

**Kearney, Nebraska**  
**September 8, 2009**  
**7:00 p.m.**

Prior to the regular Council meeting, the Council met as the Board of Directors for the Kearney Area Solid Waste Agency in open and public session at 7:00 p.m. on September 8, 2009 in the Council Chambers at City Hall. This meeting adjourned at 7:08 p.m. A meeting of the City Council of Kearney, Nebraska, was then convened in open and public session at 7:09 p.m. 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; Dan Lynch, Chief of Police; Suzanne Brodine, Grant & Marketing Coordinator; and Bruce Grupe, City Engineer were also present. Some of the citizens present in the audience included: Chris Johnson Chris Wissing, Jeremiah Quinton, Scott Stober, 11 UNMC students, NTV, Sara Giboney from the Kearney Hub, Steve Altmaier from KGFV 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**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

### **WOOD RIVER TRAILER COURT ANNUAL RENEWAL**

Postponed until November 30, 2009 any action on the annual manufactured home court license for Wood River Trailer Court, 865 West 78th Street.

## **III. PUBLIC HEARINGS**

### **REZONING EAST SIDE OF HIGHWAY 10 APPROXIMATELY .3 MILE NORTH OF 78TH STREET**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Lawrence Richter, Trustee – Daniel and Eleanor Arens (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential (Rural Standards) District for property described as a tract of land being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east side of Highway 10 approximately .3 mile north of 78th Street). Planning Commission recommended approval subject to showing utility easements on Lots 1, 2, and 3 of the Final Plat.

The applicant is requesting approval to vacate and replat land that is part of Richter's 2nd Subdivision located on the east side of Highway 10 approximately 1/3 mile north of 78th Street. There is an area of unplatted land that the applicant wants to divide into three parcels and combine with three existing platted lots to make each lot larger. The unplatted land, if split into three separate parcels, would result in parcels less than 10 acres which, according to State law, must be platted. The unplatted land is undevelopable due to its location in the floodplain and proximity to the adjacent Wood River. The unplatted land is currently zoned Agricultural.

In order to replat this land Lots 2, 3 and 9 of Richter's 2nd Subdivision must be vacated. The lots in the Richter development are rural in nature and are therefore zoned RR-1, Rural Residential (Rural Standards). The unplatted parcels have never been zoned and are thereby zoned Agricultural by default. When the land areas are combined into three larger lots, the applicant would like all of the property to be properly zoned for rural residential housing. Therefore, the currently unplatted parcels shall be rezoned from District AG to District RR-1.

The Preliminary and Final Plat consist of a three lot subdivision to be known as Richter's 5th Subdivision. The Preliminary Plat was approved by Planning Commission on August 21, 2009. In essence, the property owners are simply increasing the size of their lots by adding open space that is unbuildable floodplain. There is no Subdivision Agreement or Public Works Plan required since the property cannot be served with municipal services. The topography requirement for platting has been waived by DRT.

One of the neighbors in the subdivision expressed concern at the Planning Commission hearing in regards to utility easements and access to power lines. The Commission suggested that she contact the power company as the City does not designate where

easements are to be located unless the utility is a city utility like water or sewer. There is no municipal water or sewer available in this subdivision. Also easements cannot be shown on lots that lie outside the boundary of the final plat. Planning Commission requested that utility easements be shown on Lots 1, 2, and 3 of the final plat and any further concerns be taken directly to the utility companies.

Trenton Snow presented this matter to the Council. A few months ago there was a housekeeping item on the Council agenda along Woodriver Road for Richter's 4th Subdivision which changed the road in that area. This is basically another housekeeping issue involving the ground around Richter's 2nd and the Wood River where there is waste ground that cannot be developed. They propose to add it to the three existing lots in Richter's 2nd. They want to vacate Lots 2, 3 and 9 in Richter's 2nd and rezone the ground between those lots in the Wood River to conform to the zoning inside Richter's Subdivision. This will create three new lots. It will not be adding any lots, but adding ground to the existing lots.

There was some concern at Planning Commission from residents about an electrical line that runs on the north side of Richter's 2nd on the north side of Lots 4, 5, 6, 7, 8 and 9. To rectify that, a 10-foot utility easement was placed on the south side of Lot 2. On the north side of Lot 9 there is a 10-foot easement and a 20 foot coming down to the previous Lot 9. After Planning Commission, he met with a Dawson Public Power representative and they were comfortable with that solution and he has their signature on the utility easement check list. Lot 9 has an existing house on it and Lots 1 and 2 are not developed yet with any structures. The whole utility easement will be on the property that they are subdividing and will run on the north side of those lots. When Richter's 2nd was platted back in the 1970's, there were no utility easements on there. A few of the lots have separate agreements between Dawson Power and the residents. This new easement was created for full access.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the Application submitted by Trenton Snow (Applicant) for Lawrence Richter, Trustee – Daniel and Eleanor Arens (Owner) to rezone from District AG, Agricultural District to District RR-1, Rural Residential (Rural Standards) District for property described as a tract of land being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east side of Highway 10 approximately .3 mile north of 78th Street). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **FINAL PLAT FOR RICHTER'S 5TH SUBDIVISION**

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Lawrence Richter, Trustee – Daniel and Eleanor Arens (Owner) for the Final Plat for Richter's 5th Subdivision, Buffalo County, Nebraska for property described as Lots 2, 3 and 9 (to be vacated), Richter's 2nd Subdivision, Buffalo County, Nebraska AND part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east side of Highway 10

approximately .3 mile north of 78th Street) and to consider approval of Resolution No. 2009-136.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Trenton Snow (Applicant) for Lawrence Richter, Trustee – Daniel and Eleanor Arens (Owner) for the Final Plat for Richter's 5th Subdivision, Buffalo County, Nebraska for property described as Lots 2, 3 and 9 (to be vacated), Richter's 2nd Subdivision, Buffalo County, Nebraska AND part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east side of Highway 10 approximately .3 mile north of 78th Street) and approve **Resolution No. 2009-136**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2009-136**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Richter's 5th Subdivision" of Buffalo County, Nebraska for a tract of land being Lots 2, 3 and 9, Richter's 2nd Subdivision, Buffalo County, Nebraska (now vacated) and part of the North Half of the Northwest Quarter (NI/2 NW1/4) of Section Thirteen (13), Township Nine (9) North, Range Sixteen (16) West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the northwest corner of the Northwest Quarter of said Section 13 and assuming the north line of said Northwest Quarter as bearing N89°52'20"E and all bearings contained herein are relative thereto; thence N89°52'20"E on the aforesaid north line a distance of 638.0 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the centerline of the Wood River; thence continuing N89°52'20"E on the aforesaid north line a distance of 209.46 feet to the centerline of said Wood River; thence downstream on the aforesaid centerline S03°33'40"E a distance of 181.85 feet; thence continuing on the aforesaid centerline S25°46'50"W a distance of 37.9 feet; thence continuing on the aforesaid centerline S41°31'10"E a distance of 24.3 feet; thence S00°59'50"W a distance of 197.1 feet; thence S23°28'40"E a distance of 218.4 feet; thence S69°13'10"E a distance of 227.6 feet; thence N56°30'20"E a distance of 104.37 feet to the northwest corner of Lot 1, Richter's 3rd Subdivision, a subdivision being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; thence leaving said centerline and on the west line of said Lot 1, Richter's 3rd Subdivision S00°02'07"W a distance of 201.5 feet to the northeast corner of said Lot 9 (now vacated); thence SOUTH on the east line of said lot a distance of 200.0 feet to the southeast corner thereof; thence WEST on the south line said lot a distance of 150.0 feet to the southwest corner of thereof; thence NORTH on the west line of said lot a distance of 200.0 feet to the northwest corner of said Lot 9 (now vacated); thence S89°59'28"W on the north line of Lots 8 and 7 in said Richter's 2nd Subdivision a distance of 360.07 feet to the southeast corner of said Lot 3; thence WEST on the south line of said Lot 3 (now vacated) and the north line of Lots 6, 5 and 4 in said Richter's 2nd Subdivision a distance of 459.92 feet to the southwest corner of said Lot 3 (now vacated); thence NORTH on the west line of said Lots 3 and 2 (now vacated) and the east line of Wood River Road, a road located in the Northwest Quarter of said Section 13 a distance of 59.97 feet; thence N50°02'52"E on the southeasterly line of Lot 1, Block 1, Richter's 4th

Subdivision, a subdivision being part of the Northwest Quarter of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, a distance of 239.1 feet; thence NORTH on the west line of said Lot 2, Richter's 2nd Subdivision (now vacated) and the east line of said Lot 1, Block 1, Richter's 4th Subdivision a distance of 541.45 feet to a point on the centerline of said Wood River; thence N62°28'28"E on the aforesaid centerline a distance of 128.58 feet; thence continuing on the aforesaid centerline N60°55'11"E a distance of 78.83 feet to the place of beginning, containing 10.76 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

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

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **BOARD OF EQUALIZATION FOR PAVING, WATER AND SEWER DISTRICTS**

Mayor Clouse opened the public hearing for the Council to meet as a 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 and to consider approval of Resolution No. 2009-137.

After completion of the construction projects, the City hired a title company to complete property abstracts so that assessments could be levied. These districts have been completed and, in order to satisfy state law, when paving, water and sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (October 28) or will be able to pay the entire assessment without any interest prior to this date. The City will recoup the costs associated with the construction of paving and improving the streets within such Paving Districts, except the cost of paving and improving the intersections of streets or avenues and spaces opposite alleys in such Paving Districts and will recoup the cost of installation of mains in said Water and Sewer Districts.

Calvin Johnson previously submitted a letter requesting to hold in abeyance for a period of 90 days the paving assessment on Lot 1 of Block 3, Windsor Estates Addition as it pertains to Paving Improvement District No. 2005-906. The water detention dam that is referred to in Mr. Johnson's letter is not related to the assessment and is a separate matter.

Chris Wissing, 519 West 44th Street Place, addressed the Council. They are asking for another 90 days to have meetings with the City staff and the state because Paving District No. 2005-906 goes across the dam on the detention cell on a parcel of ground that they own.

City Attorney Michael Tye stated that some of the questions have to do with the dam and drainage in the area. He was aware that the City staff has indicated that they would be more than happy to meet and discuss those issues. He was not sure those issues have a bearing on the paving that exists there or assessing that paving as a part of this district. It is appropriate to talk about the drainage and those things, but they are a separate issue from the paving district.

City Manager Michael Morgan stated that the correspondence that the City received addressed the paving, the detention basin and owner responsibility all rolled into one. They are not sure what the distinction is. This project was paved four years ago and there has not been any dialog in that time. If Council approves it at this meeting, the resolution would be filed at the Court House and then they have 50 days to pay. The correspondence indicated that they believed the district was not benefiting their property. The City would disagree with that. The detention basin has served that area for years and they have used it versus putting in individual detention basins. There might have been conversations in the past before he became City Manager but there is no documentation on what those discussions were. He is aware they have some concerns about the dam which is a state issue and there are some challenges for a lot of folks with the state requirements on the dams.

Mr. Wissing stated there are no questions on the sewer and water on 4th Avenue. There is actually no sewer and water in half of the paving on 4th Avenue, so they really do not have a benefit from it in a way. There is no sewer or water in that portion so nothing will ever be built on that ground. They put this off although they knew the day would come for the assessment, but now that it is coming due it is time to get a few things clarified.

City Attorney stated the legal presumption for the benefit of the Council is that we recently have been through the court process on assessments. If a paving or roadway is put in adjacent to the property, the courts will deem that as being beneficial and is incumbent on a property owner to show otherwise. This detention cell has benefited this entire area. He believed that this has been used for development from 39th Street all the way to 48th Street. That has allowed development as it occurs to be directed to this cell and they do not need to have individual detention. City Code requires there be that sort of detention when a property is developed and that the developer maintains it. It obviously has had some benefit to all of the development that has occurred around it.

Mr. Wissing stated he was not debating whether the detention cell is used for their developments in the area. Through the state, there is a 47-49 page emergency

management plan that also needs to be involved with this development. There are three employees of their company and they do not know if they should be listed on that as an emergency contact. In the event that all three of them are out of town, what happens if that dam fails?

Chris Johnson, 1802 Colonial Place, Hastings, Nebraska, stated the roadway is built within an easement and the dam was constructed within an easement. Their request for an extension is to get on path to determine where they are going to be in 20-25-30 years from now. They want to create a plan that everybody is in agreement with and work together with the City. They are dealing with three issues. The detention cell is one and they have some plans to do some assessing against it and maintaining it. The dam is another issue because it is built inside of an easement. The third is the paving assessment for a lot that has no monetary gain value down the road.

City Manager Morgan stated that this situation is fairly unique. He wished they could have had some of this conversation with them in the last four years, but he believed the discussion could still take place. This issue could be resolved within 45 days and then brought back to Council. Since they will be dealing with some different entities that might be beyond both their control, if for some reason they cannot get the issues resolved in 45 days, they could come back and get it extended further if it no fault of theirs.

City Attorney asked if they had any issues or objections to the Paving District for Lots 31, 30 and half of 29. Mr. Johnson stated that everything is north of Lot 31 that they want to delay, Lot 1, Block 3 of Paving District 2005-906.

City Clerk stated the Council should proceed to assess everything in Paving Improvement District No. 2005-906 with the exception of Lot 1 of Block 3 which is owned by Johnson Imperial Homes.

Moved by Clouse seconded by Kearney to close the hearing meeting as the Board of Equalization and approve assessing 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 with the exception of assessing Lot 1 of Block 3 in connection with Paving Improvement District No. 2005-906 which is property owned by Johnson Imperial Homes and approve **Resolution No. 2009-137**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

#### **RESOLUTION NO. 2009-137**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF

**KEARNEY, NEBRASKA:**

Section 1. The President and Council find and determine that the street in Paving Improvement District Nos. 2005-905, 2005-906, 2008-925 and 2008-926 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. That the water mains heretofore ordered installed in Water District Nos. 2005-541, 2005-542A, 2008-549 and 2008-550 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water mains and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. That the sewer mains heretofore ordered installed in Sewer District Nos. 2005-484, 2005-485A, 2008-491 and 2008-492 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sewer mains and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2005-905, 2005-906, 2008-925 and 2008-926 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 6. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District Nos. 2005-541, 2005-542A, 2008-549 and 2008-550 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sewer District Nos. 2005-484, 2005-485A, 2008-491 and 2008-492 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**2009-2010 CITY OF KEARNEY BUDGET**

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

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Budget for the 2009-2010 Fiscal Year.

Director of Finance Wendell Wessels presented this matter to the Council. The total summary of the budget for 2009-2010 is \$63,143,819.00. The majority of the budget will be \$16.3 million in the General Fund, \$6.7 million in the Street Improvement Fund and \$5.7 million in the Special Sales Tax Fund. The summary of where that money is to be spent shows 36 percent of the budget towards capital outlay items which is up 26 percent for personnel, 28 percent for supplies and materials, 8 percent for debt service and a little for equipment rental. By adding the capital related items together, the debt service that is issued for capital type items and the capital outlay costs are about 45 percent of the budget for Capital and 55 percent for Operating Costs for next year. Another way to look at the budget is by government function. Most of the \$63 million will go to Culture and Recreation (21%) and the reason that is so high is because it includes the Library addition next year and finishing off the Peterson Senior Activity Center. The

second largest area is the Public Works which includes streets and the then Public Safety which is police and fire.

The summary of capital items were reviewed during the special meeting in July, but a couple of things have been added since then. They have included funds to purchase the Children's Museums in downtown Kearney. They have included funds to build a maintenance facility for the south parks system and Yanney Park. They have included funds to build a pedestrian bridge across Turkey Creek on the west side of 2nd Avenue and included the \$750,000 in the Airport budget to do a terminal renovation. Those are the primary changes since they talked about the budget in July.

On the personnel side of the budget, they have included a 3 percent cost of living for all City employees. Two employee positions have been added which are related to the Peterson Senior Activity Center which are Senior Services Coordinator and a Support Staff person.

The revenue total budget is \$65.5 million. \$14.3 million will come from taxes, \$17 million from charges from services which could be anything from pool permits to water and sewer bills. The majority of the miscellaneous \$17.8 million comes from grants and bonds. The largest portion of charges is 27 percent from services, 23 percent from taxes and 15 percent from fund balance. Property taxes are a very small percentage of that percent. Of the 23 percent of taxes that help pay for the City budget, about 17 percent of that 23 percent comes from property taxes or \$2.4 million. About 67 percent of the taxes comes from sales tax and includes \$9.6 million in sales tax revenues in next year's budget and about 10 percent in miscellaneous occupation taxes.

When you look at property taxes, roughly \$2.4 million out of the \$63 million budget pays for about 3-4 percent of the total budget. Stimulus money has been included and would come under grant income. For next year's budget, they have got that programmed in for the 39th Street project from Pony Express Road to Avenue M. The City is certain it will receive a large amount for that project, but does not know the exact amount except that it will be at least \$2 million.

Director of Finance gave a break down of where property taxes go when a payment is made to the County Treasurer's office. These figures are based on the current fiscal year of 2009 which are actually called the 2008 taxes, but they are paid in 2009. For every dollar in property taxes paid to the County Treasurer this year, about 59 cents went to the School District, 24 cents to Buffalo County, 8 cents to City of Kearney and the rest to six other political subdivisions. The City of Kearney receives a very small portion of that tax amount that is paid to the County Treasurer.

Director of Finance referred to the spreadsheet that shows the property taxes that will be levied by the City. The valuation has grown about 4.4 percent since last year. About 1.25 percent of that is growth and market value and about 3 percent of it is growth due to new construction and annexation. The levy has remained the same at 14.887 cents per hundred which is the same levy the City of Kearney has had for the past two years. With that levy, the City will bring in \$2,374,000 or about \$99,000 more than we did last year just because of the growth. About \$70,000 of that \$99,000 will come from new construction and annexation. The other \$28,000 will come from growth and market value.

He presented a comparison of the 2008 levy in Kearney to Grand Island, Hastings and North Platte. In Kearney for a \$100,000 home, tax paid to the City would be \$149 and a total of \$1,942 for all political subdivisions. Those living in Hastings for a \$100,000 home, tax paid to the City of Hastings would be \$473 and \$2,270 to all their political subdivisions. Those living in Grand Island would pay \$250 to the City of Grand Island and \$2,100 to all political subdivisions. Those living in North Platte would pay \$482 and \$2,193 to all others.

Director of Finance stated there are two lid formulas that the City must comply with. The first lid formula is based on restricted funds. It can increase its restricted funds 2.5 percent by law and can increase it another 1 percent if we have a majority vote of the City Council for which there is an agenda item later to do that. Kearney gets a certain percent above the 2.5 percent for growth. For next year's budget, adding those three numbers together Kearney is allowed approximately \$429,000 for its allowable increase. The increase goes from 8.3 to 8.5 in restricted funds so Kearney is going to use about \$167,000 of that. The change in the Unused Budget Authority will actually increase by \$260,000. Going into next year, Kearney's Unused Budget Authority will be \$2.3 million which is a good number to have. This is not money that is just sitting there to be used. This is a calculation that is required to go through to make sure Kearney is not increasing those Restricted Funds more than allowable.

The other lid formula deals with the levy limit. Cities are allowed to levy up to 45 cents per 100. Kearney is within that limit. Kearney has been able to keep the levy as low as it has been due to the sales tax revenues being up about 3.5 percent for the first 11 months of this year over the first 11 months of last year. The decrease in the cost of fuel and the decrease of the cost of property and casualty insurance and workers comp have helped. All of the things that Kearney has done over the past five years have been able to keep the levy as low as it has been.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and adopt the City of Kearney Budget for the 2009-2010 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

### **2009-2010 OFFSTREET PARKING DISTRICT NO. 1 BUDGET**

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

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2009-2010 Fiscal Year.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and adopt the City of Kearney Offstreet Parking District No. 1 Budget for the 2009-2010 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

**2009 PROPERT TAX LEVY**

Mayor Clouse opened the public hearing for the of setting the 2009 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and to consider approval of Resolution No. 2009-138.

Director of Finance presented this matter to the Council. If the property tax amount is going to be different for the upcoming year than was levied for the current year, a hearing is required by law to set that amount. This is not the levy, but the dollar amount of taxes included in the budget. For next year's budget that amount is \$2,374,382 which is partly in the General Fund and partly in the Public Safety Bond Fund. Last year the amount was \$2,274,195.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve setting the 2009 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and approve **Resolution No. 2009-138**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2009-138**

WHEREAS, Neb. Rev. Stat. Section 77-1601.02, (R.R.S. 1943), as amended), authorizes the City Council to set the 2009 property tax request for the City of Kearney; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that a 2009 property tax request be set for the City of Kearney.

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 77-1601.02 (R.R.S. 1943) an All-Purpose Tax Request of \$1,983,197.00 is set for the fiscal year beginning the 1st day of October, 2009 and ending on the 30th day of September, 2010 for the purpose of equipping, maintaining and paying the departments of the City of Kearney.

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 77-1601.02 (R.R.S. 1943), a Special Tax Request of \$391,185.12 is set for the fiscal year beginning the 1st day of October, 2009 and ending the 30th day of September 2010 for the purpose of paying off bonds authorized by Neb. Rev. Stat. Section 18-1202 (R.R.S. 1943).

BE IT FURTHER RESOLVED that the City Clerk is hereby ordered to certify said request to the Buffalo County Clerk in order that the same may be placed on the property tax rolls and be collected in the manner provided by law.

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 October 1, 2009.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REVISE 2008-2009 CITY OF KEARNEY BUDGET**

Mayor Clouse opened the public hearing for the purpose of revising the City of Kearney Budget for the 2008-2009 Fiscal Year.

Director of Finance Wendell Wessels presented this matter to the Council. By Law, the City may not expend more than the total budget of expenditures unless the provisions of State Statute 13-511, R.R.S. 1943 are met. Due to unforeseen circumstances, actual expenditures for the current fiscal year will exceed budgeted expenditures unless the current fiscal year budget is supplemented. Under these circumstances, state law requires that a public hearing be conducted to supplement the previously adopted budget and an ordinance be passed authorizing the expenditure of the additional requirements.

An explanation of the budget adjustments for the three funds are as follows:

Various Purpose Bond: The budgeted expenditures in the Various Purpose Bond Fund needs to be increased from \$1,787,856.00 to \$4,106,131.00, or by \$2,318,275.00. As you may recall, on March 10, 2009 the City Council approved the issuance of Highway Allocation Fund Pledge Refunding Bonds Series 2009 and Various Purpose G.O. Refunding Bonds Series 2009 for the purpose of refunding Highway Allocation Fund Pledge Bonds Series 2001 and Various Purpose G.O. Bonds Series 2002. The City saved approximately \$207,000.00 in interest costs over the life of the refunding bonds. This transaction was not anticipated when the 2008-2009 budget was approved on September 9, 2008; therefore, the 2008-2009 budget needs to be revised to provide the authority to redeem the refunded bonds.

Sewer Revenue Bond and Water Revenue Bond: The budgeted expenditures in the Sewer Bond Fund needs to be increased from \$1,379,053.00 to \$6,051,817.00, or by \$4,672,764.00 and the budgeted expenditures in the Water Bond Fund needs to be increased from \$1,100,843.00 to \$2,693,938.00, or by \$1,593,095.00. As you may recall, on February 10, 2009 the City Council approved the issuance of Combined Utilities Refunding Bonds Series 2009 for the purpose of refunding Combined Utilities Revenue Bonds Series 1998 and Combined Utilities Revenue Bonds Series 2001. The City saved approximately \$425,000.00 in interest costs over the life of the refunding bonds. This transaction was not anticipated when the 2008-2009 budget was approved on September 9, 2008; therefore, the 2008-2009 budget needs to be revised to provide the authority to redeem the refunded bonds.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve revising the City of Kearney Budget for the 2008-2009 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

**PROPOSED ACQUISITION OF CHILDREN'S MUSEUM**

Mayor Clouse opened the public hearing on the proposed acquisition of Lots 481 through 488 inclusive, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (2005 1st Avenue) and to consider approval of Resolution No. 2009-139.

City Attorney Michael Tye presented this matter to the Council. City staff is seeking authorization from Council to proceed with negotiations for the purchase of the Kearney Area Children's Museum downtown building which is located on the corner of Railroad Street and 1st Avenue. As the Council is aware, the Children's Museum has recently purchased property in north Kearney and will be moving to their new location in March of 2010. This resolution authorizes the City Attorney and the City Manager to negotiate for the purchase of this property by the City of Kearney. Final acceptance of a Deed of Transfer, should those negotiations be successful, would occur at a later Council meeting.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Kearney to close the hearing and approve the proposed acquisition of Lots 481 through 488 inclusive, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (2005 1st Avenue) and approve **Resolution No. 2009-139**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

**RESOLUTION NO. 2009-139**

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for possible expansion of City facilities and voted in favor to proceed with the acquisition; and

WHEREAS, the City Council of the City of Kearney, Nebraska has determined the necessity of acquiring fee simple title for possible expansion of City facilities, including any mortgage and leasehold interests on all of 481 through 488 inclusive, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (2005 1st Avenue).

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

1. The City Attorney and City Manager be, and hereby are, authorized on behalf of the City to complete negotiations for possession of and fee simple title to the property set forth above; and

2. If the acquisition and possession of such property is not possible through negotiations, the City Attorney be, and hereby is, directed to commence eminent domain proceedings on behalf of the City of Kearney to obtain title, acquisition, and possession of said property interests as soon as legally possible.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

#### **IV. CONSENT AGENDA**

Moved by Kearney seconded by Lammers that Subsections 1 through 27 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 25, 2009.
2. Approve the following Claims:

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

4Imprint \$999.77 smcs; AC Electric \$1,348.01 smcs; Ace Hardware \$321.82 smcs; Ace Irrigation \$170.00 smcs; Aflac \$2,721.66 ps; Ala-Graphs Editions \$244.85 smcs; Alamar Uniforms \$2,067.70 smcs; Albin,J \$45.30 smcs; Alltel \$1,234.80 smcs; Amazon \$427.06 smcs; Amer Electric \$58.94 smcs; Amer First Aid \$119.28 smcs; Amer Red Cross \$289.50 smcs; Andersen Wrecking \$75.00 smcs; Antillon,J \$49.24 smcs; Apple Market \$109.88 smcs; Appliance Service Center \$178.80 smcs; Artic Refrigeration \$156.00 smcs; Ask Supply \$209.46 smcs; Auto Glass Center \$34.95 smcs; Baker & Taylor Books \$3,158.26 smcs; Balcom,A \$26.05 smcs; Barco Municipal Products \$1,710.00 smcs; Barney Ins \$100.00 smcs; Bauer Underground 3,445.60 smcs; BBC Audiobooks \$430.16 smcs; Beacon Athletics \$571.00 smcs; Best Lock \$1,182.22 smcs; Big Apple Fun Center \$54.96 smcs; Bluecross Blueshield \$127,638.62 smcs; Bobs Super Store \$421.13 smcs,ps; Book Page \$432.00 smcs; Bosselman \$45,822.30 smcs; Brownells \$52.61 smcs; Brune,M \$17.91 smcs; Buchman,S \$66.49 smcs; Buffalo Co Dist Court \$228.25 ps; Buffalo Co Treasurer \$18,750.00 smcs; Buffalo Outdoor Power \$668.05 smcs; Buggy Bath \$128.75 smcs; Builders Warehouse \$2,133.12 smcs,co; Business Computer Design \$4,520.00 smcs; Buygpsnowcom \$73.90 smcs; Buzz's Marine Supply \$6,155.00 co; Cabela's \$316.47 smcs; Cables To Go \$24.13 smcs; Carquest \$1,219.37 smcs; Caseys \$18.02 smcs; Cash Wa Distributing \$1,298.40 smcs; Central Auto Electric \$412.55 smcs; Central Hydraulic Systems \$782.69 smcs; Central NE Bobcat \$57.32 smcs; Chad \$8.00 ps; Charter \$349.95 smcs; Chavez,K \$16.40 smcs; Cheaperthandirtcom \$36.55 smcs; Chief Construction \$10,599.10 co; CHS Agri Service \$1,226.49 smcs; City of Bellevue \$100.00 smcs; City of Ky \$182,702.91 smcs,ps; Clifford of Vermont \$608.08 smcs; Cold Spring Granite \$700.40 smcs; College Savings Plan of NE \$100.00 ps; Concrete Workers \$45,391.11 co; Conseco Life Ins \$24.00 ps; Construction Rental \$308.60 smcs; Copycat Printing \$694.45 smcs; Cracker Barrel \$21.17 smcs; Craig,C \$26.82 smcs; Credit Management Services \$330.07 ps; Creigh,K \$33.33 smcs; Crossroads Ford \$407.79 smcs; Crouch Recreational \$165.00 smcs; Cummins Central Power \$409.08 smcs; D&M Security \$102.50 smcs; David Vine Associates \$75.00 smcs; Dawson Co PPD \$30,145.11 smcs; Delta Medical Systems \$156.80 smcs; Dent Popper \$250.00 smcs; Detroit Ind Mared \$369.99 co; Development

Council \$1,278.63 smcs; Diamond Vogel \$104.59 smcs; Dictationstorecom \$552.87 co; Ditch Witch of NE \$841.88 co; Dmilaco \$75.75 smcs; Dollar-General \$9.47 smcs; Don Stevens Inc \$288.25 smcs; Dreyer,D \$100.79 smcs; Dugan Business Forms \$443.40 smcs; Dultmeier \$6,781.35 smcs; Dutton-Lainson \$1,838.90 smcs,co; Eakes \$1,120.28 smcs; Earl May \$14.99 smcs; Ecolab \$31.00 smcs; Eileens Cookies \$190.50 smcs; Eirich,T \$645.00 smcs; Electronic Contracting \$315.50 smcs; Elements5 Info \$12.95 smcs; Ellis,T \$7.19 smcs; Embassy Suites \$1,066.32 smcs; Engraving AW \$5.00 smcs; Ericksen Construction \$40,954.18 co; Excelsystems Software \$615.00 co; Express Parcs \$24.00 smcs; F&S Supply \$864.74 smcs; Fairbanks Int'l \$368.31 smcs; Fast Mart \$34.61 smcs; Fastenal \$1,329.75 smcs; Fire Rescue Magazine \$41.95 smcs; Fleetpride \$76.76 smcs; Footjoy \$60.88 smcs; Froid,C \$12.83 smcs; Frontier \$114.55 smcs; Gale \$488.00 smcs; Galls \$145.39 smcs; Gangwish Turf \$33.00 co; Garmin Int'l \$97.99 smcs; Garon Marketing \$1,244.76 co; Garrett Tires \$210.90 smcs; GE Money Bank \$3,347.51 smcs; General Traffic Controls \$3,677.38 smcs; Gifford,V \$35.31 smcs; Goldstar Products \$1,575.78 smcs; Golf Course Superintendent \$320.00 co; GPS Store \$343.55 smcs; Grabau,A \$28.14 smcs; Graham tire \$1,927.05 smcs; Grainger \$1,631.41 smcs,co; Graphics Factory \$9.95 smcs; Great Plains Safety \$350.00 smcs; Great Platte River Archway \$65.95 smcs; Grimes,J \$24.14 smcs; H&H Distributing \$1,561.65 smcs; Hach \$449.98 smcs; Hancock,K \$21.40 smcs; Hansen,J \$27.16 smcs; Harris Infosource \$113.50 smcs; Hausmann Construction \$174,366.90 co; HD Supply \$5,500.00 smcs; Heggemeyer,L \$12.30 smcs; Heritage NE Main Street \$3,000.00 smcs; Hill,D \$45.00 smcs; Hill,M \$15.00 smcs; Hobby-Lobby \$579.14 smcs; Hoehner Turf \$531.46 smcs; Holiday \$113.30 smcs; Holiday Station Store \$27.57 smcs; Holmes Plumbing \$733.08 smcs; Home Depot \$322.61 smcs; Hometown Leasing \$207.71 smcs; Hornady Mfg \$7,037.00 smcs; Hotsy Equipment \$291.65 smcs; Hydrite Chemical \$1,778.14 smcs; Hydrologic \$651.74 smcs; IBM \$10,446.17 smcs; ICMA \$4,976.68 smcs,ps; ID-Ideascom \$23.75 smcs; IRS \$104,407.14 ps; International Association \$1,425.00 smcs; J J Keller & Association \$907.40 smcs; Jack Lederman \$933.46 smcs,co; Johnson Service \$8,240.00 smcs; Johnston,G \$20.00 smcs; K&K Parts \$449.93 smcs; Ky Centre Vac \$19.95 smcs; Ky Cinema \$25.00 smcs; Ky Concrete \$95.63 smcs; Ky Hub \$787.85 smcs; Ky Humane Soc \$320.00 smcs; Ky Implement \$5,969.66 smcs,co; Ky United Way \$571.00 ps; Ky Warehouse \$3,953.43 smcs; Ky Winlectric \$300.32 smcs; Ky Winnelson \$110.46 smcs; Ky Yamaha \$439.64 smcs; Kehl Tree Service \$1,575.00 smcs; Kleenkarts \$111.37 smcs; Keller,A \$21.50 smcs; Kelly Electric \$5,570.00 co; Kelly Supply \$821.33 smcs; Killion Motors \$136.98 smcs; Kitt,M \$46.38 smcs; Klein,J \$4.42 smcs; Klein,N \$10.00 smcs; Kmart \$13.25 smcs; Konica Minolta \$174.29 smcs; Kowalek,G \$7.35 smcs; Label Graphics \$150.81 smcs; Law Enforcement Assn \$319.00 smcs; Lawson Products \$341.09 smcs; League of NE Municipalities \$2,750.00 smcs; Lesco \$329.93 smcs; Lifeguard Store \$99.20 smcs; Lincoln Journal Star \$302.49 smcs; Linweld \$155.36 smcs; Little Caesars \$250.50 smcs; Little Kings \$270.24 smcs; Lockmobile \$40.50 smcs; Louthans,D \$59.49 smcs; Lundeen-Isaacson \$2,925.00 ps; Magic Cleaning \$350.00 smcs; Marlatt Machine Shop \$414.47 smcs; Marshall Cavendish \$107.82 smcs; Martin Apparatus \$2,305.00 smcs; Master Leasing \$758.00 smcs; Master Magnets \$173.13 smcs; Maxwell Asphalt \$446,852.56 co; McCarty,D \$31.20 smcs; Menards \$2,044.33 smcs; Metlife \$6,139.38 ps; Mid American \$589.26 smcs; Midlands Contracting \$44,600.11 co; Midwest Labs \$5,997.50 smcs; Midwest Turf \$912.04 co; Midwest Underground \$661.41 smcs; Miller & Associates \$125,975.63 smcs,co; Miller Signs \$400.00 smcs; Miracle Recreation \$927.98 co; Mishou,R \$29.81 smcs; Misko Sports \$30.95 smcs; Mitchell \$1,499.00 smcs; Moeller,B \$11.78 smcs; Moonlight Embroidery \$1,161.00 smcs; Morgan,M

\$113.25 smcs; Morris Press \$533.00 smcs; Morris,J \$40.00 smcs; Motion Industries \$2,921.81 smcs; MPH Industries \$223.73 co; MSC/J&L Industrial \$81.18 smcs; MSI Systems Integrators \$31,499.00 co; Municipal Automation \$636.50 smcs; Musil,J \$22.44 smcs; Napa All Makes Auto \$2,941.60 smcs; Nat'l Alliance for Youth \$195.00 smcs,co; Nat'l Tactical Officers \$150.00 smcs; NCS Equipment \$342.85 smcs; NE Child Support \$2,690.05 ps; NE Dept of Aeronautics \$370.00 ds; NE Dept of Agriculture \$141.24 smcs; NE Dept of Revenue \$31,390.69 ps; NE Institute of Forensic \$500.00 smcs; NE Library Assn \$59.00 smcs; NE Municipal Clerks \$35.00 smcs; NE Press Advertising \$1,180.00 smcs; NE Public Health \$239.00 smcs; NE Truck Center \$287.77 smcs; NEland Distributors \$825.00 smcs; NeFSMA \$15.00 smcs; Neopost \$7,000.00 smcs; NeRPA \$98.00 smcs; Nevco Scoreboard \$78.91 smcs; Newegg \$49.02 smcs; NMC \$373.38 smcs; Norm's Plumbing \$987.45 smcs; North Central Labs \$512.20 smcs; Northern Safety \$149.39 smcs,co; Northwest Electric \$515.65 smcs; Northwestern Energy \$1,655.08 smcs; Novus \$75.00 smcs; NSA/POAN Conference \$450.00 smcs; Oberle,M \$21.73 smcs; Office Max \$1,018.04 smcs; Officenet \$329.00 smcs; Old Chicago \$83.93 smcs; OMB's Express Police \$760.97 smcs; On Site Mobile Sharpening \$73.62 smcs; O'Neil Wood Resources \$5,781.00 smcs; O'Reilly \$1,801.52 smcs; Orscheln \$717.17 smcs; Overhead Door \$349.23 smcs; Owl Systems \$444.39 smcs; Parts Town \$32.34 smcs; Payflex Systems \$493.00 ps; Pearson,R \$35.41 smcs; Pep Co \$51.10 smcs; Pet Kingdom \$19.99 smcs; Ping \$976.45 smcs; Pizza Hut \$25.00 smcs; Platte Valley Comm \$221.20 smcs; Platte Valley Glass \$204.54 smcs; Precision Industries \$238.87 co; Presto-X \$136.00 smcs; Provantage \$547.20 co; PSS/CCS Presentation \$196.00 smcs; Pulliam,R \$40.00 smcs; Quill \$129.50 co; RW Sorensen \$10,545.60 co; Rackmount Solutions \$440.04 smcs; Radioshack \$29.56 smcs; Rainbow Racing System \$72.00 smcs; Random House \$326.00 smcs; Reams \$1,886.06 smcs; Recognition Unlimited \$100.78 smcs; Recorded Books \$612.22 smcs; Recreonics \$539.38 smcs; Remsbottom,S \$15.18 smcs; Resource Management \$25,464.68 smcs; Rick's Sod \$1,555.50 smcs; Riverside Mfg \$102.10 ps; Rixstine \$319.58 smcs; RMV Construction \$1,125.00 co; RNDC-Eagle Division \$445.83 smcs; RNDC-Falcon Division \$168.69 smcs; Rodehorst,T \$12.58 smcs; Run-N-Iron Customizing \$270.00 smcs; SA Foster Lumber \$237.44 smcs; Sahling Kenworth \$3,465.66 smcs; Salina Blueprint \$112.29 smcs; Sapp Brothers \$14,626.70 smcs; Sara Lee Bakery \$4.50 smcs; Scharff,M \$41.77 smcs; Schleusener,D \$20.59 smcs; Schwan's \$2,714.68 smcs; Sentry Armor Systems \$3,480.00 smcs; Sesna,D \$31.20 smcs; Shell Oil \$33.54 smcs; Sherwin Williams \$164.66 smcs; Shop EZ \$35.07 smcs; Shotkoski,M \$17.05 smcs; Sign Center \$650.46 smcs; Smith,R \$19.00 smcs; Snow,T \$645.00 smcs; Soc for Human Resource \$160.00 smcs; Solid Waste Agency \$47,300.31 smcs; Solid Waste Equipment \$5,207.37 smcs; Southland Electrical \$334.05 smcs; Sprinkler Warehouse \$642.20 smcs; State Chamber \$190.00 smcs,co; State of NE/AS Central \$3,753.11 smcs; Steinbrink Landscaping \$1,642.88 smcs; Sterling Distributing \$431.94 smcs; Strategic Materials \$333.60 smcs; Suburban Fire Protection \$16,860.00 smcs; Sun Life Financial \$159,173.41 smcs; Sunmart \$228.79 smcs; Surveillance-Videocom \$1,275.00 co; Sydow,J \$40.00 smcs; Tacha,J \$595.00 smcs; Target \$87.99 smcs; Team Effort \$28.46 smcs; Theis,J \$60.00 smcs; Thoene,M \$2.35 smcs; Thompson,J \$695.00 smcs; Thompson,K \$31.20 smcs; Tigerdirect \$94.41 smcs; Titan Machinery \$2,337.26 co; Titleist \$638.64 smcs; Tractor-Supply \$855.85 smcs; Trans Iowa Equipment \$388.14 smcs; Treat American Dining \$1,094.94 smcs; Tri City Outdoor Power \$285.10 smcs; Turner Body Shop \$3,579.64 smcs; Tye & Rademacher \$10,662.18 smcs; Ultra Max \$2,094.00 smcs; Underground Construction \$3,340.00 co; Underwriters Laboratories \$3,908.00 smcs; United Seeds \$1,774.00

smcs; UNK \$3,230.81 smcs; University of NE/UNL Police \$920.00 smcs; Upbeat \$595.00 smcs; UPS \$73.45 smcs; USA Blue Book \$687.37 smcs; USDA License Fee \$85.00 smcs; USPS \$164.16 smcs; Van Diest Supply \$1,305.59 smcs; Video Service of America \$89.50 smcs; Village Uniform \$474.71 smcs; Voss Lighting \$591.22 smcs; Wal-mart \$1,912.80 smcs; WatchGuard Video \$75.00 co; West Publishing \$1,379.40 smcs; West Villa Animal \$71.20 smcs; Whelen Engineering \$101.00 smcs; White,A \$123.25 smcs; Wilke Donovans Truevalue \$359.31 smcs; Wilkins Hinrichs Stober \$71,725.15 co; Williams,K \$21.00 smcs; Williams,M \$7.34 smcs; World Herald Advertising \$254.84 co; Yanda's Music \$220.00 smcs; Yescomusa \$4.95 smcs; Young,M \$695.74 smcs; Zimmerman Printers \$888.87 smcs; Zurich North America \$1,415.00 smcs; Payroll Ending 8-29-2009 -- \$315,308.00. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Approve **Resolution No. 2009-140** allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$104,538.72 which will be carried over to the 2009-2010 Budget as "Unused Budget Authority".

**RESOLUTION NO. 2009-140**

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended, allows governmental units to exceed the two and one half percent limit as provided in Neb. Rev. Stat. Section 13-519.01, (R.R.S. 1943), as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Neb. Rev. Stat. Section 13-519.01, (R.R.S. 1943), as amended, by an additional one percent as allowed pursuant to Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Neb. Rev. Stat. Section 13-519.03, (R.R.S. 1943), as amended, by an additional one percent.

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 October 1, 2009.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

4. Approve the recommendation submitted by the Keno Committee on the allocation on non-departmental keno funds designed for outside agencies.

5. Adopt the 2009-2010 Comprehensive Fee Schedule setting forth the fees for

items and services to be provided by the City during the 2009-2010 year and approve **Resolution No. 2009-141.**

**RESOLUTION NO. 2009-141**

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2008-2009 fiscal year was adopted by Resolution No. 2008-158 on September 9, 2008 and amended by Resolution No. 2009-11 on February 10, 2009 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2009-2010 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2009.

BE IT FURTHER RESOLVED that Resolution No. 2009-11 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Approve Change Order No. 2 showing an increase in the amount of \$8,425.00, Change Order No. 3 showing a decrease in the amount of \$29,261.00, Application and Certificate for Payment No. 5-Final in the amount of \$56,403.06, accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2008 Part III Improvements consisting of Paving Improvement District No. 2007-915 for 14th Street from 6th Avenue to 9th Avenue; Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; Paving Improvement District No. 2007-917 for 9th Avenue from 16th Street to 19th Street and approve **Resolution No. 2009-142.**

**RESOLUTION NO. 2009-142**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2008 Part III Improvements consisting of Paving Improvement District No. 2007-915 for 14th Street from 6th Avenue to 9th Avenue; Paving Improvement District No. 2007-916 for 9th Avenue from 13th Street to 14th Street; Paving Improvement District No. 2007-917 for 9th Avenue from 16th Street to 19th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase in the amount of \$8,425.00 as shown on Exhibit "A", and Change Order No. 3 showing a decrease in the amount of \$29,261.00 as shown on Exhibit "B", attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and the City's engineer have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$56,403.06 as

shown on Exhibit "C" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$336,216.00
Change Order No. 1 (12-23-2008)	+ 9,617.90
Change Order No. 2 (6-23-2009)	+ 8,425.00
Change Order No. 3 (9-8-2009)	- 29,261.00
Contract Sum to Date	\$324,997.90
Total Completed and Stored to Date	324,997.90
Retainage	.00
Amount Due to Date	324,997.90
Less Previous Certificates for Payment	<u>268,594.84</u>
Current Payment Due	\$ 56,403.06

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of November 28, 2008, as shown by Exhibit "D" 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 Nos. 2 and 3, as shown on Exhibits "A" and "B", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "C", and the Certificate of Substantial Completion as shown on Exhibit "D" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Approve Change Order No. 9 and Change Order No. 10 showing an increase in the amount of \$3,466.00 submitted by Hausmann Construction and approved by Wilkins Hinrichs Stober Architects for the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park and approve **Resolution No. 2009-143**.

### RESOLUTION NO. 2009-143

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 Change Order No. 9 for rerouting sanitary drain lines for the main level of the building, move grease interceptor and add a duplex pump sewage ejector to the project as documented in the Application and Certificate for Payment No. 8 indicating no change to contract amount, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Change Order No. 10 showing an increase in the amount of \$3,466.00 providing additional lighting and power for the stage area, and additional junction boxes for microphone jacks, as shown on Exhibit "B" attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$2,879,000.00
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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)	+	3,072.00
Change Order No. 9 and 10 (9-8-2009)	+	<u>3,466.00</u>
Contract Sum to Date		\$2,798,839.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order Nos. 9 and 10, as shown on Exhibits "A" and "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Approve the Development Agreement for Aaron Rents between the City of Kearney and Dave Hanson from Hanson Holding Company, Inc. pertaining to they alley abutting their property located at 1210 2nd Avenue and approve **Resolution No. 2009-144.**

#### **RESOLUTION NO. 2009-144**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Development Agreement for Aaron Rents on behalf of the City of Kearney. A copy of the Development Agreement, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to file the said Development Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**9.** Approve **Resolution No. 2009-116A** accepting the final plat for Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 and all of Lot 2 of Block 1 (now vacated), Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska AND a tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) correcting a typographical error in the legal description.

#### **RESOLUTION NO. 2009-116A**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Interstate Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Lot 1 and all of Lot 2, said part of Lot 1 and all of Lot 2, now vacated, Block One, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and a tract of land being part of Government Lot 5, located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the southeast corner of Government Lot 5 located in Section 11, and assuming the south line of said Government Lot 5 located in Section 11 as bearing S88°07'45"W and all bearings contained herein are relative thereto; thence S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 879.76 feet to the Actual Place of Beginning, said point being the southeast corner of said Lot 2, Block One, Interstate Third Addition; thence continuing S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 and on the south line of said Lot 2 a distance of 122.81 feet to the southwest corner of said Lot 2; thence continuing S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 133.08 feet; thence leaving the south line of said Government Lot 5 located in Section 11, N00°04'21"E a distance of 309.39 feet; thence N89°48'38"E and parallel with the south line of Lot 1, Block One of said Interstate Third Addition a distance of 138.00 feet; thence S00°09'32"W and parallel with the west line of said Lot 1, Block One of said Interstate Third Addition a distance of 7.0 feet to a point on the south line of said Lot 1, Block One of said Interstate Third Addition; thence N89°48'38"E and on the south line of said Lot 1, Block One of said Interstate Third Addition a distance of 188.77 feet to the southeast corner of said Lot 1, Block One of said Interstate Third Addition said point also being on the west right-of-way line of Third Avenue, an avenue in the City of Kearney, Buffalo County, Nebraska; thence S13°39'04"W and on the west line of said Third Avenue a distance of 303.22 feet to the place of beginning, containing 2.01 acres, more or less, all in Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Approve **Resolution No. 2009-117A** accepting the annexation of Interstate Fourth Addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Lot 1 and all of Lot 2 of Block 1 (now vacated), Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska AND a

tract of land being part of Government Lot 5 located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (108 3rd Avenue) correcting a typographical error in the legal description.

### **RESOLUTION NO. 2009-117A**

WHEREAS, an Application has been submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for Paul Younes and MJ Development LLC (Owner) for the inclusion of Interstate Fourth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Lot 1 and all of Lot 2, said part of Lot 1 and all of Lot 2, now vacated, Block One, Interstate Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska, and a tract of land being part of Government Lot 5, located in Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, all being more particularly described as follows: Referring to the southeast corner of Government Lot 5 located in Section 11, and assuming the south line of said Government Lot 5 located in Section 11 as bearing S88°07'45"W and all bearings contained herein are relative thereto; thence S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 879.76 feet to the Actual Place of Beginning, said point being the southeast corner of said Lot 2, Block One, Interstate Third Addition; thence continuing S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 and on the south line of said Lot 2 a distance of 122.81 feet to the southwest corner of said Lot 2; thence continuing S88°07'45"W and on the south line of said Government Lot 5 located in Section 11 a distance of 133.08 feet; thence leaving the south line of said Government Lot 5 located in Section 11, N00°04'21"E a distance of 309.39 feet; thence N89°48'38"E and parallel with the south line of Lot 1, Block One of said Interstate Third Addition a distance of 138.00 feet; thence S00°09'32"W and parallel with the west line of said Lot 1, Block One of said Interstate Third Addition a distance of 7.0 feet to a point on the south line of said Lot 1, Block One of said Interstate Third Addition; thence N89°48'38"E and on the south line of said Lot 1, Block One of said Interstate Third Addition a distance of 188.77 feet to the southeast corner of said Lot 1, Block One of said Interstate Third Addition said point also being on the west right-of-way line of Third Avenue, an avenue in the City of Kearney, Buffalo County, Nebraska; thence S13°39'04"W and on the west line of said Third Avenue a distance of 303.22 feet to the place of beginning, containing 2.01 acres, more or less, all in Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on July 17, 2009 on the inclusion of Interstate Fourth Addition within the corporate limits and recommended the Kearney City Council approve said application; and

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

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on August 11, 2009 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Interstate Fourth Addition shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska,

that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

11. Accept the bids received for the 2009 Part 11 Improvements consisting of Paving Improvement District No. 2009-936 for the alley lying between Avenue A and Avenue B from 25th Street and 26th Street and approve **Resolution No. 2009-145** awarding the bid to Dan Roeder Concrete in the amount of \$37,525.00.

**RESOLUTION NO. 2009-145**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on September 2, 2009 at 2:00 p.m. for the 2009 Part 11 Improvements consisting of Paving Improvement District No. 2008-936 for the alley lying between Avenue A and Avenue B from 25th Street and 26th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$48,507.00; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$37,525.00 be accepted as the lowest responsible bid for the construction of Paving Improvement District No. 2008-936 for the alley lying between Avenue A and Avenue B from 25th Street and 26th Street.

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 Dan Roeder Concrete of Kearney, Nebraska be and is the lowest responsible bidder for the 2009 Part 11 Improvements consisting of Paving Improvement District No. 2008-936 for the alley lying between Avenue A and Avenue B from 25th Street and 26th Street; to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete of Kearney, Nebraska in the sum of \$37,525.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$48,507.00 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 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

12. Accept the bids received for a new 4-Wheel Drive, Class IV, Hi-Speed Snow Plow Vehicle for use at the Kearney Regional Airport and approve **Resolution No.**

**2009-146** awarding the bid to Wausau Equipment Company from New Berlin, Wisconsin in the amount of \$256,960.00 contingent upon approval by the F.A.A.

**RESOLUTION NO. 2009-146**

WHEREAS, Kirkham Michael Consulting Engineers and the City of Kearney have reviewed the sealed bid which was opened on August 31, 2009, at 10:00 a.m. for AIP Project No. 3-31-0045-21 which is the purchase of a new 4-Wheel Drive, Class IV, Hi-Speed Snow Plow Vehicle for use at the Kearney Regional Airport; and

WHEREAS, the Engineer's Estimate, including administrative fees and engineering fees was \$308,620.00; and

WHEREAS, the said engineers have recommended the bid offered by Wausau Equipment Company from New Berlin, Wisconsin in the sum of \$256,960.00 be accepted as the lowest responsible bid subject to approval by the F.A.A. and the Nebraska Department of Aeronautics.

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 Wausau Equipment Company from New Berlin, Wisconsin be and is the lowest responsible bidder for AIP Project No. 3-31-0045-21 which is the purchase of a new 4-Wheel Drive, Class IV, Hi-Speed Snow Plow Vehicle for use at the Kearney Regional Airport to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Wausau Equipment Company in the sum of \$256,960.00 be and is hereby accepted subject to approval by the F.A.A. and the Nebraska Department of Aeronautics.

BE IT FURTHER RESOLVED the Engineer's Estimate, including administrative fees and engineering fees for the AIP Project No. 3-31-0045-21 which is the purchase of a new 4-Wheel Drive, Class IV, Hi-Speed Snow Plow Vehicle for use at the Kearney Regional Airport in the amount of \$308,620.00 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 purchase in accordance with the plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Repeal Resolution No. 2009-101 and approve **Resolution No. 2009-147** to comply with the requirements of the Nebraska Local Public Agencies (LPA) Manual for federal-aid transportation projects for Consultant Services Evaluation and Selection; Financing, Accounting and Record Keeping; Uniform Relocation Assistance and Real Property Acquisition Policies Act; the National Environmental Policy Act; and designate Director of Public Works and City Engineer as the Responsible Charge for projects and to authorize Wendell Wessels as Director of Finance and Administration to sign the Financial Management Systems Certification.

**RESOLUTION NO. 2009-147**

**COMBINED CONSULTANT SELECTION, NEPA, UNIFORM ACT, SIGNING OF THE FINANCIAL MANAGEMENT SYSTEMS CERTIFICATION**

WHEREAS: Certain transportation facilities (roads, streets, trails, and others) in the City of Kearney have been designated as being eligible for federal funds by the Federal Highway Administration in compliance with federal laws pertaining thereto;

WHEREAS: the City of Kearney desires to continue to participate in Federal-Aid transportation construction programs;

WHEREAS: The Nebraska Department of Roads as a recipient of said Federal funds is charged with oversight of the expenditures of said funds;

WHEREAS: the City of Kearney as a sub-recipient of said Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal and State law, the rules and regulations of the Federal Highway Administration, the requirements of the Local Public Agency (LPA) Guidelines Manual of the Nebraska Department of Roads, including the Consultant Selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems; and

WHEREAS: the City of Kearney understands that the failure to meet all requirements for federal funding could lead to a project(s) being declared ineligible for federal funds, which could result in the City of Kearney being required to repay some or all of the federal funds expended for a project(s).

BE IT RESOLVED: The City of Kearney City Council does hereby adopt and bind itself to comply with all applicable federal law, including the rules and regulations of the Federal Highway Administration, all applicable state law and rules and regulations (Nebraska Administrative Code) and the requirements of the LPA Guidelines Manual of the Nebraska Department of Roads, including the consultant selection process as stated in the LPA Guidelines Manual, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) and the maintaining of adequate Financial Management Systems.

BE IT FURTHER RESOLVED: The City of Kearney City Council does hereby designate the following as responsible for the management of the following processes:

- Consultant Selection process: Director of Public Works and the City Engineer of the City of Kearney are responsible for managing the Consultant Selection process.
- The National Environmental Policy Act (NEPA): Director of Public Works and the City Engineer of the City of Kearney are responsible for managing the NEPA process.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act): Director of Public Works and the City Engineer of the City of Kearney are responsible for managing the Uniform Act process.

The following individual is hereby authorized to sign the Financial Management Systems Certification attached to this Resolution: Wendell R. Wessels, Director of Finance and Administration

Adopted this 8th day of September, 2009 at Kearney, Nebraska.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Approve the application to extend Conditional Use Permit No. 1979-06 granted to Susan Underhill to locate a Day Care Facility at 2803 Avenue I for a period of one year.

**15.** Approve the Peterson Senior Activity Center Annual Nutrition Service Contract between the City of Kearney and Community Action Partnership of Mid-Nebraska to

serve as the meal service provider and approve **Resolution No. 2009-148.**

### RESOLUTION NO. 2009-148

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to execute the Peterson Senior Activity Center Annual Nutrition Service Contract on behalf of the City of Kearney. The said Contract, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**16.** Approve the request submitted by ABC Drug to block off seven parking stalls in front of the Kaufman Center, 2202 Central Avenue, on September 15, 2009 from 7:00 a.m. until 1:00 p.m. to park the Health Across America bus.

**17.** Approve the application for a Special Designated License submitted by McDOWELL INVESTMENTS, dba Ravenna Super Foods in connection with their Class DK liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 3, 2009 from 5:00 p.m. until 1:00 a.m. for a wedding dance/reception.

**18.** Award the bid to Sorensen Group in the amount of \$46,528.00 for the construction of the Airport Signage, approve Change Order No. 1 revising the completion date to November 25, 2009 and approve **Resolution No. 2009-149.**

### RESOLUTION NO. 2009-149

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

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

WHEREAS, the said engineers have recommended the bid offered by Sorensen Group of Kearney, Nebraska in the sum of \$46,528.00 be accepted as the lowest responsible bid; and

WHEREAS, Administration recommends accepting the bid submitted by Sorensen Group of Kearney, Nebraska and approving Change Order No. 1 extending the completion time to November 25, 2009.

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 Sorensen Group of Kearney, Nebraska be and is the lowest responsible bidder for the construction of the Airport Signage, to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Sorensen Group of Kearney, Nebraska in the sum of \$46,528.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that Change Order No. 1 extending the completion time to November 25, 2009 be and is hereby accepted and approved.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost for the construction of the Airport Signage in the amount of \$42,000.00 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 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

19. Approve submitting an extension to the Nebraska Department of Economic Development for the Phase III of the Community Revitalization project until August 31, 2010.

20. Approve the City of Kearney MS4 Assistance: Project Phase I and the Letter Agreement Standard Provisions between the City of Kearney and Felsburg, Holt & Ullevig to provide services regarding the vital construction program development pertaining to the City's Stormwater Management Plan and approve **Resolution No. 2009-150**.

**RESOLUTION NO. 2009-150**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager be and is hereby authorized and directed to execute the City of Kearney MS4 Assistance: Project Phase I and the Letter Agreement Standard Provisions between the City of Kearney and Felsburg, Holt & Ullevig to provide services regarding the vital construction program development pertaining to the City's Stormwater Management Plan. The said Letter Agreement, marked as Exhibit "A", is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2009.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

21. Approve the application for a Special Designated License submitted by KEARNEY STEAK COMPANY, dba Whiskey Creek in connection with their Class IK catering liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 2, 2009, 2009 from 5:00 p.m. until 11:00 p.m. for a fund raiser event.

22. Approve the application for a Special Designated License submitted by STONEBRIDGE VINEYARD INC., dba Schilling Bridge Winery & Microbrewery in connection with their Class L, IDK and Y liquor licenses to dispense beer inside an enclosed 150' x 150' fenced area located in the parking lot north of the Museum of Nebraska Art, 2401 Central Avenue, on October 3, 2009 from 3:00 p.m. until 11:00 p.m. in connection with the Harvest Fest Ale event.

- 23.** Approve the application for a Special Designated License submitted by ADAM DAAKE, dba Platte Valley Brewery in connection with their Class C and L liquor licenses to dispense beer inside an enclosed 150' x 150' fenced area located in the parking lot north of the Museum of Nebraska Art, 2401 Central Avenue, on October 3, 2009 from 4:00 p.m. until 11:00 p.m. in connection with the Harvest Fest Ale event.
- 24.** Approve the application for a Special Designated License submitted by Thunderhead Brewing Co. in connection with their Class LK liquor license to dispense beer inside an enclosed 150' x 150' fenced area located in the parking lot north of the Museum of Nebraska Art, 2401 Central Avenue, on October 3, 2009 from 4:00 p.m. until 11:00 p.m. in connection with the Harvest Fest Ale event.
- 25.** Approve the application for a Special Designated License submitted by Nebraska Brewing Company in connection with their Class C and LK liquor licenses to dispense beer inside an enclosed 150' x 150' fenced area located in the parking lot north of the Museum of Nebraska Art, 2401 Central Avenue, on October 3, 2009 from 4:00 p.m. until 11:00 p.m. in connection with the Harvest Fest Ale event.
- 26.** Approve the application for a Special Designated License submitted by KEARNEY SHOOTERS INC., dba Shooters in connection with their Class C liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 10, 2009 from 4:00 p.m. until 1:00 a.m. for a reception.
- 27.** Approve the application for a Special Designated License submitted by CHICKEN BONES OF KEARNEY, INC., dba "Chicken Coop Sports Bar & Grill in connection with their Class I liquor license to dispense beer and distilled spirits in the Outdoor Arena, formerly known as the Exposition Building, located at the Buffalo County Fairgrounds, 3807 Avenue N on September 13, 2009 (alternate date is September 20, 2009) from 12:00 p.m. until 12:00 a.m. for a demolition derby.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7541 – ADOPT 2009-2010 BUDGET (PERTAINS TO PUBLIC HEARING 4)**

Council Member Lammers introduced Ordinance No. 7541, being Subsection 1 of Agenda Item V to adopt the 2009-2010 City of Kearney Budget Statement to be termed the Annual Appropriation Bill and to appropriate sums for necessary expenses and liabilities, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7541 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, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7541 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7541 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. 7542 – REVISE 2008-2009 BUDGET (PERTAINS TO PUBLIC HEARING 7)**

Council Member Lammers introduced Ordinance No. 7542, being Subsection 2 of Agenda Item V adopting the 2008-2009 City of Kearney Revised Budget Statement to be termed the Annual Appropriation Bill and to appropriate sums for necessary expenses and liabilities, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7542 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, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7542 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7542 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. 7543 – PERSONNEL ORDINANCE**

Ordinance No. 7543 will repeal Ordinance No. 7461 (2008-2009 Annual Personnel Ordinance); classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for the payments of vehicle allowances; and provide for the payment of cell phone allowances.

Ordinance No. 7543 includes all the job classifications, pay grades and ranges of compensation that are included in the City of Kearney 2009-2010 Pay Policy. Additionally, various employee benefits as discussed above have been included in the ordinance. Passage of the Personnel Ordinance is done on an annual basis in conjunction with the budget process. Ordinance No. 7543 is required pursuant to Section 16-502 of the Nebraska Revised Statutes, which mandates that the governing bodies of First Class Cities specifically appropriate all personnel expenditures in ordinance form. The 2009-2010 City of Kearney budget includes salaries and benefits reflected in the Ordinance No. 7543.

Council Member Lammers introduced Ordinance No. 7543, being Subsection 3 of Agenda Item V to repeal Ordinance No. 7461 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7543 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, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7543 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7543 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. 7540A – AMEND ORDINANCE NO. 7540 CORRECTING LEGAL DESCRIPTION**

At the August 11, 2009 Council meeting the Council approved the development of Interstate Fourth Addition for property located at 108 3rd Avenue. Mitch Humphrey from Buffalo Surveying has discovered that some of the numbers were transposed in the legal description for the rezoning ordinance, as well as the final plat and annexation. Therefore, the resolutions for the final plat and the annexation, as well as the ordinance to rezone need to be amended to reflect the correct legal description.

Council Member Lammers introduced Ordinance No. 7540A, being Subsection 4 of

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

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

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7540A 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. 7544 – AMEND SECTION 1-1402 OF THE CITY CODE**

Section 1-1402 of the City Code pertains to the Community Redevelopment Authority. The current section states: The presence of four (4) members shall constitute a quorum for the transaction of business. With the passage of LB339, the way in which the Authority may act on matters has been modified. The presence of three members shall constitute a quorum. Therefore, this ordinance reflects the change in state law which became effective August 30, 2009.

Council Member Lammers introduced Ordinance No. 7544, being Subsection 5 of Agenda Item V to amend Section 1-1402 "Officers" of Article 14 "Community Redevelopment Authority" of Chapter 1 "Administration" to provide three members shall constitute a quorum for the transaction of business, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7544 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, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7544 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7544 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 7545 – VACATE PORTION OF RICHTER’S 2ND (PERTAINS TO PUBLIC HEARINGS 1 AND 2)**

Council Member Buschkoetter introduced Ordinance No. 7545, being Subsection 1 of Agenda Item VI to vacate Lots 2, 3 and 9, Richter’s 2nd Subdivision, Buffalo County, Nebraska (east side of Highway 10 approximately .3 miles north of 78th 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 Clouse 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, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7545 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7545 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7545 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. 7546 – REZONING EAST SIDE OF HIGHWAY 10 APPROXIMATELY .3 MILE NORTH OF 78TH STREET (PERTAINS TO PUBLIC HEARINGS 1 AND 2)**

Council Member Buschkoetter introduced Ordinance No. 7546, being Subsection 2 of Agenda Item VI to rezone from District AG, Agricultural District to District RR-1, Rural

Residential (Rural Standards) District for property described as a tract of land being part of the North Half of the Northwest Quarter of Section 13, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (east side of Highway 10 approximately .3 mile north of 78th 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 Clouse 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, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7546 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Kearney that Ordinance No. 7546 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7546 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **APPEAL OF SITE DEVELOPMENT FEATURES; EVANGELICAL FREE CHURCH**

Mayor Clouse opened for discussion the appeal submitted by Clair Boroff for Kearney Evangelical Free Church on the review and evaluation of site development features by Administration for property zoned District R-1, Urban Residential Single-Family (Low Density) District and District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Windsor Estates Third, an Addition to the City of Kearney, Buffalo County, Nebraska as it pertains to paved parking (4010 7th Avenue). Planning Commission recommended that the 110 gravel spaces be removed or paved in their entirety within seven years and that the stormwater drainage be constructed prior to issuance of a final Certificate of Occupancy for the current building addition.

The applicant is requesting support for a deviation from the paving requirements of the zoning ordinance. Representatives from the Evangelical Free Church would like to continue to use an existing parking area containing 110 gravel parking spaces without paving the area in conjunction with the current church expansion project. Staff believes that the expansion project provides an opportunity to bring the unimproved lot into compliance with paving requirements. DRT has met with the applicants and asked them to present a plan to pave the area within a reasonable time frame. Staff has worked with other churches in the community to allow phased paving plans in the past. In fact, the parking lot in question has existed since 1994 and has been used by E-Free church for many years.

The initial plan presented by the church elders was to have the 110 spaces removed or paved by the year 2029, twenty years from now. Staff suggested that a more aggressive plan will be required. A revised proposal was presented to remove or pave the 110-space parking lot 25 percent every five years. In other words, 25% would be removed or paved by 2014, 50% by 2019, 75% by 2024, and 100% by 2029. Staff's position remains that this proposal is not aggressive enough. The church elders have requested the Planning Commission, and ultimately the City Council, to provide a judgment of the staff's position and to provide clear direction to the church to establish a deadline for removal or paving of the area. Staff offers the following observations for consideration:

- a) As previously mentioned, the church has had the privilege of using the existing lot in an unpaved condition for the past 15 years. Staff believes that the lot should be brought into compliance within the next four to five years. If phased 25% at a time this would mean 25% each year for four years.
- b) The Code bases parking requirements for churches on the largest room of assembly, usually the sanctuary. Based on the size of the sanctuary, the E-Free church already has an excess of parking. There are currently 397 paved spaces and only 229 spaces are required, even with the new building expansion. The 110 gravel spaces are in addition to the 397 paved spaces.
- c) If cost is the primary concern, it would seem that the best approach would be to simply eliminate the gravel parking, plant the area to grass, and use the existing paved areas for parking which already exceed Code requirements.
- d) In the past, some commercial developers have decided to construct more parking than the Code requires. Wal-Mart is a good example. Staff has required that all parking, access drives, loading areas and other vehicular maneuvering areas be hard surfaced. Although Staff realizes there is a difference in a commercial business and a church, the precedent has been established and worthy of consideration. Churches are allowed in any zoning district. At the Planning Commission hearing the lack of paving at the hockey arena was mentioned. City Administration is working with the new owners of the hockey arena to pave the parking. It was also stated that there are numerous examples of unimproved parking lots "all over town." It is important to remember that industrial zones M-1 and M-2 do not require paving except for the approach to the public street.
- e) The compacted gravel sheds water almost as fast as paving and control of drainage is therefore very important. The existing gravel lot cannot continue to drain uncontrolled onto the neighboring property to the west. Storm drain inlets and piping must be designed and installed as part of the parking lot improvements to convey the stormwater from the parking lot to the pipe system that carries the water to the detention cell behind K-Mart. The stormwater system for the church expansion is being designed and installed now. The City Engineer has requested that the gravel parking area be included in the drainage design and installation now if it is to remain gravel for some period of time or if it is to be improved immediately. The Public Works Director and City Planner met with the architects on-site after the planning Commission meeting and discussed a remedy to the storm drain issue. The parking lot will be regraded to contain the stormwater and two storm sewer inlets will be added to capture the water in the parking lot. This drainage work will be completed in conjunction with the current building expansion prior to a final Certificate of Occupancy being issued.

Scott Stober, Wilkins, Hinrichs, Stober Architects, presented this matter to the Council. The gravel parking lot to the west of the Evangelical Free Church has been there approximately 19 years. The recommendation from the Planning Commission was a 7-year removal or paving of the parking lot. The Church was in agreement with doing that. The Church will, in the meantime, re-grade the gravel parking lot so that it will internally drain into the storm system. This gives them some time to pave that area, but does not hold up the current construction project.

Moved by Kearney seconded by Lammers to approve the appeal on the deviation from the paving requirements submitted by Kearney Evangelical Free Church located at 4010 7th Avenue subject to the 110 gravel spaces be removed or paved in their entirety within seven years and that the stormwater drainage be constructed and approved by City staff prior to issuance of a final Certificate of Occupancy for the current building addition. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

**OPEN ACCOUNT CLAIMS: NPPD - \$232.65, PLATTE VALLEY STATE BANK - \$46,768.94, SCHOOL DISTRICT #7 - \$2,548.05, STANLEY CLOUSE - \$115.20**

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the amount of \$46,768.94 payable to Platte Valley State Bank, in the amount of \$232.65 payable to Nebraska Public Power District, and Stanley Clouse in the amount of \$115.20 be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$2,548.05 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

**VII. REPORTS**

None.

**VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 8:04 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

\_\_\_\_\_  
**MICHAELLE E. TREMBLY**  
**CITY CLERK**

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