

Kearney, Nebraska
August 25, 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 25, 2009, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Suzanne Brodine, Grants & Marketing Coordinator; Shawna Erbsen, Human Resources Director; Don Dreyer, Police Captain; Kristi Grint, Risk Management Coordinator; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Kyle Hanson, Lori Koeppe, Dan Lindstrom, Jon Abegglen, Roger Jasnoch, Candy Kuntz, Tim Hughbanks, Sara Giboney from Kearney Hub, Steve Altmaier from KGFW Radio.

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

I. ROUTINE BUSINESS

INVOCATION

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

Two Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

RECOGNITION OF OUTGOING BOARD MEMBERS

Mayor Clouse and Council Members recognized and presented plaques to the following outgoing Board members: Jayne Meyer for 21 years of service on the Downtown Improvement Board, Larry Cihal for 15 years of service on the Planning Commission, and Richard Ritscher for 3 years of service on the Planning Commission. Unfortunately,

they were not present at the meeting.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

Mayor Clouse stated Wood River Trailer Court has had two major issues in the last year and a half; the septic system failed thus requiring the design and construction of a new septic system which led to the abandonment of the existing well and construction of a new well. The well and water lines were to be installed. As you may remember, on May 26, 2009 the Council postponed any action on the annual renewal license for Wood River Trailer Court, 865 West 78th Street to allow additional time to correct the deficiencies. The owner of the court, Shawn King, and Chris Miller from Miller & Associates Consulting Engineers, have diligently been working with the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services on the design and implementation of the court's new well and septic system. Because of the necessary State compliance deadlines, the well will not be in service until late October to middle November. Therefore, Mr. King is requesting to extend the time until November 30, 2009 to complete the well installation and receive approval from the Nebraska Department of Health and Human Services to place the well into service.

Moved by Kearney seconded by Lammers to postpone until November 30, 2009 any action on the annual manufactured home court license for Wood River Trailer Court, 865 West 78th Street. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

III. PUBLIC HEARINGS

CDBG INFRASTRUCTURE GRANT FOR SOUTH CENTRAL AVENUE

Mayor Clouse opened the public hearing concerning community revitalization activities in accordance with the Department of Economic Development's guidelines for a Community Development Block Grant to receive public input on a possible infrastructure improvement grant project located in the 1800 and 1900 blocks of south Central Avenue.

The Comprehensive Revitalization program is a funding category within the Community Development Block Grant program funded and developed by the Nebraska Department of Economic Development. This program allows DED to conditionally guarantee grant awards in 2009, 2010 and 2011 for 8 non-entitlement local governments, between 49,999 and 20,000 populations, based on the number of low- and moderate-income (LMI) persons residing in the community. The method for allocating funds through the CR category presents the following advantages:

- Ability to make greater impact through guaranteed funding for longer period of time;

- Larger, urban municipalities who are non-entitlement communities are eligible;
- CDBG funding is more effectively targeted to persons with lower incomes.

The targeted census tract spans an area east to west from Avenue C to 5th Avenue and north to south from 22nd Street to 16th Street. This census tract is located in southeast and downtown Kearney.

There are several reasons supporting the selection of this census tract. The City of Kearney employed a comprehensive approach to identify and prioritize capital improvement needs throughout the entire community. This effort included a web survey, suggestion cards and a community needs assessment. The City Council and City staff also conducted 42 listening sessions throughout the community, including 2 town hall meetings. Three public meetings were facilitated in LMI designated areas within the City. Citizen response to the request for input was overwhelming. In summary, the City received 1,637 suggestions, 736 suggestion cards returned and over 700 citizens attended the listening sessions.

This area was chosen by examining the priority needs that were discovered during the assessment process. The top five needs, based on the number of comments received, are as follows:

- Streets, sidewalks, traffic
- Library expansion
- Parks and Recreation facilities (Harmon Park Activity Center)
- Downtown Improvements
- Senior Center Improvements

An area selected for improvements had to meet the LMI requirement of 51% or greater. In this area, 66.6% of residents are considered those with low- to moderate-incomes, which will meet the national objective of the CDBG program to benefit low and moderate-income persons.

The 1800 and 1900 blocks of Central Avenue, Old Town Kearney, fall within the selected census tract. These blocks require significant improvements to sidewalks and streets to meet ADA guidelines and address drainage and maintenance issues. Accessibility in the community is a top priority for the City Council and staff. These two blocks receive a significant amount of traffic, both from the neighborhood and the wider community.

Kearney is estimated to receive slightly over \$150,000 each year for 3 years as a result of program participation. This amount was determined by the number of LMI persons residing in the community according the 2000 Census, 10,203, multiplied by the amount of funding available per capita which was \$14.79026.

The City is responsible for 1:1 leverage. As a result of the number and nature of the needs discovered during the assessment process, Kearney citizens voted overwhelmingly to implement a ½% sales tax, effective April 1, 2006. Combining program funding and the sales tax money will provide the opportunity to serve the low- and moderate-income populations and to improve accessibility to the public facilities,

business communities, and along major arterial streets that is the responsibility of the community.

The project will be completed from July 2010 to July 2011, during which residents can expect to see a combination of improvements to sidewalks, streets, lighting, and accessible sidewalk ramps at intersections. There will be no assessments for these improvements. Unlike other Community Revitalization projects, which are phased out over a three year period, this project would be completed in one year. Funding received from the state would still be phased. The project is as follows: Sidewalks and Paving – It is proposed to remove brick pavers in the parking area of Central Avenue from Railroad Street South to 18th Street to allow for re-grading and replace with a concrete surface. Sidewalks and gutters will be replaced with a new grade, lower curb and accessible sidewalk ramps at intersections. The street surface would remain brick.

Unlike other Community Revitalization projects, which are phased out over a three year period, this project would be completed in one year. Funding received from the state would still be phased. The City of Kearney may request up to \$452,715 over three years, requiring a cash match in the same amount.

Candy Kuntz from Miller & Associates presented this matter to the Council. Regarding the Community Revitalization Grant that the City has received over the past three years; they are in the planning stage for the next three phases of that project. They are looking at doing a project on South Central Avenue. She talked with the Department of Economic Development to see if they would be on board to fund this project. The Department of Economic Development wanted to make sure that when doing the planning efforts, to make sure to include aspects of the projects that will benefit low to moderate income persons. This is a business area, although it does have some ADA compliance issues, some drainage and paving issues that need to be done. Funding will take into consideration high traffic in the area and pedestrian and bicyclists use that goes across the tracks to the rest of downtown. They also want information included about the amount of sidewalk traffic, the types of businesses along there, access to those businesses and the type of drainage needed and whether that drainage would just improve those businesses in the area or outlying areas, as well.

The DED also would like to combine census tracts 1139, 1151, 1152 and 1154 together into one census tract for this project to show the neighborhood benefit to all low and moderate income individuals in those four census tracts. It is important to show in their planning efforts people living in those neighborhoods who use Central Avenue to get to other parts of the City are being considered. The west line of census tract 1139 is 5th Avenue and it was thought those people would either use 5th Avenue or 2nd Avenue so that is how the boundary was determined and recommended by DED. City Manager Michael Morgan suggested that a traffic study in that area would be warranted.

Ms. Kuntz stated that another point is to make sure that Central Avenue is not designated as an arterial street, but as a collector street. They do not want to show that Central Avenue is as heavy a traffic area as compared to 2nd Avenue or 39th Street. Kearney should still be under the 51 percent even with adding census tract 1151.

The last project done in the 1152 area was all the sidewalks completed in southeast

Kearney, as well as a couple of paved streets. There was some extra money left over from that phase of the grant. In talking with the DED, they agreed to expand that area into the 1151 and combined Tracts 1151 and 1152 to 17th Street and another street that was in that area that was not paved. Those funds should be released for that phase at the end of this month. The design can be completed and ready to bid out along with some water, sewer and paving that can be finished. They have combined that area and expanded the target area of the last three phases.

The DED has been flexible in working with them on this project. In the past, they were required to do each phase separately and then wait for each phase to get release of funds before starting the next phase. This would not be an economical plan for the City, businesses or the people in the area. This whole project is being allowed to be done as one project. The City would have to put the money up front and pay for the construction costs. As the phase money is received, the City would be reimbursed. City Manager stated given the traffic flow, access to the public courthouse and a park, this is a main access point. He believed that the ADA improvements, foot travel and the drainage issues are significant in that area. Mayor Clouse added that the general public safety on those curbs is important.

City Manager Michael Morgan stated that earlier in this project, they started by trying to find a compromise with the business owners in this area with splitting the cost. Approximately \$450,000 was set aside, but the business owners declined and there was enough ownership to petition it out. The City went back to those owners with a revised figure that was a little less, but they essentially declined that in their conversations since they could not get a majority to contribute. This project is proposed to be \$450,000 from the ½ cent sales tax that has been set aside and \$450,000 in grant funds which will be enough to do the entire project. He believed that with the amount of traffic that uses that street, there is some logic to the City paying the entire cost. The goal is to retain the bricks where possible and repair them.

Ms. Kuntz was encouraged that DED is allowing the whole project to be done together. It did not make sense to finish a block at a time which would be very disruptive to business owners. With the suggestion of the DED to expand the area and combine the census tract, she believed approval will depend on the way she writes the application. She had thought there was a specific timeline of strategic planning to go through November and then the plan could be submitted. The DED told her when Kearney is ready to proceed, that enough public comment had been received, and had the plan put together for the next three years, they would be ready to move forward as quickly as Kearney is. If the plan is submitted in November, Kearney could possibly start the project in the spring.

Gary Forbes, President of Old Towne Kearney, stated he was in full support of the project.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing concerning community revitalization activities in accordance with the Department of Economic Development's guidelines for a Community Development Block Grant on a possible infrastructure

improvement grant project located in the 1800 and 1900 blocks of south Central Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

IV. CONSENT AGENDA

Mayor Clouse stated that often on the Consent Agendas they approve either liquidated damages or contracts that are fairly straight forward. He offered his support for City staff that when these liquidated damages occur that the Council is solidly behind staff in enforcing those liquidated damages. The citizens of Kearney expect that these contracts be let and that the contractors live up to their obligations. When these projects are awarded to the low bidders, the Council expects them to perform and liquidated damages are a way to have some assurance that is going to happen.

Council member Kearney stated it is very inconvenient to the public when projects are not completed on time. He suggested that if anything, the Council could raise the penalties because it is an economic decision if the contractor delays completing the project. In order to get the contractors to do things timely, he suggested a percentage be charged. There is a legal process as to how to determine those fees to make sure that it is equitable, but they are not intended to be a pure penalty. These fees must be able to be supported in court. One of the other concerns is there becomes a certain point when contractors are not performing, and in fairness to other bidders that have agreed to meet a certain date when submitting a bid, the fairness question needs to be considered. When looking at bids, it talks about the best bid based on history of past performance. There might be a point in the future that staff will be looking at that aspect.

Council member Lear stated that whenever they have had direct experience with a contractor who leads the City to believe that they have a history of not performing on contracts in a timely manner or if staff receives input from other communities that have experienced history of contractors not engaging with timely completion, he believed they have a legitimate right to reject a low bid in those cases. The Council should make that determination when appropriate.

Mayor Clouse stated that City staff has withdrawn Subsection 5 pertaining to the 2nd Avenue Pedestrian Bridge. This project will be reviewed by the Park and Recreation Advisory Board.

Moved by Lear seconded by Buschkoetter that Subsections 1 through 4 and 6 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 11, 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 \$197.74 smcs; Agri Co-op \$2,738.96 smcs; Almquist,R \$52.50 smcs; Amer First Aid \$204.67 smcs; AMI Graphics \$84.50 smcs; Ask Supply \$420.67 smcs; Aurora Coop \$36.00 smcs; Baker & Taylor Books \$7,583.48 smcs; Barney Abstract \$2,250.00 smcs; BBC Audiobooks \$112.26 smcs; Beckenhauer,T \$58.50 smcs; Berke,N \$100.00 smcs; Big Red Auto Glass \$32.10 smcs; Blessing Construction \$1,385.10 smcs; Bluecross Blueshield \$153,731.21 smcs; Bonk,M \$40.00 smcs; Brilliance Audio \$123.20 smcs; Broadfoot's \$1,593.50 smcs; Buffalo Co Historical Soc \$2,224.53 smcs; Buffalo Co Weed Control \$1,355.21 smcs; Builders \$3,801.24 smcs; Business Office Systems \$125.00 smcs; Cash-Wa \$4,266.42 smcs; Charter \$59.99 smcs; Chesterman \$4,397.75 smcs; City of Ky \$79,936.44 smcs,ps; Clipper-Herald \$42.00 smcs; College Savings Plan of NE \$100.00 ps; Copycat Printing \$175.66 smcs; Crane River Theater \$2,322.75 smcs; Credit Management Service \$284.23 ps; CVI Kearney \$1,047.43 smcs; D&D Industries \$180.00 smcs; Dawson Co PPD \$689.98 smcs; Dell \$3,797.50 co; Depository Trust \$119,447.50 ds; Deterdings \$344.02 smcs; DPC Industries \$12,332.12 smcs; Dugan Business Forms \$1,253.10 smcs; Dutton-Lainson \$589.84 smcs; Eakes \$518.82 smcs; EMC Insurance \$1,609.32 smcs; Enns,W \$133.66 smcs; Eustis Body Shop \$702.50 smcs; Factual Data-Midwest \$10.73 smcs; Fedex \$51.20 smcs; Footjoy \$275.25 smcs; Frontier \$147.70 smcs; Gale \$1,145.33 smcs; Gangwish Turf \$90.75 smcs; Garrett Tires \$4,405.00 smcs; Geisler,B \$35.00 smcs; Graphic Screen Printing \$93.00 smcs; Great Plains Gov't \$85.00 smcs; Great Plains One Call \$449.67 smcs; Greyhouse Publishing \$206.05 smcs; H&H Distributing \$1,916.61 smcs; HD Supply \$10,131.45 smcs; Highland \$2,573.84 co; ICMA RC \$4,790.29 ps; IRS \$106,610.79 ps; Johnson Service \$476.25 smcs; Ky Clinic \$345.00 smcs,ps; Ky Concrete \$41,348.46 smcs,co; Ky Crete & Block \$509.16 co; Ky Hub \$1,823.00 smcs; Ky Women's Club \$5,000.00 smcs; KGFV \$48.00 smcs; KHGI/KWNB \$225.00 smcs; Kirkham Michael \$18,986.75 co; Klaus,M \$601.98 co; Koeppe,L \$56.25 smcs; Konica Minolta \$265.86 smcs; KRVN \$436.80 smcs; Kussmaul Electronics \$166.87 smcs; League of NE Municipalities \$120.00 smcs; Linweld \$27.01 smcs; Mac Tools \$13.76 smcs; Magic Cleaning \$5,510.00 smcs; Menards \$2,294.24 smcs,co; Metlife \$16.20 ps; Midland Molding \$35.00 smcs; Miller & Associates \$6,348.43 smcs,co; Moonlight Embroidery \$1,318.75 smcs; NE Child Support \$2,532.89 ps; NE Dept of Aeronautics \$995.00 ds; NE Dept of Revenue \$37,013.13 smcs; NE Economic Developers \$75.00 smcs; NE Law Enforcement \$80.00 smcs; NE Library Ass'n \$430.00 smcs; NE State Library \$25.70 smcs; NEland Distributors \$1,398.40 smcs; NeLEIN \$95.00 smcs; NIMCO \$658.46 smcs; NLA Public Library \$10.00 smcs; NMC Exchange \$158,292.00 co; Northwestern Energy \$1,250.71 smcs; Olive Software \$4,200.00 smcs; Otis Air Service \$6,019.38 co; Paramount Linen \$247.41 smcs; Paulsen \$239,218.79 co; Platte River Radio \$440.00 smcs; Platte Valley Comm \$58.50 smcs; Platte Valley Medical \$593.00 smcs; Presto-X \$155.00 smcs; Random House \$160.00 smcs; Ready Mixed Concrete \$496.88 smcs; Recorded Books \$386.15 smcs; Refind \$34.90 smcs; Reinke's Heating \$88.00 smcs; SA Foster \$8.37 smcs; Sherman,B \$175.00 smcs; Sherwin Williams \$80.90 smcs; Smiley,B \$33.00 smcs; Sorensen Group \$32,894.10 co; SOS Portable Toilets \$170.00 smcs; Steinbrook,S \$1,789.25 smcs; Sutphen Corp \$1,200.00 smcs; Team Effort \$818.19 smcs; Theis,J \$60.00 smcs; Tielke Enterprises \$262.05 smcs; Titleist \$906.93 smcs; Tool Doctor \$128.75 smcs; Toyne \$90.25 smcs; Trugreen Chemlawn \$190.00 smcs; Unique Management \$402.75 smcs; Van Winkle,K \$94.50 smcs; Video Service of America \$6,490.45 smcs; Village Uniform \$293.43 smcs;

Walsh,C \$22.28 smcs; Walter's Electric \$2,113.01 smcs; Warren-T Plumbing \$851.75 smcs; West Central NE Home \$360.00 co; West Payment Center \$1,372.10 smcs; Wigand Security Center \$75.00 smcs; Wilkins Hinrichs Stober \$58,573.56 ps; WPCI \$132.00 smcs; Zikmund,D \$71.24 smcs; Zimmerman Printers \$131.92 smcs; Payroll Ending 8-15--2009 -- \$343,059.49. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set September 8, 2009 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Approve the final allocation of levy authority in the amount of \$132,600.00 for the Community Redevelopment Authority of the City of Kearney for fiscal year 2009-2010 and the final allocation of levy authority in the amount of \$41,000.00 for Offstreet Parking District No. 1 for fiscal year 2009-2010 and approve **Resolution No. 2009-126**.

RESOLUTION NO. 2009-126

WHEREAS, Neb. Rev. Stat. Section 77-3443.03, (R.R.S. 1943), as amended), requires Community Redevelopment Authorities and Offstreet Parking Districts to submit a preliminary request for levy allocation, on or before August 1, to the City Council; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney submitted to the City, on July 30th, 2009, a preliminary request for levy allocation in the amount of \$132,600.00; and

WHEREAS, the Downtown Improvement Board, on behalf of Offstreet Parking District No. 1, submitted to the City, on June 3, 2009, a preliminary request for levy allocation in the amount of \$41,000.00; and

WHEREAS, Neb. Rev. Stat. Section 77-3443.04, as amended, requires the City Council to adopt, by September 1, a resolution (by a majority vote of members present) which determines a final allocation of levy authority to the Community Redevelopment Authority and Offstreet Parking District No. 1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), as amended, that a final allocation of levy authority of \$132,600.00 is hereby approved for the Community Redevelopment Authority of the City of Kearney for 2009 and a final allocation of levy authority of \$41,000.00 is hereby approved for Offstreet Parking District No. 1 for 2009.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), that the City Clerk is ordered to forward a copy of this resolution to the chairperson of the Community Redevelopment Authority of the City of Kearney and the chairperson of the Downtown Improvement Board.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect September 1, 2009, and shall be published in pamphlet form.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

5. **WITHDRAWN BY STAFF.** Approve the Plans and Specifications for the 2009 Part 9 Improvements for the construction of the 2nd Avenue Pedestrian Bridge and set the bid opening date for September 16, 2009 at 2:00 p.m.

6. Approve the Plans and Specifications for the South Parks Maintenance Building located at E.K. and Mary Yanney Heritage Park and set the bid opening date for September 16, 2009 at 2:00 p.m.

7. Approve the application for a Special Designated License submitted by KEARNEY BBQ CO., dba Skeeter Barnes in connection with their Class I-55865 liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 1400 East 34th Street, on September 26, 2009 from 4:00 p.m. until 12:00 a.m. for a reception.

8. Approve Application and Certificate for Payment No. 8 in the amount of \$174,366.90 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2009-127.**

RESOLUTION NO. 2009-127

WHEREAS, Hausmann Construction of Lincoln, Nebraska has performed services in connection with the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Application and Certificate for Payment No. 8 in the amount of \$174,366.90 as shown on Exhibit "A" attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$2,879,000.00
Change Order No. 1 (11-25-2008)	- 21,081.00
Change Order No. 2 (11-25-2008)	- 40,000.00
Change Order No. 3 (11-25-2008)	- 25,000.00
Change Order No. 4 (11-25-2008)	+ 4,900.00
Change Order No. 5 (2-24-2009)	- 1,959.00
Change Order No. 6 (3-10-2009)	- 7,226.00
Change Order No. 7 (4-14-2009)	+ 3,667.00
Change Order No. 8 (5-12-2009)	<u>+ 3,072.00</u>
Contract Sum to Date	\$2,795,373.00
Total Completed and Stored to Date	2,028,806.00
Retainage	202,880.60
Amount Due to Date	1,825,925.40
Less Previous Certificates for Payment	<u>1,651,558.50</u>
Current Payment Due	\$ 174,366.90

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 8, as shown on Exhibit "A", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the recommendation from the Utilities Department on the purchase of a skid steer loader to be used in the Sanitation Division from Central Nebraska Bobcat of Kearney, Nebraska in the amount of \$30,550.33.

10. Approve continuing the Agreement between the City of Kearney and the law firm of Tye & Rademacher for legal services as City Attorney and approve **Resolution No. 2009-128**.

RESOLUTION NO. 2009-128

WHEREAS, the City of Kearney entered into an Agreement for Legal Services and the Law Firm of Tye & Rademacher on September 13, 2005 to provide legal services to the City of Kearney; and

WHEREAS, on September 26, 2006 the City Council approved Resolution No. 2006-180 continuing the agreement for a period of three (3) years; and

WHEREAS, in accordance with the terms of the Agreement, City staff is recommending continuing the Agreement with the Law Firm of Tye & Rademacher with the following adjustments to the original agreement:

1. The Agreement will continue for a period of three (3) years and shall self-renew annually thereafter, subject to the right of either party to terminate the Agreement by giving the other party ninety days prior written notice.
2. Effective October 1, 2009, the annual sum will increase to One Hundred Twenty-one Thousand Two Hundred Seventy-five Dollars (\$121,275.00), and will increase three percent (3%) on October 1, 2010 and three percent (3%) on October 1, 2011.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Legal Services dated August 25, 2009 between the City of Kearney, Nebraska and the Law Firm of Tye & Rademacher for services as outlined in said Agreement.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve Application and Certificate for Payment No. 1 in the amount of \$44,600.11 submitted by Midlands Contracting 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 7, 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. 2009-129.**

RESOLUTION NO. 2009-129

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska 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 7, 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 City Clerk Application and Certificate for Payment No. 1 in the amount of \$44,600.11, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$306,030.20</u>
Contract Sum To Date	306,030.20
Gross Amount Due	49,555.68
Retainage	4,955.57
Amount Due to Date	44,600.11
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 44,600.11

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

18. Approve the Non-Owned Corporate Hangar Lease Agreement for T-922 and T-922A between the City of Kearney and The Buckle, Inc. and approve **Resolution No. 2009-130.**

RESOLUTION NO. 2009-130

WHEREAS, the City Council passed and approved Resolution No. 2002-201 on August 27, 2002 approving the Non-Owned Corporate Hangar Lease for Hangar T-922; and

WHEREAS, the City Council passed and approved Resolution No. 2009-81 on June 23, 2009 approving the Non-Owned Corporate Hangar Lease for Hangar T-922A; and

WHEREAS, The Buckle and the City of Kearney have agreed to combine the two Lease Agreements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that Resolution No. 2002-201 passed and approved on August 27, 2002 and Resolution No. 2009-81 passed and approved on June 23, 2009 be and are hereby repealed.

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Non-Owned Corporate Hangar Lease for T-922A and T-922 on behalf of the City of Kearney, Nebraska, with The Buckle, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve Application and Certificate for Payment No. 8-Final in the amount of \$40,954.18 and accept the Certificate of Substantial Completion submitted by Eriksen Construction Company and approved by Miller & Associates for the Northwest Well Field Improvements; Phase III - Water Conditioning Facility and Control System and approve **Resolution No. 2009-131.**

RESOLUTION NO. 2009-131

WHEREAS, Eriksen Construction Co. of Blair, Nebraska has performed services in connection with the Northwest Well Field Improvements – Phase III (Water Conditioning Facility and Control System), and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 8-Final in the amount of \$40,954.18, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$410,900.00
Change Order No. 1 (8-26-2008)	+ 406.06
Contract Sum To Date	<u>411,306.06</u>

Gross Amount Due	381,806.06
Retainage	.00
Amount Due to Date	411,306.06
Less Previous Certificates for Payment	<u>370,351.88</u>
Current Payment Due	\$ 40,954.18

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of June 1, 2009, as shown by Exhibit "B" 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 Application and Certificate for Payment No. 8-Final, as shown on Exhibit "A" and the Certificate of Substantial Completion as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Approve Change Order No. 3 showing an increase in the amount of \$2,213.98, Application and Certificate for Payment No. 3-Final in the amount of \$45,391.11, accept the Certificate of Substantial Completion submitted by Concrete Workers, Inc. and approved by Miller & Associates for the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney and approve **Resolution No. 2009-132**.

RESOLUTION NO. 2009-132

WHEREAS, Concrete Workers, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 3 Improvements for the construction of sidewalks in southeast Kearney, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing an increase in the amount of \$2,213.98 as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, Concrete Workers, Inc. and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$45,391.11 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$140,907.00
Change Order No. 1 (6-23-2009)	+ 2,015.50
Change Order No. 2 (7-28-2009)	+ 816.90
Change Order No. 3 (8-25-2009)	<u>+ 2,213.98</u>
Contract Sum to Date	145,953.38
Total Completed and Stored to Date	145,953.38
Retainage	.00
Amount Due to Date	145,953.38
Less Previous Certificates for Payment	<u>100,562.27</u>
Current Payment Due	\$ 45,391.11

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that

work is completed as of August 6, 2009, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. Approve the bids received for the 2009 Part 10 Improvements – Lighthouse Point to 17th Avenue Hike-Bike Trail and approve **Resolution No. 2009-133**.

RESOLUTION NO. 2009-133

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on August 24, 2009 at 10:00 a.m. for the 2009 Part 10 Improvements – Lighthouse Point to 17th Avenue Hike-Bike Trail; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$226,545.00; and

WHEREAS, the said engineers have recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the sum of \$182,317.50 be accepted as the lowest responsible bid for the 2009 Part 10 Improvements – Lighthouse Point to 17th Avenue Hike-Bike Trail contingent upon approval of the Nebraska Game and Parks Commission.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Blessing, LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 10 Improvements – Lighthouse Point to 17th Avenue Hike-Bike Trail to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing, LLC of Kearney, Nebraska in the sum of \$182,317.50 be and is hereby accepted contingent upon approval of the Nebraska Game and Parks Commission.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$226,545.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

16. Approve setting September 8, 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.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7535 – CONDITIONAL USE PERMIT TO JEFF AND LISA OVERTURF

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Moved by Buschkoetter seconded by Clouse to take Ordinance Nos. 7535 through 7540 from the table. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Council member Buschkoetter stated that since he was not at the last Council meeting and was not able to participate in the discussion, he would be abstaining from voting on the ordinances.

Council Member Clouse introduced Ordinance No. 7535, being Subsection 1 of Agenda Item VI to grant 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of

the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7535 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7535 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter abstaining. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7535 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7536 – CONDITIONAL USE PERMIT TO ANDERSEN WRECKING

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Council member Buschkoetter stated that since he was not at the last Council meeting and was not able to participate in the discussion, he would be abstaining from voting on the ordinances.

Council Member Clouse introduced 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City

Clerk read Ordinance No. 7536 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7536 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter abstaining. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7536 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7537 – REZONE 46TH STREET AND 2ND AVENUE

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Council member Lammers abstained from voting on this matter.

Council member Buschkoetter stated since there were no controversy and no objections received at the Council meeting with regard to this rezoning, and to avoid having to read Ordinance No. 7537 on three separate readings, he would vote on this ordinance.

Council Member Lear introduced 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7537 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers abstaining. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7537 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear. Nay: None. Lammers abstaining. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7537 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7538 – VACATE PART OF MARIANNE HUNT 2ND ADDITION AND DEDICATE TO MARIANNE HUNT THIRD ADDITION

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Council member Buschkoetter stated that since he was not at the last Council meeting and was not able to participate in the discussion, he would be abstaining from voting on the ordinances.

Council Member Clouse introduced 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7538 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7538 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter abstaining. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7538 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7539 – VACATE PART OF INTERSTATE THIRD ADDITION AND DEDICATE TO INTERSTATE FOURTH ADDITION

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Council member Buschkoetter stated that since he was not at the last Council meeting and was not able to participate in the discussion, he would be abstaining from voting on the ordinances.

Council Member Clouse introduced 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7539 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7539 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7539 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7540 – REZONE 108 3RD AVENUE

Mayor Clouse stated that at the last Council meeting, Council member Buschkoetter was not present and Council member Kearney had to leave the meeting prior to the Council considering the items on the regular agenda which included Ordinance Nos. 7535 through 7540. 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. Therefore, these ordinances were tabled until this meeting.

Council member Buschkoetter stated that since he was not at the last Council meeting and was not able to participate in the discussion, he would be abstaining from voting on the ordinances.

Council Member Clouse introduced 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), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Kearney seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7540 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Kearney, Lear. Nay: None. Buschkoetter abstaining. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7540 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Lear, Lammers. Nay: None. Buschkoetter abstaining. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7540 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

2009-2010 COMPREHENSIVE AND WORKERS COMPENSATION INSURANCE PROGRAM

Mayor Clouse opened for discussion the 2009-2010 Comprehensive and Workers' Compensation Insurance Program for the City of Kearney and to consider approval of Resolution No. 2009-134.

The City selected Barney Insurance two years ago to provide the City's Comprehensive and Workers' Compensation insurance. Barney Insurance has provided the rates for the 2009-2010 fiscal year and we are pleased to report that the overall cost will decrease 0.3%. The 2009-10 premium reflects an increase of \$6.7 million in Property Values, increased payroll for Work Comp and updated equipment and autos including all expected additions prior to October 1, 2010. Program costs are listed below.

<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
\$898,000	\$597,520	\$470,314	\$468,992

The Workers Compensation policy for 2008-09 and the quote for 2009-10 includes a \$100,000 deductible with a \$270,000 aggregate.

The City of Kearney's 2009-10 budget includes \$535,000 for purchase of insurance. The City is also building a reserve fund which has a current balance of \$395,000.

Tim Hughbanks from Barney Insurance presented this matter to the Council. The Council had been provided with a copy of the summary and premium comparison from the last three years on the insurance package. The proposal is for the renewal for the coming policy year beginning on October 1. In comparison to past years, there is another reduction this year. All lines except for the property did go down to the point that the overall policy is a little less than last year. The reason the premium has gone down each year is solely due to the cooperation and experience the company had with the City staff and the claims experience in general. EMC could not be happier with everything they have experienced with the City. There was some bad luck last year with the storms, but that was no fault of the City and not much that could have been done about that. The City continues to show their willingness to cooperate on every level with the safety committee and programs that have proven to work. This has maintained a steady and easy decision for their underwriter.

City Manager Michael Morgan stated that Kearney does not want to get to a point where it thinks this is routine or mundane considering that it is saving an excess of one half million dollars per year over three years ago. In looking at rates, you have to take into consideration that exposures have increased since they are based on budget values, etc. Actually the rate went down more than the premium did. He expressed his appreciation to Kristi Grint, all the City employees and the consultant. He also thanked Tim Hughbanks and his staff for a win/win situation.

Kearney went to a \$100,000 retention which is somewhat of a large deductible that was different for the City and a little scary at first. The City has been saving the funds and saving on the premium which has allowed it to build up a reserve. This budget will be the first real chance to see the savings from the insurance program this year. This is another reason the City can keep property taxes down and provided the services we do.

Mr. Hughbanks stated the Employers Mutual has plenty of experience with this statewide, as well as regionally, and they are constantly telling him how pleased they are with everything that has been done in Kearney and how there is nowhere else that compares in a community this size.

City Manager stated that it is all about cooperation. We asked City workers during the budget to help by keeping workers comp costs down, that is how raises were paid for this year. They have done their part and ask for help when they need it. Doing the business with a company that is here in Kearney is great and much more convenient and efficient. There will be a day when premiums will go up because of history of claims, but he trusts that it will appropriate given the circumstances.

Mr. Highbanks stated that we have been in a fairly soft insurance market for the last few years which has been an advantage, but it has hardened to a certain degree with a lot of their commercial businesses and it is inevitable that they will see some premium increases. He believed that with the way things are running with the City, they will be as minimal as possible barring any unforeseen strange occurrence that is not anticipated at this time.

Finance Director Wendell Wessells stated that we have enough in the reserve to cover the \$100,000 deductible. There is really no scientific calculation how much we might need above that amount. The City continues to fund all of its risk management efforts, consulting firms when we need them, local consultant, employee safety committee suggestions, such as the yellow t-shirts that are provided to employees so they can do their job safely.

Moved by Clouse seconded by Kearney to approve the 2009-2010 Comprehensive and Workers' Compensation Insurance Program for the City of Kearney and approve **Resolution No. 2009-134**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2009-134

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney does hereby accept and adopt for its 2009-2010 insurance coverages with Employers Mutual Company, by and through Barney Insurance, located 5205 2nd Avenue, Kearney, Nebraska.

BE IT FURTHER RESOLVED that the City Manager be and is hereby authorized and directed to execute any documents necessary to place in effect the insurance coverages provided by Employers Mutual Company, by and through Barney Insurance.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

THE BUCKLE REDEVELOPMENT PROJECT FOR REDEVELOPMENT AREA #10

Mayor Clouse opened for discussion the redevelopment project for Redevelopment Area #10 for an area described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., containing 43.02 acres, more or less of which 0.92 acres, more or less, are presently being used for road purposes on the west side, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and to consider approval of Resolution No. 2009-135.

Grants & Marketing Coordinator Suzanne Brodine presented this matter to the Council. On August 19, 2009 the Kearney Community Redevelopment Authority (CRA) approved a Tax Increment Financing (TIF) application submitted by The Buckle, Inc. for a redevelopment project located in 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. This TIF project ameliorates such factors on the project site and creates a substantial investment in infrastructure to serve an area, which will foster further economic development. Infrastructure which will be constructed through TIF includes: paving 16th Street along the south side of the Buckle site; paving extension from 16th Street north on 30th Avenue to the overpass; sanitary sewer and water extensions along 16th Street on the south side of the Buckle site; and on site improvements such as parking, landscaping, lighting, and site work. The second attachment outlines proposed area infrastructure improvements.

This project is estimated to create an increased tax increment of \$2,619,000. Ninety percent, or \$2,357,100, of the increased tax increment will be used to pay for infrastructure costs as follows:

Paving, 30th Avenue	\$200,000
Paving, 16th Street	\$498,526
Sanitary Sewer, 16th Street	\$226,787
Water, 16th Street	\$461,519
Site Development, The Buckle, Inc.	\$970,268

Jon Abegglen, Chairman of the CRA, presented this matter. This is the project as presented by The Buckle to the CRA for approval of Tax Increment Financing (TIF) not to exceed 90 percent of the anticipated increment to be raised over a 15-year period. The project is unique in the use of TIF and is appropriate. It is similar to the Cash-Wa project in that there was a tremendous amount of infrastructure that needs to go into the site that they selected for their new warehouse. TIF is going to be used to support that entire infrastructure along with a commitment from the City for infrastructure needed on 11th Street and 30th Avenue. The sewer, water and paving improvements that will be paid for by TIF are basically the improvements on 16th Street which will head east from 30th Avenue and will go by the front door of this project. The cost for sewer, water and paving is estimated to be approximately \$1,400,000.00. The balance of TIF would go for infrastructure for qualified expenses on the project (parking lot, parking lot lights and public access improvements). There are far reaching benefits with the Buckle paying for 16th Street that goes beyond their project. The tremendous infrastructure costs and their commitment to this project is going to benefit further development in the area much quicker than if it had to be done another way. This is another good partnership between the City, the CRA and developers to spur development in this community. The CRA is very excited to be part of this project.

Mayor Clouse stated that the CRA is certainly an important aspect of the development in the community. Mr. Abegglen stated that as a state we do not have many tools to help spur and attract development. This is one, although it is controversial at times, is a great tool to use as a community. It is a great use of TIF. He was aware that The Buckle had other options, but with the use of this money and the combination of the City with their unique and innovative ways to help defray some of the costs that they are going to pay, it is really a great project. It is one we are proud to have stay in Kearney.

City Manager Michael Morgan expressed his appreciation to The Buckle for giving Kearney the opportunity because it is exciting for a community of its size to be able to

talk about a world headquarter of a company that is doing well. He also expressed appreciation to Suzanne Brodine, Grant & Marketing Coordinator, and the CRA, their attorney, and Mr. Abegglen who has tirelessly worked on this project. This combined with some other funds is about \$4.1 million in grant and TIF funds which (once they are received) will allow the City to extend water and sewer infrastructure on 11th Street which will meet the City's long term master plan at no cost to the citizens of Kearney. This is a great example of how Kearney does economic development.

Mayor Clouse expressed appreciation to The Buckle's commitment to Kearney. The Council is committed to The Buckle and the relationship that is going to go on for a long time in Kearney and they are glad to help them succeed.

Council member Lear stated the critical component of this project is this underdeveloped part of town, through the use of the CRA we are able to get things to happen that would not happen without it. By doing this they are able to help The Buckle.

Council member Kearney stated this will help the whole Kearney economy. Employment of any sort is good and this is a very significant source.

Council member Buschkoetter stated that when they talk about good corporate partners, The Buckle has always been one. The residual effect of their expansion is going to develop a tremendous amount of land. They have talked about this part of town not being able to be developed because it just does not have the infrastructure. Thanks to TIF and The Buckle's expansion that is coming and there is going to be a tremendous amount of development in a relatively short amount of time.

Council member Lammers stated a person can gain a lot of synergy when there is a development like The Buckle making a sizable investment in Kearney. It is going to be a great asset for the area for future development.

Moved by Kearney seconded by Lammers to approve the redevelopment project for Redevelopment Area #10 for an area described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., containing 43.02 acres, more or less of which 0.92 acres, more or less, are presently being used for road purposes on the west side, all in Buffalo County, Nebraska (east of 30th Avenue, south of UPRR, north of 16th Street) and approve **Resolution No. 2009-135**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2009-135

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment

projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #10 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M. Buffalo County, Nebraska, more particularly described as follows: Referring to the southwest corner of Section 3 and assuming the west line of the Southwest Quarter of Section 3 as bearing N 01° 21' 24" E and all bearings contained herein are relative thereto; thence N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.16 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 1213.66 feet to a point on the south line of a tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1998-3958, recorded June 2, 1998, in the Office of the Buffalo County Register of Deeds; thence leaving the west line of the Southwest Quarter of said Section 3, N 83° 40' 54" E and on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation a distance of 33.30 feet to a point on the east line of a public road, said point also being on the west line of a tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1999-5322, recorded June 30, 1999 in the Office of the Buffalo County Register of Deeds; thence leaving the south line of said tract of land deeded to the City of Kearney described at Inst. 1998-3858, S 01° 21' 24" W and on the east line of said public road and the west line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst 1999-5322 a distance of 1021.79 feet to the southwest corner of said tract of land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence leaving the east line of said public road, S 88° 38' 36" E and on the south line of said tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 12.00 feet to the southeast corner of said tract of land and deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence N 06° 22' 32" E and on the easterly line of said tract land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of

652.1 feet; thence N 01° 21' 24" E and continuing on the easterly line of said tract of land deeded to the City Of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 381.36 feet to the northeast corner of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, said point also being on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska a Municipal Corporation, described at Inst. 1998-3958; thence leaving the easterly line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, N 83° 40' 54" E and an the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, a distance of 1390.64 feet; thence leaving the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, S 01° 21' 24" W and parallel with the west line of the Southwest Quarter of said Section 3, a distance of 1383.8 feet; thence S 89° 55' 59" W a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01° 25' 25" an arc distance of 50.51 feet to a point of tangency, thence tangent N 88° 38' 36" W a distance of 250.00 feet to the place of beginning, containing 43.02 acres, more or less of which 0.92 acres, more or less, are presently being used for road purposes on the west side, all in Buffalo County, Nebraska; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M. Buffalo County, Nebraska, more particularly described as follows: Referring to the southwest corner of Section 3 and assuming the west line of the Southwest Quarter of Section 3 as bearing N 01° 21' 24" E and all bearings contained herein are relative thereto; thence N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.16 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 1213.66 feet to a point on the south line of a tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1998-3958, recorded June 2, 1998, in the Office of the Buffalo County Register of Deeds; thence leaving the west line of the Southwest Quarter of said Section 3, N 83° 40' 54" E and on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation a distance of 33.30 feet to a point on the east line of a public road, said point also being on the west line of a tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1999-5322, recorded June 30, 1999 in the Office of the Buffalo County Register of Deeds; thence leaving the south line of said tract of land deeded to the City of Kearney described at Inst. 1998-3858, S 01° 21' 24" W and on the east line of said public road and the west

line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst 1999-5322 a distance of 1021.79 feet to the southwest corner of said tract of land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence leaving the east line of said public road, S 88° 38' 36" E and on the south line of said tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 12.00 feet to the southeast corner of said tract of land and deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence N 06° 22' 32" E and on the easterly line of said tract land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 652.1 feet; thence N 01° 21' 24" E and continuing on the easterly line of said tract of land deeded to the City Of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 381.36 feet to the northeast corner of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, said point also being on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska a Municipal Corporation, described at Inst. 1998-3958; thence leaving the easterly line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, N 83° 40' 54" E and an the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, a distance of 1390.64 feet; thence leaving the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, S 01° 21' 24" W and parallel with the west line of the Southwest Quarter of said Section 3, a distance of 1383.8 feet; thence S 89° 55' 59" W a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01° 25' 25" an arc distance of 50.51 feet to a point of tangency, thence tangent N 88° 38' 36" W a distance of 250.00 feet to the place of beginning, containing 43.02 acres, more or less of which 0.92 acres, more or less, are presently being used for road purposes on the west side, all in Buffalo County, Nebraska, is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on the attached Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land being part of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M. Buffalo County, Nebraska, more particularly described as follows: Referring to the southwest corner of Section 3 and assuming the west line of the Southwest Quarter of Section 3 as bearing N 01° 21' 24" E and all bearings contained herein are relative

thereto; thence N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 951.16 feet to the ACTUAL PLACE OF BEGINNING; thence continuing N 01° 21' 24" E and on the west line of the Southwest Quarter of said Section 3 a distance of 1213.66 feet to a point on the south line of a tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1998-3958, recorded June 2, 1998, in the Office of the Buffalo County Register of Deeds; thence leaving the west line of the Southwest Quarter of said Section 3, N 83° 40' 54" E and on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation a distance of 33.30 feet to a point on the east line of a public road, said point also being on the west line of a tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation described at Inst. 1999-5322, recorded June 30, 1999 in the Office of the Buffalo County Register of Deeds; thence leaving the south line of said tract of land deeded to the City of Kearney described at Inst. 1998-3858, S 01° 21' 24" W and on the east line of said public road and the west line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst 1999-5322 a distance of 1021.79 feet to the southwest corner of said tract of land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence leaving the east line of said public road, S 88° 38' 36" E and on the south line of said tract of a land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 12.00 feet to the southeast corner of said tract of land and deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322; thence N 06° 22' 32" E and on the easterly line of said tract land deeded to the City of Kearney Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 652.1 feet; thence N 01° 21' 24" E and continuing on the easterly line of said tract of land deeded to the City Of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322 a distance of 381.36 feet to the northeast corner of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, said point also being on the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska a Municipal Corporation, described at Inst. 1998-3958; thence leaving the easterly line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1999-5322, N 83° 40' 54" E and an the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, a distance of 1390.64 feet; thence leaving the south line of said tract of land deeded to the City of Kearney, Buffalo County, Nebraska, a Municipal Corporation, described at Inst. 1998-3958, S 01° 21' 24" W and parallel with the west line of the Southwest Quarter of said Section 3, a distance of 1383.8 feet; thence S 89° 55' 59" W a distance of 1180.03 feet to a point of curvature; thence on a 2033.0 foot radius curve to the right forming a central angle of 01° 25' 25" an arc distance of 50.51 feet to a point of tangency, thence tangent N 88° 38' 36" W a distance of 250.00 feet to the place of beginning, containing 43.02 acres, more or less of which 0.92 acres, more or less, are presently being used for road purposes on the west side, all in Buffalo County, Nebraska, shall be divided, for a period not to exceed 15 years after the effective date of the provision, which effective date shall be August 25, 2009, as follows:

a. That proportion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project

valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That proportion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 25TH DAY OF AUGUST, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$164,057.16, PLATTE VALLEY STATE BANK - \$92,996.38, SCHOOL DISTRICT #7 - \$2,565.58, STANLEY CLOUSE - \$70.50

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the amount of \$92,996.38 payable to Platte Valley State Bank, in the amount of \$164,057.16 payable to Nebraska Public Power District, and in the amount of \$70.50 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$2,565.58 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

PRESENTATION ON NEW ACCIDENT REPORTS ON LINE

Jane Musil from the Kearney Police Department gave a presentation to the Council on the new service the Police Department and Sheriff's Department has available to the public. People have the ability to access accident reports on the City's web site. This is another means of communication that the City has made available.

CRIME REPORTS

City Manager Michael Morgan stated there is nothing loaded in the crime reporting, but as soon as they work out the bugs, citizens will be able to go online and access crime reports in their neighborhood or any portion of the community by type, date and area. This is just another way to communicate to the public if they are interested. He believed that the neighborhood groups will be very interested in this. This will also allow the Police Department to use this data to work with the company to help develop trends. Many communities have a crime analysis which would somewhat take the place of that person. They are just working through the conversion at this time into the system they use. There will be a public announcement when that is available on the City's website. It will not tell the exact address, but the block where it occurred, time, date and is downloaded each evening. This is an inexpensive way to communicate with the public.

UPDATE OF CITY PROJECTS

City Manager Michael Morgan stated that South Central Avenue curbs are likely to be constructed next spring or summer if they can work out the financing.

The remodel of the FBO at the Airport is in progress and they have been working with Mike Ostroski. He has received his charter's license and is being utilized now. That was a requirement under his FBO that he had to achieve. He will shortly be having an open house once the FBO facility is completed. As was discussed earlier, the separate access point for UNK is being done and new office space for UNK students is being completed at the Airport. The big "war" airport hanger will have a new roof and be painted which is the last major building to be done out there. The Airport Road landscaping has begun and the signage that was awarded. The airport terminal is under design and is likely to be started in the spring.

The Peterson Activity Center is right on schedule and should be completed on December 10th and the first meal is planned for January 4, 2010. The library design specs should be brought to Council this fall for hopefully a late fall construction.

Harmon Park landscaping is in progress. Much of the landscaping has been installed with turf being laid this week. Additional lighting will be needed and a lighting plan will be discussed with the Park Board. The fountain had some leaks and the engineer is working on finding a solution, but anticipated to be done in the next 30 days.

The pedestrian bridge was removed from this Agenda due to the project being somewhat changed it is being taken back to the Park Board. They want to make sure that the board has a chance to discuss lights being added back into it.

For the Southeast Block Grant, they ended up pouring 30 blocks of sidewalks and ramps and it is now completed. There is some seeding and the two streets that were added to do yet. The Lighthouse Bike Trail was approved at this meeting and this project should be completed by November 30th.

The specs for the Yanney Park Maintenance Building were also approved at this meeting with the bid awarding set in October and completed by December.

The Safe Route to School project is being evaluated and City Manager has asked staff to prepare a block by block aerial map so he can see and discuss the impact of this project. The concern at this point is that there is significant impact to property owners. In many cases, it is difficult to explain large mature trees being removed because of the requirements of how far from the curb the sidewalk has to go and the width of the sidewalk. It is very likely that in September they will return to Council with a recommendation to return the money to the federal government. At that time, the City's share will be used to do as many sidewalks as possible in the area.

UPDATE ON 39TH STREET EAST PROJECT

City Manager Michael Morgan updated the Council on the potential for stimulus funding for the East 39th Street project. As we got into the project, the deadlines were changed. The first week, Kearney was getting \$1.5 million for the project; then they said Kearney might get more money. However, if the City went into certain areas outside the right-of-way or if the City did certain traffic control measures for a length of time in intersections, the City was informed that the project would not be funded under stimulus because it was not shovel ready and the City would have to do another environmental review. Director of Public Works Rod Wiederspan has gotten extremely sensitive to the term "environmental review" based on Cherry Avenue and developed a scenario that the City would squeeze the project a little with a result of an excellent project and come back later and do the intersection of what needs to be done under our own time and effort. Doing it that way, the City would still be likely to get close to \$4 million in funding and the project has been approved environmentally.

Since it is ready to go on September 14th everything will be delivered to the State and will probably be one of the first cities in Nebraska to get a stimulus project funded. The Director of Public Works got very creative and did not give up and came up with a solution of what needed to be done. It will cost the City a little to come back and do the intersection later, but certainly not \$2.5 million plus the City would have lost the \$1.5 million.

City staff has talked to several other cities about their stimulus funds. Several cities were told at 8:00 a.m. they were funded and by 3:00 p.m. they were told they were not funded. Several cities have now been de-funded which is why additional funds are coming to Kearney because we are the first to have things ready by the September 25th deadline. This has been a lot of hard work on the parts of Rod Wiederspan, Bruce Grupe and Miller & Associates to have this design ready in this short of a time and meet all these requirements is impressive. Kearney is almost assured to get \$3-\$4 million out of the \$29 million statewide in the stimulus for cities outside of Omaha and Lincoln. The anticipated start date for this project would be May 2010.

CLOSED SESSION

Moved by Lear seconded by Buschkoetter that Council adjourn into closed session at 8:08 p.m. for the protection of the public interest to specifically discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

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

Moved by Clouse seconded by Lammers that Council reconvene in regular session at 8:40 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:40 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**