

Kearney, Nebraska
August 11, 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 August 11, 2009, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Rod Wiederspan, Director of Public Works; Lance Lang, City Planner; Suzanne Brodine, Grants & Marketing Coordinator; Dan Lynch, Chief of Police; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Mitch Humphrey, Paul Brungardt, Jeff Overturf, Clint Kerby, Genon Kerby, Bob Kerby, Chris Andersen, Mark Andersen, Kirby Andersen, Dan Lindstrom, Jon Abegglen, Essam Arram, Barbara Arram, Sharon Brown, Rhoda Brown, Deanna Saner, Brett Weiss, Sara Giboney from Kearney Hub, Steve Altmaier from KGFV Radio, NTV.

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

I. ROUTINE BUSINESS

INVOCATION

Reverend Jerry Ness from the First Presbyterian Church provided the Invocation.

PLEDGE OF ALLEGIANCE

One Boy Scout from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

RECOGNITION – OUTGOING BOARD MEMBERS

Mayor Clouse stated as a token of appreciation, the City presents service awards to outgoing members that have served on the City's Boards. Unfortunately, Larry Cihal and Richard Ritscher were not able to attend the meeting so they will be recognized at the next meeting.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS**WOOD RIVER TRAILER COURT ANNUAL RENEWAL**

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**CONDITIONAL USE PERMIT – JEFF AND LISA OVERTURF, 710 WEST 30TH AVENUE**

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey for Buffalo Surveying (Applicant) for Jeffrey and Lisa Overturf (Owner) for a Conditional Use Permit to haul gravel and sand off site to enable construction of a private lake on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (710 West 30th Avenue). Planning Commission recommended approval subject to the following conditions: (a) The CUP is approved for a period of five years (60 months) from the date of City Council approval. (b) Proposed hours of operation for dredging and hauling shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 p.m. during the months of April to September and 8:00 a.m. to 5:00 p.m. during the months of October to March. No operations on Sundays. (c) The applicant agrees to be bound and comply with terms, conditions, and provisions of Chapter 59 of the Code of the City of Kearney. (d) The applicant agrees to conform to all existing and applicable city ordinances, resolutions, State and local laws, Federal laws, regulations, and standards. (e) The applicant has provided a letter from the US Army Corps of Engineers, Buffalo County Highway Department, and Central Platte Natural Resources District indicating that each agency is aware of the intended project, that each agency has reviewed the scope, intent and impact of the proposed project and the project is acceptable to each agency. (f) The applicants, Jeffrey and Lisa Overturf agree to indemnify and hold harmless the City of Kearney, its agents and employees against all claim, damages, losses, or expenses, including reasonable attorneys fees that arise or allegedly arise in the case of an accident, injury, loss, for claims, damages to persons or property accruing or resulting from the permitted use, not due to the negligence or omissions on the part of the City of Kearney, its agents and employees. (g) Said permit is to be temporary in character, shall immediately expire if abandoned (if work ceases for a period of 90 days or more, and if abandoned, the applicant shall be required to level any remaining stockpiled materials and bring the site into a reasonably graded and finished condition considering the pre-construction conditions and surrounding properties), is not transferable without written consent of the City of Kearney and subject to revocation, upon notice and hearing by the City Council, upon determination by the Council that the applicant has failed, refused, or ceased to

comply with the conditions set herein, or has used or permitted the property to be used in such a manner as to constitute a nuisance, or to be injurious or harmful to the health, safety, morals or welfare of persons or property or future developments require revocation in order to comply with the spirit of the Zoning Ordinance.

The applicant requested a Conditional Use Permit (CUP) for dredging sand/gravel south of the Berean Cornerstone Church to create a sandpit lake at the March 2009 meeting of the Planning Commission. The City Council denied the request for a CUP at the April 14, 2009 meeting.

The applicant reapplied for the Planning Commission Agenda of June 19, 2009 but decided to continue the hearing to July to have adequate time to gather as much information as possible to present to the Planning Commission. In the meantime, the applicant attended two more DRT meetings with staff on May 28, 2009 and July 2, 2009 to present additional information to staff. The applicant is now back again to request the CUP be granted. Staff offers the following comments based on the known history of the project and the new information that has been submitted and the results of the Planning Commission hearing:

The site is zoned Agricultural and is approximately 125 acres in size. Roughly half of the site to the east is the subject of this CUP. The future of the west half of the property is undetermined at this time. The dredge material will be stockpiled initially and then some will be retained for on-site fill and some will be trucked off site for various construction projects in the area. The applicant anticipates that the operation will be ongoing for approximately five years including the construction of one house. Eventually, the applicant's cousin may also want to build a house on the lake. The proposed lake will be approximately 27 acres in size. The development is currently outside city limits. City services are not available and not required.

- a) An aerial photograph and a site plan have been submitted that depict the following features:
 - Surrounding development, natural features, roads, etc.
 - Location of the proposed "footprint" of the lake.
 - A 100-foot wide open space buffer with tree plantings proposed between the lake and 30th Avenue.
 - A proposed loop road around the lake. The entire loop will not be built initially, but if future development warrants, it will be built in phases.
 - Access is controlled on 30th Avenue so the applicant will share the north access point for the loop road with the property owner to the north.
 - A future north-south connection to 11th Street is proposed connecting this property by traversing across the land to the north.
- b) An excavation plan has been prepared for the lake. The plan shows the existing and proposed contours and the quantity of excavated material has been calculated and presented in a table on the right side of the sheet.
 - The top two feet of excavation is topsoil, about 84,000 cubic yards, which will be stockpiled and redistributed on-site.

- Approximately 846,000 tons of sand is estimated to be removed, of which about 60 percent is anticipated to be unacceptable for sale and will remain on site to be redistributed.
 - The remaining 40 percent or about 339,000 tons of material will be trucked off-site.
 - If trucks were to operate five days per week for 52 weeks per year for five years it is estimated that the average number of trucks required to remove the material will be 11 trucks per day. *(Staff notes that these numbers may be statistically or mathematically correct, but in reality the demand will likely not be uniformly consistent over the time span and the trucks will not operate 52 weeks a year. In the calculations, five days per week were used to generate numbers while the permit, if approved the way it is currently proposed, would allow six days per week. This in effect removes 52 days per year or 260 days over the five year period from the hauling schedule. Weather, holidays, vacations, demand, etc. will determine how many days the trucks are actually hauling. It seems likely that the number of daily trucks may be much higher during active periods and perhaps no trucks will run on some days.)*
- c) A list of proposed terms and conditions has been submitted by the applicant. (summarized here)
- The CUP is approved for a period of five years (60 months) from the date of City Council approval.
 - Proposed hours of operation for dredging and hauling shall be limited to Monday through Saturday, 7:00 a.m. to 7:00 p.m. during the months of April to September and 8:00 a.m. to 5:00 p.m. during the months of October to March. No operations on Sundays.
 - The applicant agrees to be bound and comply with terms, conditions, and provisions of Chapter 59 of the Code of the City of Kearney.
 - The applicant agrees to conform to all existing and applicable City ordinances, resolutions, State and local laws, Federal laws, regulations, and standards.
 - The applicant has provided a letter from the US Army Corps of Engineers, Buffalo County Highway Department, and Central Platte Natural Resources District indicating that each agency is aware of the intended project, that each agency has reviewed the scope, intent and impact of the proposed project and the project is acceptable to each agency.
 - Standard Hold Harmless and liability clauses absolving the City of any liability concerns shall be included.
- d) A neighborhood informational meeting was held Monday, June 15, 2009 at 6:30 p.m. at the Kearney Public Library.
- Twenty two letters of invitation were sent to property owners in the area of the proposed project. Nine property owners attended.
- e) Two letters dated March 30, 2009 and June 16, 2009 from the Buffalo County Highway Department in support of the project and describing anticipated and completed roadway improvements on 30th Avenue and 11th Street.
- f) Two letters from area property owners, the lead Pastor of the Berean Church and the Behlmann's, in support of the project.
- g) A letter dated March 18, 2009 from the US Army Corps of Engineers Nebraska State Program Manager indicating that no permits are required from that agency.

- h) A letter dated April 29, 2009 from the Projects Director of Central Platte Natural Resources District stating that the proposed lake and associated road improvements will benefit the drainage in this area which has been problematic in the past.

The Planning Commission felt considerably more comfortable with the additional positive information that has been presented by the applicant since the last time this project was considered. Gaps in the information from last time have been filled, and the Planning Commission is now in support of this application. There was some discussion at Planning Commission regarding the meaning of the term "abandonment" in the liability clause meant to protect the City. The City Planner has added some language with advice from the City Attorney to address this issue.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The Conditional Use Permit is actually for the section containing 640 acres which is a standard section of ground. When this proposal was presented previously to the Council, it was denied. It was the understanding of the Overturf's that if they brought back more information, took it back through the Planning Commission for review and then back before the Council with that information, it could be approved.

They met with the neighborhood group in June. They had this project scheduled for a Planning Commission meeting, continued, then had a couple of DRT meetings so they gathered as much information as they could. They have contacted each and every one of the adjoining neighbors by letter. They sent out 22 letters. They also contacted everybody that owns property in the section and those involved parties that own the property to the east, north and along the intersection of 46th Avenue and 11th Street. They did their best to cover all the bases and address all the potential questions that there might be. They directly talked to the Knapp family who owns approximately 100 acres to the north. The Knapps realized that when they sold the ground to the Berean Church that with the City's plan of making 30th Avenue part of the link around the City and this area was going to be developed as a fairly significant part of our City. The property owners to the northeast also realized this since they just sold their property to The Buckle for future development. The Knapps also sold property to the Brown Church Development Group. Since then the overpass has been built. It is quite apparent that the roads in this area are substandard in their present form. It is more recognizable when you look at the future development that is going to occur in that area. The County is going to address the roads for 30th Avenue and 11th Street.

When the Knapp family sold their property to the Berean Church, they wanted to make sure that the Church was not landlocked and preserved an east/west corridor on the south side for access. As part of this project, one of the conditions was to group the access points both now and in the future to be limited to one site to the north and one site to the south. It is not their intention to fully develop this into a subdivision. What is being proposed for roads is basically the way it could be developed in the future should this ever come to pass. They believed it was a way to honor some requests by the Knapp family to provide a way through there and accommodate the City staff by sharing. The east/west corridor is actually split on the property line between the Knapp family and the Overturf property. They propose a conceptualized street that might run north/south through the Knapp property. It does not mean that street has to go

specifically north/south in that location. It could move a little to the east or go to the north and bend around.

They have not received any negative feedback from the owner of the property directly to the south with the trailer court. They have sent letters to the individual property owners in the Deerfield Subdivision and either sent letters or contacted owners of the surrounding areas. In June, they met with neighbors at the Library for a couple of hours where there was a lot of positive feedback. There were some concerns from the Kerby family. He understands that they have lived in the neighborhood for a long time. Sometimes people just have to agree to disagree.

They included in the Council packet, letters from the County Highway Department with their plan to repair 11th Street which is in their One and Six Year Plan. The Highway Superintendent stated the maintenance of 11th Street or 30th Avenue is not a problem. The County is responsible to maintain the graveled roads in the area and according to the Superintendent of Roads if maintenance is required, they will do it. Also included in the packet are letters from the Army Corp of Engineers recognizing this project together with the NRD.

In the packet are letters from some of the property owners, including Gary Behlmann, who lives south of the project, Pastor Shada and Doug Le Claire from the Berean Church voicing support of this project. In talking with the Berean Church, their concern is the drainage that runs along 30th Avenue. When they developed their site, they were required to put a significant amount of drainage or ditch along the east side of their property. Because there is somewhat of a hump in the road, the water cannot pass to the south. That has also been a real bone of contention with the Highway Department because 30th Avenue in that location is only 40 feet wide (as far as the right-of-way is concerned.) As a caveat to this project with approval, Mr. & Mrs. Overturf would like to grant an easement or right-of-way to the County so they can properly clean that ditch and make it so the water will drain down to the new bridge that has been built over the north channel of the Platte River.

The project anticipates a lake that is no greater than 27 acres in size. They know that the 30th Avenue corridor could someday serve the anticipated new interchange. When platting this corridor, they requested 50 feet over to the trees that could be used for the corridor area for the overpass. According to the engineers, the City will need 200 feet of right-of-way for that corridor to exist in. They are trying to plan for that by planting some trees along the west line of 30th Avenue so that someday when that new interchange comes to pass, these trees will be established.

The Overturf's plan is to make this operation temporary in nature according to the conditions as were set forth to the Planning Commission. They need to get the permit to haul off the material to create the lake. The lake will be a little different from the sand and gravel operations that might be seen at local sand and gravel operations. Their lakes are 40-80 foot deep and they do not see the amount of material over the life span of that pit. This pit or lake is going to be much shallower with a gentle sloping banked mining operation. The average depth is only 18-20 feet deep. The banks will be gently sloped for safety. Their intent is to build a lake and a house in the northwest corner. They have looked at putting lots around the lake in the future that would be similar in

nature to lots around Lighthouse Point. These would be larger lots served by City water and sewer.

Paul Brungardt, Brungardt Engineering, presented the excavation plan to show what this lake could look like if they could drain it. It is a dredging operation so there could be some deep pockets with a flat bottom. The total excavation of this lake is about 846,000 tons of material. Not everything that comes out is going to be automatically shipped out. Some of it will be left back on site; some of it is not suitable for fill material, etc. In talking with some of the sand and gravel operators in the area, there is approximately 40 percent of that material that can actually be able to be used for mineral rights. That 40 percent would yield about 338,500 tons of material being able to be pulled off site. The standard truck with a trailer can carry 25 tons; it would take 13,540 trucks in a 5-year period to pull that much material. There are 52 weeks in a year and calculating five working days a week, equals 1,300 days over a 5-year period they could theoretically be hauled. That is on average of 11 trucks a day. Keep in mind some days there will be no trucks out, other days there could be up to 40 trucks. This will greatly impact 30th Avenue and 11th Street. They did a traffic study out there and counted cars for a week. On average, they found that 1,200 cars a day are crossing the intersection of 11th Street and 30th Avenue with about 40 of those being larger vehicles (trucks). With The Buckle project going on, there will be another surge of trucks in that area. The impact is not going to be great on this intersection because this road was developed as an arterial roadway. It was designed to handle this traffic and the reason it was built this way. The City built it to move traffic around the City and keep it away from our congestion points, like 25th Street and 2nd Avenue. It is a great location and the roadway can handle the anticipated traffic.

By doing this project, it will allow the County to put in a ditch along 11th Street and 30th Avenue that will allow water from the northwest and northeast to successfully drain down to the north channel of the Platte River and out. Another bonus feature is although the structure has been improved on Turkey Creek, it still floods at times. What they can do with this lake is create a temporary detention/retention cell. If the water is backing up and flooding those immediate areas upstream of this structure, they can do the design work to be able to get the lake so that water can go in there. If you look at a 1-foot free board on this lake, it can hold at a minimum seven million gallons of water. This is a benefit to be able to put in a recreational facility lake which can also be set up to correct some of the drainage concerns that exist. It will not have a major impact on the community either.

Mr. Humphrey addressed one of the conditions of the CUP regarding the temporary character of the project, the expiration of 90 days and the phrase "should the project be abandoned". When the City Council comments were sent to him for this meeting, the 90 day period was not discussed with him. He was aware the City staff was going to talk to City Attorney Michael Tye regarding the timeframe. His concern was the 90 days because of Nebraska fall and winter weather which can delay a project indefinitely.

City Planner Lance Lang stated that he did discuss this with the City Attorney, but he was the one who drafted the language. He said the 90 days is subject to change if the City Council believes that is not appropriate. The reason that 90 days came about is because the Planning Commission had some concerns about the term "abandonment"

and what that meant. They wanted it better defined. The conditions in this permit are the meat of the issue. If this permit is issued on that basis, the only way it can be revoked is on the basis of those conditions. The concern is that the operation keeps moving and not be abandoned. This is a two part project, part is dredging and part is hauling off the material. There might be times in the winter due to weather or there might not be a big construction project in town that can use the material which could cause inactivity on the site. He stated perhaps 180 days would be more realistic.

City Planner stated although, he did not foresee this happening, if there was a case of abandonment, the concern is that the applicant would just walk away and leave things with huge stockpiles of materials. They wanted to include language that if there was abandonment, the applicant is responsible to remove the material off site or redistribute it around the site in a reasonable manner that takes into account the adjoining property's standards.

City Attorney Michael Tye added that if the Conditional Use Permit is granted, it is a property right. If the Council at some point would consider revoking that permit, they would be obligated to provide due process to the holder of that permit. If there was a question of abandonment, that issue would come back before the Council on a procedure to revoke the permit. This language would give us a timeline and would be a basis to bring it back to the Council. There would be some leeway for the permit holder, if it was noted operation had ceased, they would be contacted to discuss what the status is and from there it could be brought back to the Council.

Council member Kearney asked what if there is still a stockpile on the property after five years and the permit has expired. City Attorney stated the anticipation is that the permit holder will have all the material hauled off site within that 5-year time period. The City has the ability if they are creating a nuisance on the property, as referenced in the conditions, at that point to start a nuisance action to require them to clean up the site. If the property owner refuses to do so, the City can be allowed onto the property and correct the nuisance and charge the property owner the cost.

Mr. Humphrey stated that at the neighborhood meeting, they did communicate to the neighbors that this is a Conditional Use Permit that can be revoked. If the neighbors have a complaint and the applicant is not in compliance with the conditions in that permit, it can be brought back to City Council review. The applicants are also aware of these conditions.

Council member Lammers stated although he is in favor of the project, one of his concerns is the size of the lake and the amount of material that need to be hauled off. It is 27 acres in comparison to Yanney Park Lake which is only 12½ acres. Mr. Humphrey stated that the Conditional Use Permit really pertains to the hauling of the material, not necessarily the size of the lake. It will be a process of removing the top soil and setting it to the side, dredging out the underlying materials and replacing the top soil. Only one fourth to one fifth of the material will be hauled away. Comparatively, the Stoneridge Lake is 30 acres. The outside boundary of this lake will be 27 acres and the water level will be a little less than that. The maximum will be 27 acres, but the bank lines will go down to the water.

Mayor Clouse stated that mining operation will have to be contracted out and asked when they would be ready to mobilize that operation. Mr. Humphrey answered they want to start as soon as they have approval. His understanding is that Mr. Overturf has contracted for equipment to start as soon as the Conditional Use Permit is effective. He talked to one of the gravel haulers in the area and found that it takes some time to mobilize the equipment and gear up to strip the area, stockpile and start dredging. It could be a period of time before they would start moving material and he did not have a timeline for that. Mayor Clouse stated perhaps that limits the time for hauling to 4½ years or so and that would run the number of trucks up. Mr. Humphrey stated that Mr. Overturf and his group have taken that into consideration.

Council member Lear stated using some of the averages that were talked about before, if you take this amount of time out of the 5-year window, then a 5-year computation is no longer an appropriate computation period, it is something less than that. There is also the issue of removing topsoil in preparation before actually getting into the business of removing the material from the site. Mr. Humphrey stated that he does not know how to calculate that because there is going to be some action there while they are doing that preparation.

Council member Lear noted as Mr. Brungardt calculated an average of 11 trucks a day, even if that number doubles at 22 trucks per day it is still impacting a section where there are 1,200 vehicles traversing and about 40 existing trucks with more coming. Mr. Humphrey stated he worked with Mr. Brundgardt on the Cash-Wa project and knew the gravel hauler. The number of trucks that probably most people were not aware of was astronomical. They had to dig a hole for the new freezer building, pour footing and filled it up for the freezer foundation. Mr. Brundgardt stated when the Cash-Wa project was under construction, there were a couple of days with 120 trucks bringing material in on site.

Mr. Brungardt stated in answer to Council member Lear's question, 40 percent is a high estimate as far as the amount of material that could be used for mineral rights. It could be anywhere from 20-35 percent. The material that cannot be used will be stockpiled and then redistributed back after the usable material is removed. Engineering will dictate the height of the stockpiles and where they can be placed and how that will impact the floodplain area. They made an assumption that the top two feet are usable, that might not be the case and the lake might not be this size. They are trying to provide a high estimate; it actually could be only 30 percent which would reduce the loads greatly. They will start with a hole in the middle, excavate it out, work from there and market it as they know they can grow to 27 acres.

Regarding the 90-day condition, Mr. Humphrey stated that as City staff stated there would be a little leeway in there. He believed it made more practical sense to double that time to get them through the winter and would like to see that written down.

Council member Lear stated that on the high side this could be a beautiful development like others he has seen, but on the low side these types of projects are sometimes abandoned and violates the integrity of the neighborhood. It is only a 5-year permit at which time the operation should cease. He asked how the City would recover costs with the scenario that the City does a clean up effort as a result of a nuisance process. City

Attorney stated the City would file a nuisance action in District Court. A court order would be obtained authorizing the City to go onto that property and in conjunction charge the property owner for the cost. Once that number is determined, a judgment would be obtained against the property owner. This would also become a lien against the property and the City would pursue collection. This would also carry criminal potential, so the City has done both in the past. A nuisance is a violation of law and City Code, although that is a rare case, it can be processed that way.

Clint Kerby, 3710 22nd Avenue, they are opposing the Conditional Use Permit for the commercial gravel mining operation. This application was denied at the April 14th Council Meeting. Several issues were discussed for the denial. One was the immense size of the project within the City jurisdiction. The second was the traffic issue of hundreds of gravel trucks going by the residential and park areas on 11th Street. Third was the location on this particular intersection which is not really conducive for a project of this proportion. Finally there was at that time, the lack of information and a plan on the part of the applicant.

As this application is being reviewed, they still face the same issues as there were in the initial denial of the permit in April. This time the applicant has provided some numbers on their application. He believed those numbers gave a clearer picture of the magnitude and negative impact this mining operation will have on Kearney residents. He stated this will come more into play when looking at Chapter 59 of the Kearney City Code. He did a work sheet based on the removal of 339,000 ton which the applicant provided and came up with some different calculations about the days the operation can be in use. They went with a total of 200 active days a year which he believed was more realistic. As stated earlier, there is going to be some down time in the winter. There is going to be site preparation time in that 5-year time period and time to replace dirt on site. Assuming they can haul 200 days a year that equal 1,000 days in five years. A standard size dump truck is 15 tons; they would be looking at 22,600 dump trucks to remove this much material. You can double the number of trucks as the trucks come back to reload. This computes to 45,200 total trucks. Basically, this would be 45 trucks a day.

Chapter 59 of the City Code provides that "the Planning Commission and the City Council shall review and approve the site plan based on the criteria established in Table 59.1". Per Table 59.1, there are several areas, he was not sure the project can comply with. The development density portion states "the site area per unit for full area ratio should be similar to surrounding uses, if not separated by major natural or artificial features." Now when material of this magnitude is stacked, he wanted to know how this is going to be restricted from view. The Table also refers to some traffic capacity issues and the impact on the street system. He did not agree with the study of 1,200 vehicles on that street a day. He goes through that a lot and sees a lot of cars. He wanted to know if there have been any other studies that have been done there. It is a bad corner, even with a 3-way stop, it has problems. He did not believe that it was a good corner to locate a gravel mining operation of this magnitude.

He also stated that in the Code it says regarding the external traffic effects, "the project design should direct non-residential traffic away from residential areas". This is doing the opposite and pointing that traffic right into town. He also added that the applicant does not have a customer for the material in place so they are concerned about that

issue. The hours of operation from 7:00 a.m. to 7:00 p.m. are long. The Code states "projects with long operating hours must minimize affects on surrounding residential areas". They also have some concerns about the noise, the air quality with dust and the traffic issue. They are not opposed to the lake. There have been some nice lakes made in town without mining gravel. Lighthouse Point is only 9 acres and Yanney Lake is 12½ acres. They also question whether the property owner has experience in gravel mining and marketing of the materials.

Mr. Kerby stated that he appreciated Mr. Humphrey's effort to have the neighborhood meeting at the Library, but it was basically informing them of what has been presented at Council. There were others who voiced concerns. In addition to those already mentioned, there are surface water concerns within the immediate area and west due to stockpiling the materials. Mr. Kerby asked Mr. Overturf if he would consider reducing the size of the lake and he said he would not. They are not opposed to gravel pits and there are many in the area to fill the need. With the addition of The Buckle warehouse in the area, this operation adds to the traffic and belongs outside the City jurisdiction.

Bob Kerby lives in the same section and has owned this land for 50 years and knows quite a bit about this section. It seems in his section anybody who wants to make a little money digs a hole in the ground. This will make the eighth lake in this section. None are of this magnitude; most are ponds which are fine. Most of them are dug to make a little money. This is not for his health; this is for money. If Mr. Overturf wants a home by a lake, he can sure find one. They all know that his intention is to build a housing project around there. This will eventually lead to more taxes and will have to be annexed into the City limits. If Deerfield Acres would ever be taken into the City limits, they will probably take the whole section including his property. Then they would have to be on City water and sewer.

Mr. Kerby further stated that right across the road is a housing development and they have had a little taste of what a gravel pit is. Mr. Kerby understood that they gave him five years to dig a 5-acre lake at Deerfield Acres. He had never seen so many gravel trucks in his life. They only have 2½ acres dug and there must have been 500 loads already. They went past his property because the bridge would not hold them going up 30th Avenue before they built the new one. This creates lots of traffic, dust and noise with the trucks backing up. If this operation is not completed in five years, the Council will grant another 5-year permit. They are not opposed to progress, but they anticipate these problems which are a concern.

City Manager Michael Morgan stated that the 90 day language is somewhat of a mute point; the City would handle it if it were to occur. He did not see the need to change that because realistically it is more than 90 days. There is a process in place where it would come back to Council. It is no secret that 30th Avenue and 11th Street will have to be improved to a 4-lane arterial sooner than later. This project may negatively impact that stretch, but realistically they know that it will have to be improved regardless.

Council member Lammers stated that his questions were answered. Looking at Yanney Park which was a mining operation, it ended up being a very nice lake and a nice addition to the City. His major concern was the removing of the materials and the consequences if they do not complete their operation. The arterials are already set up

to handle that kind of traffic which is their purpose. 30th Avenue and 11th Street will be finished in the near future as that 4-way is built all the way. An additional 40 vehicles a day in the grand scheme of things is part of progress.

Council member Lear stated that as the community starts growing, it impacts people who live nearby who did not have to deal with those issues in the past. He found it difficult to vote against this project based on truck traffic because it is as conveniently located to major arterials as they could ever expect. There is virtually no travel through collector streets so he cannot say it is unreasonably located. It was denied the first time though because there was not the planning and effort to understand what the scope of this project was going to be. He believed the information and communication has been done in presenting this project. This is an appropriate project although it does have some drawbacks.

Mayor Clouse stated that he reviewed what had previously been discussed about this project. The traffic was never a concern for him because he knew that they had The Buckle project coming and that something had to be done with 30th Avenue and 11th Street. They still have to work through the design process of what that intersection will look like. There have been many letters of support about the additional benefits that can be derived from this project which have to be taken into consideration.

Moved by Clouse seconded by Kearney to close the hearing and approve the Application submitted by Mitch Humphrey for Buffalo Surveying (Applicant) for Jeffrey and Lisa Overturf (Owner) for a Conditional Use Permit to haul gravel and sand off site to enable construction of a private lake on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (710 West 30th Avenue) subject to compliance with the following conditions: (a) Said Permit is approved for a period of five years commencing August 26, 2009. (b) Proposed hours of operation for dredging and hauling shall be limited to Monday through Saturday, 7:00 a.m. until 7:00 p.m. during the months of April through September, and 8:00 a.m. to 5:00 p.m. during the months of October through March. There will be no operations on Sundays. (c) Permittee agrees to be bound and comply with the terms, conditions, and provisions of Chapter 59 of the Code of the City of Kearney. (d) By accepting this Conditional Use Permit, Jeffrey and Lisa Overturf agree to conform with all existing and applicable City ordinances, resolutions, state and local laws, federal laws, regulations, and standards. (e) Permittee has provided letters from the U.S. Army Corps of Engineers, Buffalo County Highway Department, and Central Platte Natural Resources District indicating that each agency is aware of the intended project, that each agency has reviewed the scope, intent and impact of the proposed project and the project is acceptable to each agency. (f) Jeffery and Lisa Overturf agree indemnify and hold harmless the City of Kearney, its agents and employees against all claim, damages, losses, or expenses, including reasonable attorneys fees that arise or allegedly arise in the case of an accident, injury, loss, for claims, damages to persons or property accruing or resulting from the permitted use, not due to the negligence or omissions on the part of the City of Kearney, its agents and employees. (g) Said Permit is temporary in character, shall immediately expire if abandoned (if work ceases for a period of 90 days or more, and if abandoned, the applicant shall be required to level any remaining

stockpiled materials and bring the site into a reasonably graded and finished condition considering the pre-construction conditions and surrounding properties), is not transferable without written consent of the City of Kearney and subject to revocation, upon notice and hearing by the City Council, upon determination by the Council that the applicant has failed, refused, or ceased to comply with the conditions set herein, or has used or permitted the property to be used in such a manner as to constitute a nuisance, or to be injurious or harmful to the health, safety, morals or welfare of persons or property or future developments require revocation in order to comply with the spirit of the Unified Land Development Ordinance. (h) The City must receive the executed Acknowledgment on the conditions set forth. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney. Nay: None. Buschkoetter absent. Motion carried.

CONDITIONAL USE PERMIT – ANDERSEN WRECKING COMPANY, SOUTH OF 20TH STREET, WEST OF CURRENT OPERATION

Mayor Clouse opened the public hearing on the Application submitted by Andersen Wrecking Company (Applicant) and James Andersen (Owner) for a Conditional Use Permit to operate a scrap metal recycling facility on property zoned District M-2, General Industrial District and described as Lot 1, Classic Glacier, an addition to the City of Kearney, Buffalo County, Nebraska (south of 20th Street, west of current operation). Planning Commission recommended approval subject to the following conditions: (a) The grain bins will be removed from the property. (b) The new property will be enclosed with a solid fence that meets code requirements for screening of salvage operations (extend existing fence to encompass new area). (c) No new access points will be allowed. Applicant will use existing access points. (d) Although the proposed expansion does not require municipal water and sanitary sewer, the applicant must waive rights of protest for future paving, water and sewer improvement districts as a condition of the CUP, and applicant acknowledges that paving, water and sewer improvements in 20th Street will be necessary in the future. (e) A ten-foot wide landscape strip is required along 20th Street frontage with one 2-inch minimum size canopy tree for each 50 lineal feet of street frontage. A Landscape Plan is included in the CUP application. After approval of the CUP, staff expects this landscape plan to be implemented as submitted. Any revisions, alterations, substitutions must be approved by the City in writing before the landscaping is installed. (f) There shall be no time limit on this CUP. (g) Standard City liability and hold harmless language shall be included.

The applicant is requesting a Conditional Use Permit (CUP) to expand salvage services to a recently acquired parcel on the west side of the current operation south of 20th Street. The property is approximately 1.5 acres, described as Lot 1 of Classic Glacier and is currently zoned M-2, General Industrial District. A CUP is required for Salvage Services in M-2 zoning. Staff has reviewed the CUP application and offers the following comments:

- a) The grain bins will be removed from the property.
- b) The new property will be enclosed with a solid fence that meets code requirements for screening of salvage operations (extend existing fence to encompass new area).
- c) No new access points will be allowed. Applicant will use existing access points.
- d) Although the proposed expansion does not require municipal water and sanitary sewer, the applicant must waive rights of protest for future paving, water and

sewer improvement districts as a condition of the CUP, and applicant acknowledges that paving, water and sewer improvements in 20th Street will be necessary in the future.

- e) A ten-foot wide landscape strip is required along 20th Street frontage with one 2-inch minimum size canopy tree for each 50 lineal feet of street frontage. A Landscape Plan is included in the CUP application. After approval of the CUP, staff expects this landscape plan to be implemented as submitted. Any revisions, alterations, substitutions must be approved by the City in writing before the landscaping is installed.
- f) There shall be no time limit on this CUP.
- g) Standard City liability and hold harmless language shall be included.

The applicant wanted clarification on item (d) that the provisions for future paving, water and sewer districts as contained herein are applicable only to the improvements that abut this specific parcel and not the other Andersen parcels.

The Planning Commission complimented the Andersens on the landscaping and favorable condition of the recent expansion area. They asked if the overall height of scrap material could be kept lower than the height of the screening wall so it would not be visible from the street? The Andersens replied that this is impossible to do as the rail cars themselves are taller than the wall. However, with the addition of this new property there will be more room to spread the material over the site thereby reducing the height over time.

Attorney Dan Lindstrom presented this matter to the Council. This has made its way through a couple of DRT meetings and Planning Commission without any serious concerns. This property is immediately adjacent to the northwest of the present Andersen Wrecking operation. This property was recently acquired from an adjacent owner and will allow them to expand their operation. The old cars that were on the property when it was purchased have been recycled as part of their recycling operation. The grain bins on the north boundary along 20th Street are to be pulled down and recycled so the area would be clean for them to move in their operation. The conditions of the Conditional Use Permit are generally agreed upon. The only clarification that was raised is regarding the expansion, although it does not require municipal water and sanitary sewer, requires them to waive rights of protests in future paving. That only applies to the linear feet that are adjacent to 20th Street and only as to this new property which is the subject of the permit.

Council member Kearney stated they have been good citizens and noted their property has been well maintained. Mr. Lindstrom stated that they work hard at keeping it that way. At Planning Commission, there were some questions about graffiti on the fencing. There are some efforts underway to try to apprehend the people who are doing that. They are sensitive to that.

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 Andersen Wrecking Company (Applicant) and James Andersen (Owner) for a Conditional Use Permit to operate a scrap metal recycling

facility on property zoned District M-2, General Industrial District and described as Lot 1, Classic Glacier, an addition to the City of Kearney, Buffalo County, Nebraska (south of 20th Street, west of current operation) subject to compliance with the following conditions: (a) The grain bins shall be removed from the property. (b) The new property shall be enclosed with a solid fence that meets the City Code requirements for screening of salvage operations (extend existing fence to encompass new area). (c) No new access points will be allowed; Permittee shall use existing access points. (d) Although the proposed expansion does not require municipal water and sanitary sewer, Permittee must waive rights of protest for future paving, water and sewer improvement districts as a condition of the Conditional Use Permit, and Permittee acknowledges that paving, water and sewer improvements in 20th Street will be necessary in the future. (e) A ten-foot wide landscape strip is required along 20th Street frontage with one 2-inch minimum size canopy tree for each 50 lineal feet of street frontage. A Landscape Plan was included with the Conditional Use Permit application and shall be implemented as submitted. Any revisions, alterations, substitutions must be approved by the City in writing before the landscaping is installed. (f) Said Permit is approved for an indefinite period of time. (g) Andersen Wrecking Company (Applicant) and James Andersen (Owner) agree to indemnify and hold the City harmless in the case of an accident, injury, loss, claims or damages to persons or property accruing or resulting from the permitted use. (h) By accepting this Conditional Use Permit, Andersen Wrecking Company (Applicant) and James Andersen (Owner) agree to conform with all existing and applicable City ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. (i) Said Permit is temporary in character, shall immediately expire if abandoned, is not transferable without written consent of the City, and is subject to revocation, upon notice and hearing by the City Council upon determination by the Council that Permittee has failed, refused, or ceased to comply with the conditions set herein, or has used or permitted the property to be used in such a manner as to constitute a nuisance, or to be injurious or harmful to the health, safety, morals or welfare of persons or property or future developments require revocation in order to comply with the spirit of the Unified Land Development Ordinance. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter absent. Motion carried.

REZONING 46TH STREET AND 2ND AVENUE

Mayor Clouse opened the public hearing on the Application submitted by General Properties, LLC/Brett Weiss (Applicant) and Essam Arram (Owner) to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-O, Office District property described as Lot 20, Imperial Village 4th Addition, a subdivision of Lot 23, of Block 6, Imperial Village Addition to the City of Kearney, Buffalo County, Nebraska (46th Street and 2nd Avenue). Planning Commission recommended approval.

Council member Lammers vacated his chair and abstained from discussion and voting.

The applicant is requesting approval to rezone a tract of land containing approximately one-half acre located north of 46th Street and east of 2nd Avenue. Longtime residents of Kearney would associate this site as the "Cattleman's Restaurant" site next to Lost Lake. The property is currently zoned R-3, Urban Residential Multi-Family District (Medium Density.) The applicant would like to build a two-story office building on this

site in the future. The requested zoning is C-0, Office District. The Land Use Map for this area is designated Mixed Use 2. Zoning to the west is C-2, to the east is R-3 and R-1, to the south is C-0, and to the north is R-2.

At the Planning Commission meeting the applicant showed a conceptual site rendering of an office building on this site and an additional office building to the west in the current parking lot. The intent was to show the Commissioners an idea or concept of how the property might be developed with office space. There were several citizens who spoke with concern regarding the layout of the buildings and parking, the distance between the lake and the buildings, access and traffic, the appearance of two-story structures, the maintenance of the vacant property, and other such things. The purpose of this hearing was to determine whether or not to rezone the property to allow commercial office development as a future land use at this location. The questions about detailed aspects of the development are not applicable at this stage. The details of actual site development will come in the future as the applicant submits plans for building permits.

Mitch Humphrey presented this matter to the Council. This property was the former site of Cattleman's Mining Company, Habitat Restaurant, and several other restaurants and the building has since been taken down. The Lost Lake is behind the property. This property has split zoning toward the west and is zoned C-2 and R-3 with residential zoning around it. There are some duplexes that are zoned R-2 and others across the street that are similar in nature and zoned C-0. What they want to do is change the R-3 zone to C-O designation. In that way, this project could be developed. At the Planning Commission, slides were shown of an office building complex which is not what they intend to build there. They are sensitive to the neighborhoods desires particularly across the lake where there are some long time prominent owners and the duplexes to the south. With the redevelopment of this site, they are going to have to come back before the Planning Commission and show how the building will sit and the how parking is going to be handled. They just want to get the zoning approval and proceed with the other issues.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Clouse to close the hearing and approve the Application submitted by General Properties, LLC/Brett Weiss (Applicant) and Essam Arram (Owner) to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-O, Office District property described as Lot 20, Imperial Village 4th Addition, a subdivision of Lot 23, of Block 6, Imperial Village Addition to the City of Kearney, Buffalo County, Nebraska (46th Street and 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Lammers abstaining. Buschkoetter absent. Motion carried.

Council member Kearney left the meeting at 8:43 p.m.

FINAL PLAT FOR MARIANNE HUNT THIRD ADDITION

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Marius Cecil Van Der Merwe and Este

Van Der Merwe (Owner) for the Final Plat for Marianne Hunt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 6 and 7 of Block 4 (to be vacated), Marianne Hunt 2nd Addition, an addition to the City of Kearney, Buffalo County, Nebraska (405 East 8th Street) and to consider approval of Resolution No. 2009-115. On a split vote, the Planning Commission recommended approval.

The applicant is requesting approval to vacate and replat land that is developed with an existing duplex located at 405 East 8th Street. The Owner would like to subdivide the property down the common wall of the structure so that each side can be separately owned. A Minor Subdivision has already been used to re-subdivide this land so the existing lots must now be vacated and the property must be replatted. In order to replat this land to split the duplex structure Lots 6 and 7 of Block 4 of Marianne Hunt 2nd Addition must be vacated.

The Preliminary and Final Plat consist of a two lot subdivision to be known as Marianne Hunt Third Addition. The preliminary Plat was approved by Planning Commission on July 17, 2009. Proposed Lot 1 contains the east half of the structure and associated improvements while Lot 2 contains the west half of the duplex and a storm water detention cell. There is no subdivision Agreement or Public Works Plan required since the property is already developed.

At the Planning Commission meeting ongoing maintenance of the detention cell on Lot 2 was discussed. The owner of Lot 2 shall be responsible for maintaining the detention cell. Not all of the Commissioners were in agreement resulting in a split vote.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. This involves Lot 6 and 7 of Marianne Hunt Subdivision and a duplex that splits almost right down the middle of Lot 6. Lot 6 is a wide enough lot according to current City Code to split that lot so that each half could be on their own titled lot. This would be with the requirement that each would have their own hook ups and connections to City facilities. The owners will have to have an agreement between them for standard maintenance and repair of the building which is a standard document. They want to split the lot so one half of the duplex is on one side and the other half on the other side. One half will have an extraordinarily large lot. The west three quarters of Lot 2 presently holds a detention cell. That detention cell created quite a point of discussion at the Planning Commission about who is responsible and how to handle the cells. The applicant and the owner purchased both lots at the same time from a previous owner. Now the applicant has two buyers for the west side and one for the east side of the duplex who want to purchase the property as delineated. The west side will be owned by one individual who wants that detention cell for some reason as an amenity. On the plat there is a designation that shows that line to be the east line of an easement for the detention cell. The document designates this west part as being the detention cell. There is no way the owner can fill it in and it is going to be used as a regional detention cell. They will mow it and keep it maintained as part of their property.

Council member Lammers asked why the detention cell became such an issue at the Planning Commission. City Manager Michael Morgan stated there seemed to be some misunderstanding about detention cells and maintenance responsibilities. They had to

clarify that detention cells are routinely required by the City to be maintained even when they are on private property. It is the responsibility of property owners and the City works with property owners from time to time who do not maintain them properly. They originally thought that it would be the responsibility of the City of Kearney to do so. City Planner Lance Lange stated the issue got convoluted when they started talking about successional ownership. One person might want it and another might want to fill it in. They had to decide how that was going to run with the land.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Marius Cecil Van Der Merwe and Este Van Der Merwe (Owner) for the Final Plat for Marianne Hunt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 6 and 7 of Block 4 (to be vacated), Marianne Hunt 2nd Addition, an addition to the City of Kearney, Buffalo County, Nebraska (405 East 8th Street) and approve **Resolution No. 2009-115**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-115

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Marianne Hunt Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lots 6 and 7 (now vacated), Block 4, Marianne Hunt 2nd Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with said Lot 6 and Lot 7 (now vacated) being part of the West Half of the Northeast Quarter and part of the East Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M., 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 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING AT 108 3RD AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District for a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue). Planning Commission recommended approval.

You will recall this project from the meeting last month when the applicant requested approval to develop office space, storage space and a maintenance shop west of the Holiday Inn and south of the Wingate Inn at 108 3rd Avenue. The Owners have decided that the building expansion that they had envisioned will not be large enough to meet their needs. The new plan is to locate a common laundry facility in the building expansion that will serve multiple motels that the Owners operate in the vicinity. Last month an additional strip of land west of the existing building was rezoned, the existing lot pattern was vacated and a new subdivision plat was prepared. In order to expand further west, an additional 20-foot strip of land must be rezoned and the subdivision plats must be revised to reflect the additional land area.

Approximately 0.14 acres of land to be rezoned is being combined with the 0.72 acres of the land that were before the Planning Commission last month to be rezoned from M-1 to C-2. The remaining 1.15 acres is already zoned C-2, Community Commercial District. The 0.14 acres of property to be rezoned will be combined with the 1.87 acres so that the overall zoning for the property will be 2.01 acres of C-2 throughout.

The Preliminary and Final Plat consist of a one lot subdivision, 2.01 acres in size to be known as Interstate Fourth Addition. Although the Preliminary Plat was approved by Planning Commission at the June meeting, a revised Preliminary Plat was approved July 17, 2009. These plats will supersede the plats that were processed last month, the old plats will not move forward in the process. The new plats have been forwarded to City Council depicting the additional land to the west that will allow for a larger building footprint. There is no subdivision agreement or Public Works Plan required. The existing paved road 3rd Avenue ends at the south end of the proposed parking lot. Any additional development beyond the parking lot will require extension of the road or a cul-de-sac.

This property is contiguous to the City Limit and is served by City services. Additional land has been added to the parcel with the new subdivision platting. All of the land in Interstate Fourth Addition shall be annexed as an addition to the City of Kearney.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. There is a hotel site to the east and to the north is the Wingate hotel. They zoned a little piece from District M-1 to C-2. Then the owner came back and said they wanted to make their building a little bigger. The process was then delayed before advancing to the Council and withdrew the final plat. In continuing the zoning process, they added about .014 of an acre through the Planning Commission and came up with a single one lot subdivision which is 2.01 acres.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) to rezone from District M-1, Limited Industrial District to District C-2, Community Commercial District for a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

FINAL PLAT FOR INTERSTATE FOURTH ADDITION

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) for the Final Plat for Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 and all of Lot 2 of Block 1 (to be vacated), Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska AND a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) and to consider approval of Resolution No. 2009-116.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Clouse to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) for the Final Plat for Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 and all of Lot 2 of Block 1 (to be vacated), Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska AND a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) and approve **Resolution No. 2009-116**. Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-116

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Lot 1 and all of Lot 2, said part of Lot 1 and all of Lot 2, now vacated, Block One, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and a tract of land being part of Government Lot 5, located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the southeast corner of Government Lot 5 located in Section 11, and assuming the south line of said Government Lot 5 located in Section 11 as bearing S87°07'45"W and all bearings contained herein are relative thereto; thence S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 879.76 feet to the Actual Place of Beginning, said point being the southeast

corner of said Lot 2, Block One, Interstate Third Addition; thence continuing S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 and on the south line of said Lot 2 a distance of 122.81 feet to the southwest corner of said Lot 2; thence continuing S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 133.08 feet; thence leaving the south line of said Government Lot 5 located in Section 11, N00°04'21"E a distance of 309.39 feet; thence N89°48'38"E and parallel with the south line of Lot 1, Block One of said Interstate Third Addition a distance of 138.00 feet; thence S00°09'32"W and parallel with the west line of said Lot 1, Block One of said Interstate Third Addition a distance of 7.0 feet to a point on the south line of said Lot 1, Block One of said Interstate Third Addition; thence N89°48'38"E and on the south line of said Lot 1, Block One of said Interstate Third Addition a distance of 188.77 feet to the southeast corner of said Lot 1, Block One of said Interstate Third Addition said point also being on the west right-of-way line of Third Avenue, an avenue in the City of Kearney, Buffalo County, Nebraska; thence S13°39'04"W and on the west line of said Third Avenue a distance of 303.22 feet to the place of beginning, containing 2.01 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 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 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF INTERSTATE FOURTH ADDITION

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

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) for the annexation of Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) and to consider approval of Resolution No. 2009-117.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul

Younes and MJ Development LLC (Owner) for the annexation of Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) and approve **Resolution No. 2009-117**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-117

WHEREAS, an Application has been submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) for the inclusion of Interstate Fourth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Lot 1 and all of Lot 2, said part of Lot 1 and all of Lot 2, now vacated, Block One, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and a tract of land being part of Government Lot 5, located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the southeast corner of Government Lot 5 located in Section 11, and assuming the south line of said Government Lot 5 located in Section 11 as bearing S87°07'45"W and all bearings contained herein are relative thereto; thence S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 879.76 feet to the Actual Place of Beginning, said point being the southeast corner of said Lot 2, Block One, Interstate Third Addition; thence continuing S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 and on the south line of said Lot 2 a distance of 122.81 feet to the southwest corner of said Lot 2; thence continuing S87°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 133.08 feet; thence leaving the south line of said Government Lot 5 located in Section 11, N00°04'21"E a distance of 309.39 feet; thence N89°48'38"E and parallel with the south line of Lot 1, Block One of said Interstate Third Addition a distance of 138.00 feet; thence S00°09'32"W and parallel with the west line of said Lot 1, Block One of said Interstate Third Addition a distance of 7.0 feet to a point on the south line of said Lot 1, Block One of said Interstate Third Addition; thence N89°48'38"E and on the south line of said Lot 1, Block One of said Interstate Third Addition a distance of 188.77 feet to the southeast corner of said Lot 1, Block One of said Interstate Third Addition said point also being on the west right-of-way line of Third Avenue, an avenue in the City of Kearney, Buffalo County, Nebraska; thence S13°39'04"W and on the west line of said Third Avenue a distance of 303.22 feet to the place of beginning, containing 2.01 acres, more or less, 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 Interstate 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 Interstate 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 August 11, 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 Interstate 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 Interstate 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 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REDEVELOPMENT AREA #9 – BLIGHT AND SUBSTANDARD DETERMINATION

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the consideration an area to be blighted and substandard and in need of redevelopment and described as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence

southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska and to consider approval of Resolution No. 2009-118. Both the Planning Commission and the Community Redevelopment Authority recommended approval.

The Kearney Area Redevelopment Authority (CRA) has been working with Urban Planning Consultants, Hanna:Keelan Associates, on a blight study and redevelopment plan for Redevelopment Area #9 in south Kearney. The CRA has received a recommendation of acceptance and approval for the Blight Study and Redevelopment Plan from the Planning Commission. This area is approximately 662 acres in size and extends from the southern most municipal boundary north to Interstate I-80, west along the south side of I-80 to Central Avenue, and continues west between I-80 and the northern municipal boundary to approximately Antelope Avenue.

The Redevelopment Plan is in conformance with the Future Land Use Map of the City of Kearney Comprehensive Development Plan. The proposed zoning categories depicted on the Redevelopment Plan are based on the direction provided in the comp plan and are suggested zoning alternatives. No property within the Redevelopment Area will be rezoned solely as a result of the Planning Commission or City Council action on this Redevelopment Plan. The zoning changes will take place in the future as market forces cause developers to pursue development projects within the redevelopment area. The plan paints a picture of what the area might ultimately look like if the zoning recommendations are followed. This approach allows for better planning for infrastructure such as sanitary sewer, municipal water, storm drainage, and public streets.

Some general goals of the plan include:

- Tax Increment Financing incentives to develop undeveloped land within the redevelopment area in accordance with the Redevelopment Plan.
- Improvements to existing infrastructure to better serve the area.
- Development of a plan for screening or buffering commercial/industrial storage areas from residential land uses.
- Focus on the rehabilitation of single family dwellings generally east of Avenue M.
- Removal and replacement of substantially dilapidated and substandard structures.
- Expand efforts to enhance pedestrian safety along the 2nd Avenue corridor.

CRA Chairman Jon Abegglen presented this matter to the Council. In the early spring, the CRA commissioned Hanna:Keelan & Associates to do a blight and substandard study and put together a Redevelopment Plan for Area #9 in south Kearney. Once the CRA accepted that plan, the Planning Commission also accepted it. This area is approximately 662 acres in size. It lies along the Archway/Parkway corridor and goes a little bit south of the Interstate. The Redevelopment Plan as presented in the study is in conformance with the future Land Use Map for the City of Kearney and the Comprehensive Development Plan. The major goal of the redevelopment area is to provide tax increment financing incentive to developers for undeveloped land and to spur redevelopment of areas in accordance with the Redevelopment Plan.

Mayor Clouse stated that these studies are fairly complex and they follow a State statute. An area is not just picked at random; there is a detailed process that must be followed.

Rhoda Brown, 410 Tahoe Drive, stated the graph shows just to the north of her property is being listed a multi-family. Her concern was putting a multi-family residence in there when it is way below flood stage and she has a runoff pit just to the east of her property. She would like to keep it agricultural. City Manager Michael Morgan stated that this plan does not change the zoning at all. This is a potential base the consultant looked at for infrastructure and what is available. From that they made some determinations based on what they see as a possible use as it reflects a generalized future land use plan. Frequently, as we will see, there are changes that get made. This does not change the City's zoning or adopted Land Use Plan.

Sharon Brown, 402 Tahoe Drive, voiced a concern about the same property as Rhoda Brown since she lives right next door to her. She was concerned about her safety, property value possible going down if it is developed in the wrong way. City Manager stated he hoped this would clarify this does not change the City's plan. It is confusing as to why we would have a land use plan prepared by a consultant. A consultant looks at the potential resources, the potential and existing land uses and tries to make a determination. This neither affects the City's zoning or land use, nor is it always accurate. The consultant may have a different view than the City planning staff or even Planning Commission.

Moved by Lear seconded by Clouse to close the hearing and approve the area to be blighted and substandard and in need of redevelopment in accordance with Section 18-2116 of the Nebraska Revised Statutes and described as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot

Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska and approve **Resolution No. 2009-118**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-118

WHEREAS, a blighted and substandard study and declaration, and adoption of a redevelopment plan, is a requirement before an area can be considered eligible for Tax Increment Financing; and

WHEREAS, Hanna:Keelan Associates conducted a survey to determine whether all or part of an area in Kearney, Nebraska qualifies as a blighted and substandard area within the definition set forth in the Nebraska Community Development Law, Section 18-2103. Redevelopment Area #9 in the City of Kearney, Nebraska is described as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east

line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly

along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska; and

WHEREAS, Hanna:Keelan Associates submitted a document entitled "Kearney, Nebraska Interstate 80 Corridor Redevelopment Area #9, Blight/Substandard Determination Study & General Redevelopment Plan; April, 2009", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and recommended that the City find and determine the subject area to be "blighted and substandard".

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that an area of the City of Kearney bounded as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern

corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska (known as Redevelopment Area #9) be, and is hereby determined to be blighted and substandard and in need of redevelopment in accordance with the terms and provisions of Section 18-2109, R.R.S.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REDEVELOPMENT PLAN FOR AREA #9

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the redevelopment plan for Redevelopment Area #9 and bounded as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its

intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1

of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska and to consider approval of Resolution No. 2009-119. Both the Planning Commission and the Community Redevelopment Authority recommended approval.

Moved by Clouse seconded by Lear to close the hearing and approve the redevelopment plan for Redevelopment Area #9 in accordance with Section 18-2116 of the Nebraska Revised Statutes and bounded as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit

line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska and approve **Resolution No. 2009-119**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-119

WHEREAS, the City Council created the City of Kearney Community Redevelopment Authority in September, 1993; and

WHEREAS, the Community Redevelopment Authority commissioned Hanna:Keelan Associates in February, 1994 to conduct necessary surveys on redevelopment in areas determined to be blighted or substandard; and

WHEREAS, Hanna:Keelan, Associates submitted a document entitled "Kearney, Nebraska Interstate 80 Corridor Redevelopment Area #9, Blight/Substandard Determination Study & General Redevelopment Plan; April, 2009", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and the City found and determined the subject area to be "blighted and substandard" on August 11, 2009; and

WHEREAS, the Redevelopment Plan was reviewed, considered and adopted by the Kearney Redevelopment Authority and by the Planning Commission with the recommendation that the Council of the City of Kearney adopt and approve the Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that the Redevelopment Plan for Area #9 submitted by Hanna:Keelan Associates for an area described as follows: a tract of land beginning at the southwest corner of Lot 4, Lowenberg Subdivision of Buffalo County, Nebraska, thence east along the south line of Lots 4 and 3 of said subdivision to the west line of Lot 4, Gangwish Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south to its intersection with the south line of said Lot 4, thence east along said Lot 4 and continuing east along the south lines of Lots 3, 2 and 1 of Block 1, Gangwish Addition to its intersection with the City of Kearney corporate limit line at the southeast corner of Lot 1 of Block 1, Gangwish Addition, thence continuing easterly along said corporate limit line to its intersection with the east line of Section 7, Township 8 North, Range 15 West of the 6th P.M. line, Buffalo County, Nebraska, thence south along said east line of Section 7 (leaving the corporate limit line) to its intersection with the south right-of-way line of Interstate 80 (also known as the south corporate limit line), thence west along said south right-of-way and corporate limit line to its intersection with the east line of Avenue M (also where the corporate limit line turns south, thence south along said east line to its intersection with the extended north line of Lot 3 of Block 5, Lake Villa Estates, an addition to the City of Kearney, Buffalo County, Nebraska, thence west along said extended line (also known as the corporate limit line), and continuing west along the north line of Lots 3, 2 and 1 of Block 5, Lake Villa Estates, thence southwesterly along the west line of Lot 1 of Block 5 of said Addition to its intersection with the north line of Emerald Drive, thence northwesterly along said north street line to its intersection with the north line of Tahoe Drive, thence southwesterly along said north line to its intersection with the east line of Lot 13 of Block 1, Lake Villa Estates, thence northwesterly along said east line to its intersection with the north line of said Lot 13, thence southwesterly along said north lot line and continuing southwesterly along Lots 12 through Lot 3, thence continuing southwesterly along said north line to its intersection with the west line of Lot 2, Lake Villa Estate Second Addition to the City of Kearney, Buffalo County, Nebraska, thence southwesterly along said west line and continuing along its extended west line across Tahoe Drive and connecting with the east line of Lot 4, Lake Villa Estates Second Addition on the south line of Tahoe Drive, thence south along said east line to a point at the southwest corner of said Lot 4 where it rejoins the corporate limit line, thence south along the east line where it continues south along Lots 4, 3, 2 and 1 of Block 2, Lake Villa Estates (also the corporate limit line), thence continuing along the corporate limit line along the southern corporate limits line to its intersection with the southern corporate limit line, thence west along the southern corporate limit line, across 2nd Avenue (Highway 44) and continuing west along the south line of Lot 1, Broadfoot Second Addition to the City of Kearney, Buffalo County, Nebraska (also the southern corporate limit line) to its intersection with the west line of said Lot 1, thence north along the west line of Lot 1 of said Addition, and continuing north along the west line of Lot 4, Broadfoot Addition to the City of Kearney, Buffalo County, Nebraska to its intersection with the north line of said Lot 4, thence leaving the corporate limit line and proceeding west along an extended north line of Lot 4, Broadfoot Addition approximately 1,940 feet to its intersection with the west extended line of the Kearney Event Center, or the Broadfoot Third Addition, an addition to the City

of Kearney, Buffalo County, Nebraska, thence north along said extended west line approximately 996 feet to its intersection with the south line of Platte Road, thence continuing north across said Road to its intersection with the north line of said Road (also the corporate limit line), also the south line of the Broadfoot Third Addition, thence north along the west line of said Addition (also the corporate limit line) to its intersection with the north line of said Addition (also the corporate limit line), thence east along said Addition to its intersection with the east line of said Addition, thence continuing east along the extended north line of said Addition (also the corporate limit line) to its intersection with the northwest corner of Lot 1, 1st Inn Gold Addition to the City of Kearney, Buffalo County, Nebraska, thence continuing east along the north line of Lot 1 of said Addition (also the corporate limit line) to its intersection with the eastbound off ramp of Interstate 80, thence southeasterly (leaving the corporate limit line) to its intersection with the west line of 2nd Avenue (Highway 44), thence due east across 2nd Avenue to its intersection with the south line of the eastbound on ramp from 2nd Avenue, thence curving northeasterly along said south line of on ramp to its intersection with the extended east line of Lot 1, Johnson Commercial Addition to the City of Kearney, Buffalo County, Nebraska, thence north along said extended east line, continuing north along the east line of Lot 1, Johnson Commercial Addition and continuing north along an extended east line of said Lot 1 to its intersection with the centerline of the North Channel of the Platte River, thence east along said centerline to its intersection with the southwest corner of Lot 4, Lowenberg Subdivision, also known as the point of beginning, all in Buffalo County, Nebraska, be and is hereby approved.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REDEVELOPMENT AREA #10 – BLIGHT AND SUBSTANDARD DETERMINATION

Public Hearings 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the consideration of an area to be blighted and substandard and in need of redevelopment and described as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the

west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska and to consider approval of Resolution No. 2009-120. Both the Planning Commission and the Community Redevelopment Authority recommended approval.

On April 29, 2009 the Kearney Community Redevelopment Authority (CRA) approved a contract with Hanna:Keelan Associates of Lincoln, Nebraska to conduct a blight/substandard determination study and create a general redevelopment plan for a new area, designated Area 10.

The CRA recognized that significant blight and substandard factors exist in the area and that redevelopment in Area 10 would be beneficial to the City of Kearney. On June 24, 2009 the CRA accepted the Area 10 study and plan which determined that the area met blight and substandard conditions. On July 17, 2009 the Planning Commission considered the study and redevelopment plan and made recommendations for minor revisions to better align the redevelopment plan with the City future land use plan. On July 30, 2009 the CRA accepted the comments made by the Planning Commission and made a recommendation to City Council to approve the Area 10 Blight/Substandard Determination Study and Redevelopment Plan with revisions as proposed by the Planning Commission.

CRA Chairman Jon Abegglen presented this matter to the Council. On April 29, 2009, the CRA approved a contract with Hanna/Keelan & Associates of Lincoln to conduct a blight and substandard determination study and create a general redevelopment plan for Area #10. On June 24th, the CRA accepted Area #10 study and plan which determined that they met the blight and substandard conditions. On July 17th, the Planning Commission approved the study of the Redevelopment Plan and made some recommendations. Their recommendations were to better align the Redevelopment Plan with the City's future Land Use Map. Then on July 30th, the CRA accepted the comments made by the Planning Commission and the recommendations that they made for Area #10. City Planner Lance Lang stated that there is a quite a process that has to be followed by State law to have the potential to offer Tax Increment Financing (TIF).

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and approve the area to be blighted and substandard and in need of redevelopment in accordance with Section 18-2116 of the Nebraska Revised Statutes and described as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with

the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska and approve **Resolution No. 2009-120**. Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-120

WHEREAS, a blighted and substandard study and declaration, and adoption of a redevelopment plan, is a requirement before an area can be considered eligible for Tax Increment Financing; and

WHEREAS, Hanna:Keelan Associates conducted a survey to determine whether all or part of an area in Kearney, Nebraska qualifies as a blighted and substandard area within the definition set forth in the Nebraska Community Development Law, Section 18-2103. Redevelopment Area #10 in the City of Kearney, Nebraska is described as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest

corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska; and

WHEREAS, Hanna:Keelan Associates submitted a document entitled "Kearney, Nebraska Southwestern Redevelopment Area #10, Blight/Substandard Determination Study & General Redevelopment Plan; June, 2009", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and recommended that the City find and determine the subject area to be "blighted and substandard".

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that an area of the City of Kearney bounded as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska (known as Redevelopment Area #10) be, and is hereby determined to be blighted and substandard and in need of redevelopment in accordance with the terms and provisions of Section 18-2109, R.R.S.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REDEVELOPMENT PLAN FOR AREA #10

Public Hearings 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the redevelopment plan for Redevelopment Area #10 and bounded as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska and to consider approval of Resolution No. 2009-121. Both the Planning Commission and the Community Redevelopment Authority recommended approval.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the redevelopment plan for Redevelopment Area #10 in accordance with Section 18-2116 of the Nebraska Revised Statutes and bounded as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence

continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska and approve **Resolution No. 2009-121**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

RESOLUTION NO. 2009-121

WHEREAS, the City Council created the City of Kearney Community Redevelopment Authority in September, 1993; and

WHEREAS, the Community Redevelopment Authority commissioned Hanna:Keelan Associates in February, 1994 to conduct necessary surveys on redevelopment in areas determined to be blighted or substandard; and

WHEREAS, Hanna:Keelan, Associates submitted a document entitled "Kearney, Nebraska Southwestern Redevelopment Area #10, Blight/Substandard Determination Study & General Redevelopment Plan; June, 2009", a copy of which marked Exhibit "A" is attached hereto and made a part hereof by reference, and the City found and determined the subject area to be "blighted and substandard" on August 11, 2009; and

WHEREAS, the Redevelopment Plan was reviewed, considered and adopted by the Kearney Redevelopment Authority and by the Planning Commission with the recommendation that the Council of the City of Kearney adopt and approve the Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that the Redevelopment Plan for Area #10 submitted by Hanna:Keelan Associates for an area described as follows: a tract of land beginning at the intersection of the north line of West 24th Street with the east line of 15th Avenue, thence south along said east line to its intersection with the north line of West Railroad Street, thence west southwest along said north line to its intersection with the west extended line of Patterson's Tract "E", thence south along said extended line across the West Railroad Street right-of-way, continuing south to intersect with the west line of the G & K Addition, an addition to the City of Kearney, Buffalo County, Nebraska, thence south along said west line (also the City of Kearney west corporate limit line) and continuing south along the west line of Sun West Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) and continuing south along Sun West Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (also the corporate limit line) to its intersection with the north line of West 11th Street, thence continuing south along an extended line of said west line across West 11th Street to intersect with the south line of West 11th Street, thence west along said south line to its intersection with the west line of 30th Avenue, thence continuing west along the south line of West 11th Street approximately 1,436 feet to the west fence line of the property located at the northwest corner of West 11th Street and 30th Avenue, thence north along the west fence line and continuing north along an

extended line of said west fence line to an intersect with the north line of West Railroad Street, thence east along said north line across the right-of-way of 30th Avenue and continuing east along said north line to its intersection with the platted west line of University Drive (yet to be constructed), thence north along said west line to an intersection with the north line of West 24th Street, thence east along said north line to its intersection with the east extended line of 15th Avenue, also the point of beginning, all in Buffalo County, Nebraska, be and is hereby approved.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held July 28, 2009.

2. Approve the following Claims:

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

AT&T \$192.50 Smcs; A-1 Refrigeration \$271.75 Smcs; Aflac \$2,721.66 Ps; Alltel \$1,234.80 Smcs; Almquist,R \$157.50 Smcs; Artic Refrigeration \$307.21 Smcs; Associated Bag Co \$1,180.20 Smcs; B2B Computer Products \$1,285.00 Co; Baker & Taylor Books \$3,509.67 Smcs; Bamford \$225.00 Smcs; BBC Audiobooks \$372.56 Smcs; BCBS \$88,821.60 Smcs; Bosselman \$19,839.71 Smcs; Brilliance Audio Books \$61.42 Smcs; Broadfoot's \$2,194.00 smcs,co; Brown,D \$120.00 Smcs; Buffalo Co Dist Court \$267.54 Ps; Buffalo Co Econ Dev \$50,000.00 Smcs; Buffalo Co Reg Deeds \$99.50 Smcs; Builders \$1,231.70 smcs,co; CH Diagnostic \$445.00 Smcs; Chad \$8.00 Ps; Charter \$739.92 Smcs; Charter Media \$984.00 Smcs; Chief Construction \$34,200.11 Co; CHS Agri Service Center \$3,916.00 Smcs; City of Ky \$231,236.16 smcs,ps; College Savings Plan of NE \$100.00 Ps; Concrete Workers \$49,859.67 Co; Credit Management \$337.28 Ps; Crestmark Commercial \$220.83 Smcs; Cudaback,S \$50.29 Smcs; DaPrato,L \$70.00 Smcs; Dish Network \$59.84 Smcs; DPC Industries \$4,690.34 Smcs; Dutton-Lainson \$183.60 Smcs; Eakes \$2,034.00 Smcs; Ebsco \$2,675.00 Smcs; Eickhoff,B \$64.00 Ps; Eirich,T \$50.00 Smcs; Elliott Equipment \$4,893.00 Smcs; EVT Certification \$140.00 Smcs; Fireguard \$746.16 Smcs; Forensics Source \$311.42 Smcs; Fort Kearney Shooting \$6,500.00 Smcs; Fotin,C \$120.00 Smcs; Frontier \$7,718.46 Smcs; Gale \$214.93 Smcs; Galls \$491.61 Smcs; Gangwish Turf \$87.45 Smcs; Garrett Tires \$8,097.76 Smcs; GE Money Bank \$1,773.07 Smcs; Gealy's Greenhouse \$2,313.09 Smcs; Good Sam Hospital \$48.00 Smcs; Gov't Finance \$225.00 Smcs; Gray,H \$11.27 Smcs; Grones Outdoor Power \$2,829.99 Co; H&H Distributing

\$2,610.55 Smcs; HD Supply \$906.00 Smcs; Hibberd,T \$17.82 Smcs; Hometown Leasing \$207.71 Smcs; Horst,R \$91.70 Smcs; Hydrite Chemical \$1,775.32 Smcs; ICMA RC \$4,766.68 Ps; Intellicom \$5,075.00 Smcs; IRS \$109,511.06 Ps; Jack Lederman \$857.29 Smcs; James,D \$2,254.50 Smcs; Jameson Powerwashing \$4,400.00 Smcs; Jelinek,L \$325.00 Smcs; Ky Concrete \$2,513.60 smcs,co; Ky Crete & Block \$411.00 Co; Ky Girls Softball \$106.05 Smcs; Ky Hub \$1,810.98 Smcs; Ky Humane Society \$4,000.00 Smcs; Ky Towing \$590.00 Smcs; Ky United Way \$571.00 Ps; Ky Visitors Bureau \$67,718.43 Smcs; KGFV/KRNY \$645.92 Smcs; Kitzelman,D \$38.00 Smcs; Klein,K \$31.98 Smcs; Konica Minolta \$64.76 Smcs; Kowalek,G \$40.00 Smcs; Kucera Painting \$7,002.00 Co; Kuhlman,G \$26.82 Smcs; LCL Truck Equipment \$1,008.00 Smcs; Lincoln Truck Center \$75.87 Smcs; Linda's Upholstery \$157.00 Smcs; Linweld \$12.92 Smcs; Luke,D \$322.50 Smcs; Magic Cleaning \$750.00 Smcs; Mail Express \$183.19 Smcs; Manary,M \$12.62 Smcs; Marriott \$99.00 Smcs; Martin,M \$120.00 Smcs; McKeon,T \$42.00 Smcs; Medtech Forensics \$637.85 Smcs; Metlife \$6,139.39 Ps; Microfilm Imaging \$1,850.00 Co; Midlands Contracting \$58.85 Smcs; Mollring,A \$68.79 Smcs; Morgan,M \$34.48 Smcs; NE Child Support \$2,532.89 Ps; NE Dept of Revenue \$32,528.28 Ps; NE Environmental Products \$705.65 Smcs; NE Golf Ass'n \$3,642.00 Smcs; NE Machinery \$6,895.00 Co; NE Press Advertising \$1,180.00 Smcs; NE Public Health \$3,263.00 Smcs; NE State Treasurer \$114.71 Smcs; NEland Distributors \$2,094.00 Smcs; Neopost \$6,000.00 Smcs; NMC \$8,139.79 smcs,co; Northwest Electric \$7,355.04 Smcs; Northwestern Energy \$1,440.19 Smcs; Nuttelman Fencing \$341.64 Smcs; Nutter Construction \$3,270.00 Co; Office Depot \$507.01 Smcs; O'Neill Wood Resources \$5,022.50 Smcs; Otto Environmental \$18,804.48 Smcs; Paramount Linen \$219.55 Smcs; Payflex Systems \$493.00 Ps; Platte Valley Comm \$1,678.26 smcs,co; Pohl,M \$120.00 Smcs; Presto-X \$136.00 Smcs; Pulliam,R \$40.00 Smcs; Random House \$192.00 Smcs; Reams \$5,046.83 Co; Recorded Books \$427.26 Smcs; Reinke's Heating \$5,183.95 smcs,co; Rieck,V \$160.00 Smcs; RNDC-Eagle Division \$261.28 Smcs; Roeder,F \$30.70 Smcs; Sage,P \$36.38 Smcs; Sam's Club \$1,152.13 Smcs; Sapp Brothers \$18,052.28 Smcs; Secretary of State \$30.00 Smcs; Sherwin-Williams \$2,104.05 Smcs; Sirchie Finger Print \$773.14 Smcs; Snow,T \$50.00 Smcs; Springer Roofing \$5,262.00 Smcs; State Fire Marshal \$650.00 Smcs; State of NE/AS Central \$4,073.71 Smcs; Sterling Distributing \$241.44 Smcs; Sun Life Financial \$29,241.61 Smcs; Sydow,J \$40.00 Smcs; Technical Maintenance \$31,457.08 Co; Theis,G \$28.17 smcs,ps; Theis,J \$60.00 Smcs; Titleist \$265.10 Smcs; Tool Doctor \$10.00 Smcs; Torres,A \$120.00 Smcs; Trampe,N \$46.84 Smcs; Travis Anderson Construction \$225.00 Smcs; Tye & Rademacher \$11,582.49 Smcs; Van Diest Supply \$363.00 Smcs; Viergutz,B \$120.00 Smcs; Village Uniform \$158.00 Smcs; Vogt,B \$120.00 Smcs; Vontz Paving \$36,980.00 Co; Walters Electric \$11,337.58 smcs,co; Williams,M \$19.80 Smcs; Young,M \$9.35 Smcs; Zink,T \$50.00 Smcs; Payroll Ending 8-1-2009 -- \$352,859.20. 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 setting August 25, 2009 at 7:00 p.m. as time and date for the Board of Equalization to assess costs for Paving Improvement District No. 2005-905, Water District No. 2005-541 and Sewer District No. 2005-484 for 47th Street Place from 6th Avenue to its terminus in a cul-de-sac; Paving Improvement District No. 2005-906, Water District No. 2005-542A and Sewer District No. 2005-485A for 4th Avenue from 44th Street north to 48th Street; Paving Improvement District No. 2008-925, Water

District No. 2008-549 and Sewer District No. 2008-491 for 9th Street Place from west line of Block 1, Park View Estates Fourth to its terminus in a cul-de-sac; Paving Improvement District No. 2008-926, Water District No. 2008-550, Sewer District No. 2008-492 for 8th Street from the west line of Block 3, Park View Estates Fourth, thence to its terminus being the east line of Park View Estates Fourth, AND TOGETHER WITH 10th Avenue from 8th Street, thence south to its terminus being the south line of Park View Estates Fourth.

- 4. Approve the Local Amendment to Recreational Trails Program Project Agreement (RTP 2008-005) between the City of Kearney and the Nebraska Game and Parks Commission to extend the project to December 1, 2009 for the hike-bike trail that starts in Lighthouse Point and goes east through Ted Baldwin Park and adjacent to a senior care facility and Richard Young Hospital and approve **Resolution No. 2008-122.**

RESOLUTION NO. 2009-122

WHEREAS, the City of Kearney desires to construct a public recreation trail project that starts in Lighthouse Point and goes east through Ted Baldwin Park and adjacent to a senior care facility and Richard Young Hospital; and

WHEREAS, on May 13, 2008 the City of Kearney and the Nebraska Game and Parks Commission entered into an Agreement for the construction, development, and maintenance of said recreational trail and that said trail will be operated and maintained by the City of Kearney for public outdoor recreation use; and

WHEREAS, the City of Kearney and the Nebraska Game and Parks Commission concur to amend the original Agreement to provide that the project life be extended to December 1, 2009 to ensure completion of the trail this fall.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Local Amendment to Recreational Trails Program (RTP 2008-005) Project Agreement on behalf of the City of Kearney to extend the project life of the project to December 1, 2009. A copy of said Local Amendment to Project Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 5. Approve the application for a Special Designated License submitted by KEARNEY STEAK COMPANY, dba Whiskey Creek in connection with their Class IK-35628 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 19, 2009, 2009 from 5:00 p.m. until 1:00 a.m. for a fund raiser event.

- 6. Approve Change Order No. 1 to extend the contract time (30 days) submitted by Midlands Contracting, Inc. and approved by Miller & Associates 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; Water District No. 2009-557 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; 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; Sewer District No. 2009-497 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 and approve **Resolution No. 2009-123.**

RESOLUTION NO. 2009-123

WHEREAS, Midlands Contracting, Inc. has performed services in connection with 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; Water District No. 2009-557 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; 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; Sewer District No. 2009-497 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 and the City's engineer, Miller & Associates, have filed with the with the City Clerk Change Order No. 1 extending the contract time by thirty (30) days as shown on Exhibit "A" 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" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Approve the application to conduct a parade submitted by the Kearney Visitors Bureau and UNK's Music Department for UNK Band Day to be held on September 26, 2009 beginning at 9:00 a.m. starting at Central Avenue and Railroad Street, north on Central Avenue to 27th Street, west on 27th Street and ending at the UNK Campus. Parking on Central Avenue from Railroad Street north to 26th Street will be prohibited after 6:00 a.m. Parking will be banned on Central Avenue from North Railroad Street to 25th Street beginning at 2:00 a.m. on the morning of September 26. The staging area

to be closed beginning at 6:00 a.m. include Railroad Street from 4th Avenue to Avenue E, Avenue A from 21st Street to Railroad Street, and Avenues B, C and D from Railroad Street to 22nd Street, 3rd Avenue from Railroad Street to 22nd Street, and 1st Avenue from Railroad Street to 21st Street. This request will also allow for the selling of refreshments during the parade.

8. Approve the Specifications for a new 4-Wheel Drive, Class IV, Hi-Speed Snow Plow Vehicle for use at the Kearney Regional Airport and set the bid opening date for August 31, 2009 at 10:00 a.m.

9. Approve the application for a Special Designated License submitted by Juan Lazo, dba "El Tropico" in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 6, 2009 from 6:00 p.m. until 12:00 a.m. for a Mexican dance.

10. Approve the application for a Special Designated License submitted by BOULEE LLC, dba "Bico's Sports Bar & Grill" in connection with their Class I-70918 liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 5, 2009 from 4:00 p.m. until 1:00 a.m. for a reception.

11. Authorize the City Manager to negotiate with the lowest responsive bidder for the construction of the Airport Signage and approve **Resolution No. 2009-124**.

RESOLUTION NO. 2009-124

WHEREAS, Miller & Associates Consulting Engineers and the City of Kearney have reviewed the sealed bids which were opened on July 21, 2009, at 2:00 p.m. for the construction of the Airport Signage; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for the Airport Signage was \$42,000.00; and

WHEREAS, the City received three bids for the construction of the Airport Signage but only two bids are considered responsive bids; and

WHEREAS, the amount of the two responsive bidders exceeded the Engineer's estimate.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that in accordance with Section 16-321(7) of the Nebraska Revised Statutes, the City Council hereby directs and authorizes the City Manager to negotiate with the lowest responsive bidder a contract for services, material or labor to construct the Airport Signage at a cost commensurate with the Engineer's Estimate. Any contract negotiated shall be submitted to the City Council for final approval.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Approve **Resolution No. 2009-106A** to include Water District No. 2009-557 and

Sewer District No. 2009-497 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 in the award of the bid.

RESOLUTION NO. 2009-106A

WHEREAS, on July 14, 2009 the Council passed and approved Resolution No. 2009-106 awarding the bid 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 to Midlands Contracting, Inc. of Kearney, Nebraska in the sum of \$306,030.20 for Bid A (water and sewer) and to Dan Roeder Concrete of Kearney, Nebraska in the sum of \$468,373.25 for Bid B (paving); and

WHEREAS, City staff has discovered that Water District No. 2009-557 and Sewer District No. 2009-497 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 were omitted from Resolution No. 2009-106 in awarding the bid.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that Resolution No. 2009-106 be amended to include Water District No. 2009-557 and Sewer District No. 2009-497 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 and that the said districts be and are hereby awarded.

BE IT FURTHER RESOLVED that the other provisions, obligations and requirements contained in the original Resolution No. 2009-106 are still in effect.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the Plans and Specifications for the 2009 Part 11 Improvements consisting of Paving Improvement District No. 2009-936 for the alley lying between Avenue A and Avenue B from 25th Street and 26th Street and set the bid opening date for September 2, 2009 at 2:00 p.m.

14. Approve the bids received for the 2009 Part 6 Improvements for Fire Station #1 Generator Replacement and award the bid to Anderson Brothers in the amount of \$92,934.00.

15. Approve the recommendation submitted by the Downtown Improvement Board to block off the west four parking stalls on the north row of the parking lot located north of the Museum of Nebraska Art from 9:00 a.m. until 5:00 p.m., Monday through Saturday, beginning August 12, 2009 and ending September 30, 2009 for a produce stand.

16. Approve the recommendation submitted by the Downtown Improvement Board to temporarily block off Central Avenue from 23rd Street to 24th Street and Central Avenue from Railroad Street to 21st Street on August 27, 2009 from 12:00 p.m. until 1:00 a.m. to conduct "Destination Downtown" and that the street be cleared of parked vehicles.

17. Authorize the Mayor to execute a Memorandum of Understanding with the Nebraska Department of Economic Development for a grant in the amount of \$865,000 associated with infrastructure improvements in southwest Kearney and approve **Resolution No. 2009-125.**

RESOLUTION NO. 2009-125

WHEREAS, the City of Kearney, the Nebraska Department of Economic Development desire to enter into a Memorandum of Understanding for public infrastructure improvements in southwest Kearney for business development.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to execute any and all contracts, documents, or other memoranda between the City of Kearney, Nebraska, and the Nebraska Department of Economic Development with regard to a Community Development Block Grant Recovery Funds in the amount of \$865,000.00 for infrastructure improvements in southwest Kearney for business development. A copy of the Memorandum of Understanding, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7535 – CONDITIONAL USE PERMIT TO JEFF AND LISA OVERTURF (PERTAINS TO PUBLIC HEARING 1)

Council member Buschkoetter was not present at the meeting. Council member

Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance granting a Conditional Use Permit for this property. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7535, being Subsection 1 of Agenda Item VI granting a Conditional Use Permit to Jeffrey and Lisa Overturf to haul gravel and sand off site to enable construction of a private lake on property zoned "District AG, Agricultural District" and described as being part of Government Lots 2 and 3, part of the North Half of the Northeast Quarter, all of Government Lot 4 and part of accretions in Section 9, Township 8 North, Range 16 West of the 6th P.M., all in Buffalo County, Nebraska (710 West 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

ORDINANCE NO. 7536 – CONDITIONAL USE PERMIT TO ANDERSEN WRECKING (PERTAINS TO PUBLIC HEARING 2)

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance granting a Conditional Use Permit for this property. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7536, being Subsection 2 of Agenda Item VI to grant a Conditional Use Permit to Andersen Wrecking Company (Applicant) and James Andersen (Owner) to operate a scrap metal recycling facility on property zoned District M-2, General Industrial District and described as Lot 1, Classic Glacier, an addition to the City of Kearney, Buffalo County, Nebraska (south of 20th Street, west of current operation). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

ORDINANCE NO. 7537 – REZONE 46TH STREET AND 2ND AVENUE (PERTAINS TO PUBLIC HEARING 3)

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance rezoning this property. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7537, being Subsection 3 of Agenda Item VI to rezone from District R-3, Urban Residential Multi-Family District (Medium Density) to District C-O, Office District property described as Lot 20, Imperial Village 4th Addition, a subdivision of Lot 23, of Block 6, Imperial Village Addition to the City of Kearney, Buffalo County, Nebraska (46th

Street and 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

ORDINANCE NO. 7538 – VACATE PART OF MARIANNE HUNT 2ND ADDITION AND DEDICATE TO MARIANNE HUNT THIRD ADDITION (PERTAINS TO PUBLIC HEARING 4)

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance vacating a portion of Marianne Hunt 2nd Addition. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7538, being Subsection 4 of Agenda Item VI to vacate Lots 6 and 7 of Block 4, Marianne Hunt 2nd Addition, an addition to the City of Kearney, Buffalo County, Nebraska (405 East 8th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

ORDINANCE NO. 7539 – VACATE PART OF INTERSTATE THIRD ADDITION AND DEDICATE TO INTERSTATE FOURTH ADDITION (PERTAINS TO PUBLIC HEARINGS 5, 6 7)

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance vacating a portion of Interstate Third Addition. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7539, being Subsection 5 of Agenda Item VI to vacate part of Lot 1 and all of Lot 2 of Block 1, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska (108 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

ORDINANCE NO. 7540 – REZONE 108 3RD AVAENUE (PERTAINS TO PUBLIC HEARINGS 5, 6, 7)

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the ordinance rezoning this property. In accordance with state law, in order to suspend the requirement to read ordinances on three different days requires $\frac{3}{4}$ vote of the Council. In this case, it would require four Council members to suspend the rules.

Moved by Clouse and seconded by Lammers to table until August 25, 2009 Ordinance No. 7540, being Subsection 6 of Agenda Item VI to rezone from District M-1, Limited

Industrial District to District C-2, Community Commercial District for a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Lear. Nay: None. Buschkoetter and Kearney absent.

MANAGER APPLICATION FOR CHUG-A-LUG

Mayor Clouse opened for discussion the Manager Application for Deanna Saner submitted by Chug-A-Lug Sports Bar, Inc. in connection with their Class C-42049 liquor license located at 1115 East 25th Street.

Deanna Saner presented this matter to the Council. She stated that she needed to revised their liquor license and she needed to be named as the manager. She and two of her employees received training in the TIPS Program on August 5, 2009 and that two more employees will receive training on August 30, 2009

Moved by Lear seconded by Clouse to recommend approval to the Liquor Commission for the Manager Application for Deanna Saner submitted by Chug-A-Lug Sports Bar, Inc. in connection with their Class C-42049 liquor license located at 1115 East 25th Street. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$74,838.92, PLATTE VALLEY STATE BANK - \$46,461.29, SCHOOL DISTRICT #7 - \$2,565.58

Council member Buschkoetter was not present at the meeting. Council member Kearney was present during the public hearings but had to leave prior to the Council considering the items on the regular agenda which included the Open Account Claims. These claims will be placed on the August 25, 2009 agenda for approval.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Lammers seconded by Clouse that Council adjourn at 9:24 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers. Nay: None. Buschkoetter and Kearney absent. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK