206.95 smcs; PDR \$124.90 smcs; Pearson,K \$15.00 smcs; Pep Co \$51.10 smcs; Pet Pick-ups \$815.19 smcs; PGA Member Info \$456.00 smcs; Pioneer Revere \$1,398.00 smcs; Platte Valley Comm \$1,781.12 smcs; Policereports.us \$3.00 smcs; Precision Industries \$70.46 co; Presto-X \$155.00 smcs; Provantage \$546.79 smcs; Public Agency Training \$295.00 smcs; Random House \$101.60 smcs; Ready Mixed Concrete \$7,780.62 smcs,co; Reams \$679.37 smcs; Recognition Unlimited \$32.95 ps; Recorded Books \$181.20 smcs; Rheome Tree \$940.00 smcs; Rowekamp \$2,000.00 smcs; S&S Worldwide \$15.98 smcs; S.A. Foster Lumber \$40.16 smcs; Safety-Kleen \$301.22 smcs; Sahling Kenworth \$506.51 smcs; Sam's Club \$1,650.71 smcs; San Pedro \$136.54 smcs; Sanitation

Products \$691.13 smcs; Sapp Brothers \$21,183.43 smcs; Sara Lee Bakery \$232.49 smcs; Schwan's \$2,491.81 smcs; Sears \$54.99 smcs; Sensus Metering Systems \$321.00 smcs; Sheldon,C \$81.76 smcs; Sherman,B \$175.00 smcs; Sherwin Williams \$781.48 smcs; Shop EZ \$23.65 smcs; Signazoncom \$443.48 smcs; Signwarehouse \$82.62 smcs; Sirchie Finger Print Lab \$4,601.70 smcs; Skeeter Barnes \$400.00 co; Snap-On Tools \$264.15 smcs; Softchoice \$350.71 smcs; SOS Portable Toilets \$170.00 smcs; Spellman,T \$15.00 smcs; Spiegel,H \$72.63 smcs; Squad-Fitters \$22.95 smcs; Stanley Convergent \$159.20 smcs; Steinbrinks Landscaping \$1,023.99 smcs; Streeter,S \$24.45 smcs; String Beans \$630.00 smcs; Sunmart \$233.42 smcs,co; Super Seer Corp \$32.56 smcs; Target \$147.81 smcs; Taylor Made \$2,681.17 smcs; Theis,J \$60.00 smcs; Thomas Research \$123.00 smcs; Thome,B \$80.57 smcs; Thompson,J \$60.00 smcs; Tielke Enterprise \$406.92 smcs; Titan Machinery \$24,525.50 smcs,co; Titleist \$1,414.32 smcs; Tomark Sports \$2,485.08 smcs; Tractor-Supply \$1,463.42 smcs; Trans Iowa Equipment \$198.57 smcs; Tri City Outdoor Power \$485.65 smcs; Turner Body Shop \$305.00 smcs; UPRR \$2,000.00 smcs,er; Unique Management \$196.90 smcs; US Treasury \$1,633.45 smcs; Upbeat \$838.00 smcs; UPS Store \$171.24 smcs; USPS \$173.42 smcs; Wal-mart \$1,596.61 smcs; Ward Labs \$312.49 smcs; Warth,T \$61.93 smcs; West Payment Center \$1,294.44 smcs; Whelen Engineering \$204.50 smcs; Wiederspan,R \$235.75 smcs; Wiegand Security \$75.00 smcs; Wilke Donovans \$177.32 smcs; Wilkins Hinrichs Stober \$5,851.14 co; Williams,M \$66.63 smcs; WPCI \$289.00 ps; WP-Paramount Software \$79.98 smcs; Young,E \$39.00 smcs; Youngs \$51.71 smcs; Zink,T \$50.00 smcs; Payroll Ending 7-18-2009 -- \$363,507.92. 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. Receive recommendations of Planning Commission and set August 11, 2009 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Approve **Resolution No. 2009-112** appointing members to fill the vacancies/expiration on the following Boards/Commissions: Airport Advisory Board, Board of Adjustment, Civil Service Commission, Community Redevelopment Authority, Downtown Improvement Board, Golf Advisory Board, Kearney Housing Agency, Advisory Board of Park & Recreation Commissioners, and Planning Commission.

RESOLUTION NO. 2009-112

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, vacancies currently exist on certain Boards/Commissions.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to the designated Boards/Commissions for the term indicated:

AIRPORT ADVISORY BOARD

Michelle Stover reappointed to July 31, 2014

BOARD OF ADJUSTMENT

Marlin Heiden reappointed to July 31, 2012

Ron Ridgway reappointed to July 31, 2012

CVIL SERVICE COMMISSION

Barry Sherman reappointed to July 31, 2015

COMMUNITY REDEVELOPMENT AUTHORITY

Tim Mannlein reappointed to July 31, 2014

DOWNTOWN IMPROVEMENT BOARD

Ron Lieske appointed to fulfill the term of Jayne Meyer to July 31, 2011

Marc Loescher reappointed to July 31, 2014

GOLF ADVISORY BOARD

Alex Straatmann reappointed to July 31, 2013

Ken Nickels reappointed to July 31, 2013

KEARNEY HOUSING AGENCY

Tom Watson reappointed to July 31, 2014

ADVISORY BOARD OF PARK & RECREATION COMMISSIONERS

David Klone reappointed to July 31, 2014

PLANNING COMMISSION

Stan Dart reappointed to July 31, 2012

Robert Cunningham appointed to succeed Larry Cihal to July 31, 2012

Andrew Williams appointed to succeed Richard Ritscher to July 31, 2012

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

5. Approve Change Order No. 2 showing an increase in the amount of \$816.90, Application and Certificate for Payment No. 2 in the amount of \$49,859.67 submitted by Concrete Workers, Inc. and approved by Miller & Associates for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney and approve **Resolution No. 2009-113.**

RESOLUTION NO. 2009-113

WHEREAS, Concrete Workers, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$816.90 as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Concrete Workers, Inc. and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$49,859.67 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$140,907.00
Change Order No. 1 (6-23-2009)	+ 2,015.50
Change Order No. 2 (7-28-2009)	+ <u>816.90</u>
Contract Sum to Date	143,739.40
Total Completed and Stored to Date	105,955.02

Retainage	5,292.75
Amount Due to Date	100,562.27
Less Previous Certificates for Payment	<u>50,702.60</u>
Current Payment Due	\$ 49,859.67

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

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

RANDY BUSCHKOETTER
 VICE-PRESIDENT OF THE COUNCIL

6. Approve Change Order No. 1 showing an increase in the amount of \$3,550.00, Application and Certificate for Payment No. 3-Final in the amount of \$31,887.08, and Certificate of Substantial Completion submitted by Technical Maintenance & Service Company and approved by Miller & Associates for the Northwest Well Field, Phase III (Electrical Control System) and approve **Resolution No. 2009-114**.

RESOLUTION NO. 2009-114

WHEREAS, Technical Maintenance & Service Co. has performed services in connection with the Northwest Well Field, Phase III (Electrical Control System), and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$3,550.00 as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Technical Maintenance & Service Co. and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$31,887.08 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$231,000.00
Change Order No. 1 (7-28-2009)	<u>+ 3,550.00</u>
Contract Sum to Date	\$234,550.00
Gross Amount Due	234,550.00
Retainage	.00
Amount Due to Date	234,550.00
Less Previous Certificates for Payment	<u>203,092.92</u>
Current Payment Due	\$ 31,887.08

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of June 30, 2009, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 28TH DAY OF JULY, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

7. Approve the Plans and Specification for the 2008 Part 10 Improvements for the construction of the Lighthouse Point to 17th Avenue Hike/Bike Trail and set the bid opening date for August 24, 2009 at 10:00 a.m.
8. Approve the application for a Special Designated License submitted by Hi-Brand Kearney, LLC, dba Old Chicago in connection with their Class IK-66969 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on August 22, 2009 from 5:00 p.m. until 12:30 a.m. for a reception.

V. CONSENT AGENDA ORDINANCES

None.

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. After approval, the ordinances will become effective on August 12, 2009.

Council Member Buschkoetter 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 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, Lear,

Lammers, Kearney. Nay: None. Clouse absent. Motion carried. City Clerk read Ordinance No. 7528 on third and final 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.

Moved by Kearney seconded by Lammers that Ordinance No. 7528 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. 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. 7528 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. 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. After approval, the ordinances will become effective on August 12, 2009.

Council Member Lammers 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 Lear 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, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried. City Clerk read Ordinance No. 7529 on third and final 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.

Moved by Buschkoetter seconded by Kearney that Ordinance No. 7529 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. 7529 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. 7534 – REZONING EAST OF 30TH AVENUE, SOUTH OF UPRR, NORTH OF 16TH STREET (PERTAINS TO PUBLIC HEARING 2)

Council Member Kearney introduced Ordinance No. 7534, being Subsection 3 of

Agenda Item VI to rezone from District M-2, General Industrial District and District AG, Agricultural District to District M-1/PD, Limited Industrial Planned Development Overlay District for a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member 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. 7534 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. 7534 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. 7534 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.

APPEAL OF DENIAL OF CURB CUT LOCATED AT 1703 WEST 40TH STREET

Vice-President Buschkoetter opened for discussion the appeal filed by Joe Barber regarding the denial of a curb cut onto 17th Avenue located at 1703 West 40th Street.

The owner of 1703 West 40th Street has requested a curb cut onto 17th Avenue to access a proposed detached garage that would be located in the back yard. 17th Avenue is currently a 4-lane arterial street from 39th Street north to the City limits.

On September 14, 2004 the City Council adopted Resolution No. 2004-159 approving the City of Kearney Transportation Plan. Included in the Transportation Plan is Chapter 6.0 Access Management Policy. This chapter details the recommended access management guidelines adopted by the City of Kearney to ensure safer and more efficient traffic flow on city streets. The City has continually tried to eliminate or restrict drive accesses onto our arterial streets with existing, new, or redevelopment projects.

The survey that Mr. Barber has provided shows approximately 12 foot of space on the west side of his existing driveway that could accommodate a future driveway to access a parking area or detached garage in his backyard.

Joe Barber, 1703 West 40th Street, presented this matter to the Council. He has lived at this address since August of 1985. He was appealing the curb cut denial which would

allow him to come into compliance with City Code with his vehicle and trailers. They have a Ford F-150 pickup, an enclosed trailer that hauls two motorcycles and an open trailer. Neither the F-150 nor the enclosed trailer will fit inside their garage. Their current garage opening is so low that a mini-van will not fit through the doors. There is plenty of room behind their house to the north with all required setbacks and easements for a detached garage and a full turn around pad. However, they would need a curb cut on 17th Avenue on the west side which is approximately 90 feet north of the intersection off West 40th Street and 17th Avenue. Their existing driveway and curb cut exit onto West 40th Street to the south, approximately 60 feet from the intersection of 17th Avenue and West 40th Street. The use would be primarily for storage with entry/exit probably no more than 4-5 times a year. The owner of the house immediately to the south of them backs onto 17th Avenue twice a day. Likewise, the owner at the south side of the corner of West 42nd Street and 17th Avenue backs out onto 17th Avenue regularly.

Mr. Barber stated he can get a building permit for the garage and turn around concrete pad according to Chief Building Inspector Max Richardson, but he denied the curb cut onto 17th Avenue. He has also stated that they cannot jump the curb. He does not have enough room on either the east or west side of the house to put a driveway big enough to navigate the truck and the trailer around the corner of the house. There are trees in their front yard and he was told that he would have to put a drive across his front yard and over the easement to go around the east side of the house because they could not get a curb cut close to the intersection of 17th Avenue and 40th Street.

He was told by Director of Public Works Rod Wiederspan that the City Council had made the decision not to allow curb cuts onto 17th Avenue. He wrote to the City Manager and asked his opinion on the subject and he replied that because of the Council's resolution on arterial systems that he could not see a way of approving his request. The reason he came to the Council was to appeal and explain his hardship case of not being able to comply with City Code for either their truck or trailers and be granted the curb cut so they can get their vehicles off the street in compliance with City Code. Their house has been at this location since 1977 and for 20 years they have parked on the right-of-way. They have had one of their trailers since they moved to this location and it has been parked on the right side of 17th Avenue. There is good visibility there (no trees in the way) and good visibility three blocks to the north and a block to the south to the traffic light.

City Manager Michael Morgan stated that if Mr. Barber jumps the curb with his vehicles, it is the same as curb cut. Allowing that or a curb cut defeats the purpose of an arterial road requirement. He stated that some people do it, but it is a violation. Where Mr. Barber was parking the trailer was always a violation. Nothing has changed about that regulation; it just was not being enforced in the right-of-way. 17th Avenue is an arterial and is somewhat different than residential streets.

Council member Kearney stated with the history of 39th Street having too many curb cuts, it prompted the Council's decision about limiting them on an arterial street. It is quite dangerous in areas of town on arterial roads. Although Mr. Barber has a unique situation, it would be inconsistent with their discussion about trying to minimize the number of curb cuts onto arterials.

Director of Public Works Rod Wiederspan stated that over the years, they have tried to restrict the accesses onto the arterials. They have tried to combine accesses that were pre-existing as they developed and improved those arterial roads. In 2004, they adopted the Transportation Plan which is when they actually put the policy in place to restrict those accesses. Prior to that they would work with each property owner to restrict, limit or share them as we do today. It is very important to their Transportation Plan to not allow a number of accesses. He was aware that there are a number of them around town that were pre-existing, but they are trying to eliminate them in the future.

Council member Lammers stated that in actuality if Mr. Barber is going to keep his pickup in back of his house, the curb cut would be used more on a consistent basis and more often than 4-5 times a year. In looking at the grand scheme of things, Kearney is getting developed out to 56th Street and beyond very quickly at the present rate. There are a lot of projects going on in that direction and if you look at 17th Avenue being an arterial, they do not want a lot of people pulling out onto that from garages, driveways, etc.

Director of Public Works stated that they have had a lot of requests from property owners north on 17th Avenue with Fairacres along there to have accesses to their backyards and the back side of their property. There are curb cuts around town on a number of arterials, Avenue N, 56th Street, 39th Street where residents actually back to the arterials and have requested accesses in that manner. It is not a matter of which ones have the worst case scenario or which ones have the biggest hardship, it is what that does if they are allowed down the road with other properties.

Council member Kearney asked Mr. Barber if the driveway can be widened in order to accommodate the pickup truck. Mr. Barber responded that it cannot be widened enough to do so. He infrequently drives the truck and it is used primarily for moving and storing and is not regularly used. He and his wife each have a Buick. He parks his car to the left side of the existing driveway. She parks her car in the garage where the motorcycles are also parked on the left side.

Council member Buschkoetter stated the trailer was the major issue. He is sympathetic with Mr. Barber, but the difficulty for the Council is that they have to set rules the same for everyone. He suggested that Mr. Barber might have to find another off-premise storage place for the trailer when it is not in use. His truck could be parked on the street in front of his home since it would be moved often enough to comply with City Code.

Moved by Lear seconded by Buschkoetter to deny the curb cut onto 17th Avenue located at 1703 West 40th Street as requested by Joe Barber. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

OPEN ACCOUNT CLAIMS: PLATTE VALLEY STATE BANK - \$48,841.24

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$48,841.24 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse absent and Lear abstained. Motion carried.

VII. REPORTS

UPDATE ON AIRPORT TERMINAL RENOVATION PROJECT

Airport Manager Jim Lynaugh updated the Council on the Airport Terminal Renovation Project. He presented a drawing showing how the proposed renovation and how the different areas would be improved.

CLOSED SESSION

Moved by Lear seconded by Buschkoetter that Council adjourn into closed session at 8:04 p.m. for the protection of the public interest to discuss a possible real estate purchase. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse absent. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss a possible real estate purchase. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Kearney that Council reconvene in regular session at 8:29 p.m. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney, Lear. Nay: None. Clouse absent. Motion carried.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:29 p.m. Roll call resulted as follows: Aye: Buschkoetter, Kearney, Lear, Lammers. Nay: None. Clouse absent. Motion carried.

ATTEST:

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

MICHAELLE E. TREMBLY
CITY CLERK