

Kearney, Nebraska
September 22, 2008
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on September 22, 2009, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Don Kearney, Bruce Lear, and Bob Lammers. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance and Administration; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Shawna Erbsen, Human Resources Director; Suzanne Brodine, Grant & Marketing Coordinator; Deb Eirich, Senior Services Coordinator; and Luke Olson, Management Assistant were also present. Some of the citizens present in the audience included: Ricardo Garcia-Jimenez and family members, 20 police officers, Marc Loescher, John Bokenkamp, Chris Miller, Elaine Wiseman, Don Woolley, Amy Harder, 2 students from UNK, Steve Altmaier from KGFW Radio, Sara Giboney from Kearney Hub.

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

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

ANNOUNCEMENT

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

RICARDO GARCIA-JIMENEZ OATH OF OFFICE

City Clerk administered the Oath of Office to Police Officer Ricardo Garcia-Jimenez.

WOMEN OF TODAY WEEK PROCLAMATION

Mayor Clouse read the Women of Today Week Proclamation and presented it to Amy Hardy. The week of September 20-26, 2009 has been designated as Women of Today Week.

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

CDBG APPLICATION FOR POWER PARK SITE AND DATA CENTER FACILITIES

Mayor Clouse opened the public hearing concerning an application to the Department of Economic Development for a Community Development Block Grant to plan and develop a power park site to attract data center facilities and to consider approval of Resolution No. 2009-151.

Grant & Marketing Coordinator Suzanne Brodine presented this matter to the Council. She stated the Governor announced on September 9th that Kearney was a preferred site for a data center for the Department of Economic Development which will be for marketing Kearney's site to national and international firms to try to attract that sort of business to Kearney. As part of that, the Department of Economic Development recommended that Kearney apply for a planning grant through the DED. That grant would be used to hire a consultant to help market the City's site to make it more competitive on a national scale to attract this sort of business. The City of Kearney will request \$52,500, of which \$50,000 will be used for planning activities and \$2,500 for grant administration. A cash match of \$50,000 must be provided by the City.

City Manager Michael Morgan stated those funds will be used for assistance regarding consultants. The technology park and data center presentation was shown to some national consultants that happened to be in Kearney as part of the diplomats' event. The site is located at 56th Street and Antelope Avenue. The electrical power is very important in respect to this particular development. Kearney is in a very good position with that. Fiber optics is another important component because these sites depend on three sources of fiber. Kearney has an agreement with Intellicom to provide us with some assistance and an initial report is due from them this week which will describe the various carriers and what options are available. Zoning and land use of the site is an AG with no residential around it which is important. This site is not in any 100 or 500 year floodplains. Water will be extended this spring (or sooner) to the eastern edge of the site

and is currently to the west of the site. That water project is underway in respect to the design. Sanitary sewer is complete at the corner of 56th Street and Antelope Avenue and is ready to serve the site.

The City has been working with Buffalo County under an agreement with respect to the Cherry Avenue By-pass and the County has agreed to pave 56th Street all the way to the Airport. It looks like the County is going to be able to move that project up slightly and the design is almost 100 percent complete. The anticipated bid date is in February or March with a June/July completion deadline. The understanding is that they intend to pave it all the way to Cherry Avenue. Outfall is important to be able to discharge the water that would be used for cooling towers and related to storm water outfall. There is a lot of capacity in this area to the Wood River basin. There is an electrical substation. Two registered wells on the site are important because they provide some redundancy if it becomes necessary.

The next step will be requests for proposals, interviews with the Department of Economic Development and two or three consultants within the next ten days and then selecting a firm that would start on the process. The \$50,000 from the grant and part of the \$50,000 from the City would go toward payment of their services and some additional engineering and marketing services. The City's process is very good and the DED is very pleased with the results at this point.

Mayor Clouse and Council member Lear had the opportunity to hear the comments made by some of the five consultants that were here who thought that this was an outstanding site. One of their comments was that they work all over the country and they have never seen the cooperation of all the entities in the community like we have here. One of them mentioned that even when everything is in place, they sometimes still cannot get the work done because of some of the controversies and disagreements between government bodies. The City's goal was to have to site shovel ready by July and it will be shovel ready prior to that time. Mayor Clouse added that this location is not necessarily just data centers, but also a data office park technology park complex.

Council member Buschkoetter stated it has been a decade and a half since that fiber optic line went through. This will very quickly expedite things and will garner a lot of attention. This will boost Kearney's employee base and being an educational community and he believed this could become a new major industry in the community.

Council member Lammers stated that Xpansion might provide some synergy that will help this along.

Mayor Clouse stated they will also help the Buckle with things they do with their internet order fulfillment. The site selection consultants were very impressed with that. When Paul Eurek from Xpansion presented his plan some time ago, he explained how he relocated his global business to Kearney and how he has been able to hire qualified workforce here to make his business even more successful. There is no doubt that the University plays a part in this and the education in the schools to prepare for this technology.

Council member Kearney stated that they as Council members would be negligent not to take this opportunity to welcome this in. Some of their predecessors on the City Council made decisions that made Kearney a better place and he believed they are doing the same thing with this project.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing concerning an application to the Department of Economic Development for a Community Development Block Grant to plan and develop a power park site to attract data center facilities and approve **Resolution No. 2009-151**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2009-151

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

WHEREAS, the City of Kearney, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of \$52,500 for economic development planning to develop a power park site to attract data center facilities.

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

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated that the Agenda was amended on Monday to include Subsection 24 to approve a request to block off parking stalls in front of 15 East 24th Street on September 25.

Moved by Lammers seconded by Lear that Subsections 1 through 24 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 September 8, 2009.
2. Approve the following Claims:

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

A&D Tech Supply \$19,950.00 smcs.co; Accent Cabinetry \$2,892.37 Smcs; AccessData \$5,155.00 Smcs; Agri Coop \$2,431.99 Smcs; Amer Fence \$14,533.83 Smcs; Amer Red Cross \$87.00 Smcs; Andersen,B \$26.75 Smcs; Asphalt & Concrete \$3,852.85 Smcs; Aurora Coop \$55.20 Smcs; B2B Computer Products \$11,624.00 Co; Baker & Taylor Books \$5,870.02 Smcs; Bamford,J \$50.00 Smcs; Barco Municipal Products \$6,846.40 Smcs; Barlow,J \$400.00 Smcs; Baye,S \$91.84 Smcs; BBC Audiobooks \$112.26 Smcs; BBW Environmental \$200.00 Smcs; Bennett,T \$701.25 Smcs; Blessing \$56,403.06 Co; Bluecross Blueshield \$194,826.81 Smcs; Bosselman \$1,289.60 Smcs; Broadfoot's \$975.00 Smcs; Buffalo Co Dist Court \$228.25 Ps; Buffalo Co Economic \$688.14 Smcs; Builders \$9,302.40 smcs.co; Business Office Systems \$245.00 Smcs; Cash Amer Pawn \$110.00 Smcs; Cash-Wa \$3,973.75 Smcs; CDW Gov't \$3,255.84 Smcs; Central Fire & Safety \$101.50 Smcs; CH Diagnostic \$730.00 Smcs; Charter \$509.95 Smcs; Charter Media \$985.60 Smcs; Chesterman \$375.70 Smcs; City Glass \$5,094.85 smcs.co; City of Ky \$44,545.52 smcs,ps; College Savings Plan of NE \$100.00 Ps; Copycat Printing \$633.08 Smcs; Credit Management Services \$180.00 Smcs; Crime Reports \$398.00 Smcs; Crouch Recreational \$22,180.80 smcs.co; Cummins Central Power \$9,600.00 Smcs; CVI Kearney \$819.02 Smcs; D&S Custom Covers \$2,086.98 Smcs; Dawson Co PPD \$30,446.23 Smcs; Demco \$542.35 Smcs; Deterdings \$182.16 Smcs; Development Council \$534.19 Smcs; Dish Network \$48.52 Smcs; DPC Industries \$5,086.31 Smcs; Dugan Business Forms \$1,193.80 Smcs; Dutton-Lainson \$288.20 smcs.co; Eakes \$3,088.00 Smcs; Earl May Seed \$2,857.00 Smcs; Ed M. Feld Equipment \$8,577.00 smcs.co; Eickhoff,B \$7.00 Ps; Elliott Sanitation \$224,100.00 Co; EMC Ins \$3,088.72 Smcs; Envision Ware \$1,866.85 Smcs; Evike.com \$1,068.00 Smcs; Farmers Union Coop \$513.00 Smcs; Faz,A \$336.50 Smcs; Fedex \$90.31 Smcs; Fireguard \$5,621.12 Smcs; Florida Micro \$8,910.46 Co; Footjoy \$507.02 Smcs; Frontier \$7,838.73 Smcs; Gale \$240.38 Smcs; Garon Marketing \$2,044.76 Co; Garrett Tires & Treads \$4,320.59 Smcs; Gaylord Brothers \$193.80 Smcs; Geiger,L \$125.00 Smcs; GFOA \$50.00 Smcs; Graham Tire \$2,204.28 Smcs; Great Plains One Call \$404.04 Smcs; Greni,K \$347.00 Smcs; Greyhouse Publishing \$412.10 Smcs; H&H Distributing \$364.45 Smcs; Harter,A \$204.41 Smcs; Hawthorne Jewelry \$1,626.00 Ps; HD Supply \$2,669.85 Smcs; Heartland Electric \$1,126.98 Smcs; Helleberg,K \$15,000.00 Co; Holmes Plumbing \$6.32 Smcs; Hotsy Equipment \$689.40 Smcs; Howe,C \$67.35 Smcs; ICMA RC \$4,781.00 Ps; IRS \$97,481.44 Ps; Jack Lederman \$2,429.88 smcs.co; Jack's Uniforms \$2,936.08 Smcs; Jeff Herrman L.E. Sales \$1,662.80 Smcs; Ky Clinic \$941.00 smcs,ps; Ky Concrete \$21,557.94 smcs.co; Ky Crete & Block \$107.68 Smcs; Ky Glass \$4,750.00 Smcs; Ky Hub \$5,910.16 Smcs; Ky Humane Society \$4,000.00 Smcs; Ky Towing \$150.00 Smcs; Ky Visitors Bureau \$46,820.46 Smcs; Kehl Tree Service \$875.00 Smcs; KGFW/KQKY/KRNY \$978.92 Smcs; KHGI/KWNB \$195.00 Smcs; Kirkham Michael \$5,420.50 Co; Konica Minolta \$69.07 Smcs; Lefever,R \$29.34 Smcs; Leopold Painting \$9,442.64 smcs.co; Lewis,N \$77.17 Smcs; Linweld \$29.01 Smcs; Loebig,J \$58.50 Smcs; Logan Contractors Supply \$441.67 Smcs; Magic Cleaning \$4,850.00 Smcs; Mail Express \$314.00 Smcs; Malleck,J \$61.52 Smcs; Marlatt Machine Shop \$240.00 Smcs; Martin Apparatus \$326.45 Smcs; Maxwell Asphalt \$29,600.00 Co;

Metlife \$16.20 Ps; Midlands Contracting \$9,540.00 Smcs; Mid-NE Aggregate \$1,068.08 Smcs; Mid-State Units \$120.00 Smcs; Midwest Labs \$200.00 Smcs; Miller & Associates \$24,606.13 Co; Minitex \$1,217.00 Smcs; Moonlight Embroidery \$4,392.00 smcs,ps; Moore Wallace \$477.03 Smcs; Morris Press \$533.00 Smcs; MSI Systems Integrators \$289.08 Smcs; Municipal Supply \$2,342.51 Smcs; Nathan's Curb Grinding \$923.00 Co; Nat'l Arbor Day Foundation \$35.00 Smcs; Naval Surface Warfare \$1,800.00 Smcs; NDEQ-Fiscal Services \$7,500.00 Smcs; NE Child Support \$2,690.05 Ps; NE Dept of Aeronautics \$995.00 Ds; NE Dept of Revenue \$53,195.72 Smcs; NE Library Commission \$2,494.00 Smcs; NEland Distributors \$729.60 Smcs; Nellson Tile \$6,265.17 Co; NMC Exchange \$26,538.41 smcs,co; Northwestern Energy \$1,348.41 Smcs; O'Connor,S \$272.50 Smcs; Office Depot \$1,064.57 Smcs; Olive Software \$16,334.14 Co; OMB's Express Police \$780.27 Smcs; Paraben \$1,495.00 Smcs; Paramount Linen \$574.03 Smcs; Penn State University \$585.00 Smcs; Pep Co \$51.10 Smcs; Phillips,J \$75.00 Smcs; Pitney Bowes \$4,000.00 Smcs; Platte River Radio \$735.00 Smcs; Platte Valley Comm \$12,899.99 smcs,co; Presto-X \$213.00 Smcs; Random House \$383.25 Smcs; Ready Mixed Concrete \$10,337.27 smcs,co; Recognition Unlimited \$220.00 Ps; Recorded Books \$1,439.55 Smcs; Reinke's Refrigeration \$1,090.07 Smcs; Riverside Mfg \$205.89 Ps; Rodiek,D \$39.25 Smcs; Roth,K \$64.20 Smcs; Run-N-Iron Customizing \$1,350.00 Smcs; Sapp Brothers \$24,861.50 Smcs; Scheckler,J \$135.00 Smcs; Schulz,D \$31.00 Smcs; Scorr Marketing \$209.67 Smcs; Sherman,B \$175.00 Smcs; Sign Center \$1,360.00 Smcs; Sirsi Dynix \$719.50 Smcs; Snap-On Tools \$88.25 Smcs; SOS Portable Toilets \$170.00 Smcs; Spellman,S \$48.00 Smcs; Springer Roofing \$28,400.00 Co; Steinbrink Landscaping \$22,058.72 smcs,co; Storage 4 U \$6,300.00 Smcs; Strategos Int'l \$1,386.44 Smcs; Suggitt,J \$122.50 Smcs; Taser Int'l \$1,188.90 Smcs; Taylor Made \$88.15 Smcs; Theis,J \$60.00 Smcs; Tielke Enterprise \$356.81 Smcs; Titleist \$239.15 Smcs; Toyne \$35.58 Smcs; Tri-Cities Group \$616.92 Smcs; Turner Body Shop \$407.90 Smcs; Underwriters Labs \$3,850.00 Smcs; Unique Management \$286.40 Smcs; Van Diest \$6,672.94 Smcs; Video Store Shopper \$2,078.12 Smcs; Vohland,M \$75.00 Smcs; Waggoner Plumbing \$1,343.06 Smcs; Weis Equipment \$1,812.00 Smcs; Wellman,P \$36.65 Smcs; West Payment Center \$1,372.10 Smcs; Wiegand Security \$75.00 Smcs; Wilke-Donovan's \$2,459.95 Smcs; Wilkins Hinrichs Stober \$3,606.86 Co; Williams,M \$72.11 Smcs; Wooden,T \$2,300.00 Smcs; World Book \$1,795.00 Smcs; WPCI \$157.00 Ps; Yockey Carpet Service \$527.00 Smcs; Payroll Ending 9-12-2009 - \$323,655.79. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set October 13, 2009 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the Plans and Specifications for the 2009 Part 2 Improvements; Manhole Rehabilitation Project and set the bid opening date for October 13, 2009 at 2:00 p.m.
5. Approve the Plans and Specifications for the 2009 Part 13 Improvements consisting of Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet and set the bid opening

date for October 13, 2009 at 3:00 p.m.

- 6. Approve the Non-Owned Corporate T-925 Hangar Lease between the City of Kearney and Marshall Aviation, Inc. and approve **Resolution No. 2009-152.**

RESOLUTION NO. 2009-152

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Non-Owned Corporate Hangar Lease for T-925 on behalf of the City of Kearney, Nebraska, with Marshall Aviation, Inc., a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 7. Approve Agreement and Permit for Aeronautical Services between the City of Kearney and Buffalo Air Service for crop spraying service and approve **Resolution No. 2009-153.**

RESOLUTION NO. 2009-153

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement and Permit for Aeronautical Services at the Kearney Regional Airport, on behalf of the City of Kearney, with Rick Boardman on behalf of Buffalo Air Service, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 8. Approve the Tenant Use and Operations Agreement for Loading Dock at the Kearney Regional Airport between the City of Kearney and Buffalo Air Service and approve **Resolution No. 2009-154.**

RESOLUTION NO. 2009-154

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Tenant Use and Operations Agreement for Loading Dock at the Kearney Regional Airport, on behalf of the City of Kearney, with Rick Boardman on behalf of Buffalo Air Service, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

9. Approve Application and Certificate for Payment No. 1 in the amount of \$45,612.00 submitted by Blessing, LLC and approved by Miller & Associates for the 2008 Part 4 Improvements; 39th Street and 17th Avenue Intersection Improvements and approve **Resolution No. 2009-155**.

RESOLUTION NO. 2009-155

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2008 Part 4 Improvements; 39th Street and 17th Avenue Intersection Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$45,612.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$267,833.25</u>
Contract Sum To Date	267,833.25
Gross Amount Due	50,680.00
Retainage	5,068.00
Amount Due to Date	45,612.00
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$ 45,612.00

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

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

10. Approve Application and Certificate for Payment No. 2 in the amount of \$53,722.01 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2009 Part 4 Improvements – Bid A consisting of Water District No. 2008-554 for 48th Street from the east lot line of Lot 7, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Water District No. 2009-557 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in

a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2009-497 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition and approve **Resolution No. 2009-156**.

RESOLUTION NO. 2009-156

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2009 Part 4 Improvements – Bid A consisting of Water District No. 2008-554 for 48th Street from the east lot line of Lot 7, Block 4 to the west lot line of Lot 10 of Block 4, Fountain Hills Third Addition; Water District No. 2008-555 for 10th Avenue Place from 48th Street to end of cul-de-sac; Water District No. 2008-556 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Water District No. 2009-557 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Sewer District No. 2008-495 for 48th Street from the west line of 11th Avenue to the east lot line of Lot 1 of Block 4, Fountain Hills Third Addition; AND in 10th Avenue Place from the south line of 48th Street to its terminus in a cul-de-sac; Sewer District No. 2008-496 in a 25-foot wide utility easement from the north line of 48th Street northeasterly to the north lot line of Lot 42 of Block 2, Fountain Hills Third Addition; Sewer District No. 2009-497 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$53,722.01, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$306,030.20</u>
Contract Sum To Date	306,030.20
Gross Amount Due	109,246.80
Retainage	10,924.68
Amount Due to Date	98,322.12
Less Previous Certificates for Payment	<u>44,600.11</u>
Current Payment Due	\$ 53,722.01

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

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Approve Application and Certificate for Payment No. 1 in the amount of \$124,252.20 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2009 Part 4 Improvements – Bid B consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District

No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition and approve **Resolution No. 2009-157.**

RESOLUTION NO. 2009-157

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2009 Part 4 Improvements – Bid B consisting of Paving Improvement District No. 2008-930 for 48th Street from the east right-of-way line of 11th Avenue to the east line of Lot 1, Block Four, Windsor Estates Seventh Addition; Paving Improvement District No. 2008-931 for 10th Avenue Place from 48th Street to end of cul-de-sac; Paving Improvement District No. 2008-932 for 11th Avenue from the north line of 48th Street south to the north lot line of Lot 1 of Block 6, Fountain Hills First Addition; Paving Improvement District No. 2008-933 for 10th Avenue from the north line of 48th Street north to the north a distance of 293.98 feet to the northeast corner of Lot 24 of Block 3, Fountain Hills Third Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$124,252.20, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$468,373.25</u>
Contract Sum To Date	468,373.25
Gross Amount Due	138,058.00
Retainage	13,805.80
Amount Due to Date	124,252.20
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$124,252.20

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

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

12. Approve Application and Certificate for Payment No. 2-Final in the amount of \$4,325.50 and accept the Certificate of Substantial Completion submitted by Ardent Lighting Group, LLC and approved by Miller & Associates for the Centennial Park Ball Field Lighting Project and approve **Resolution No. 2009-158.**

RESOLUTION NO. 2009-158

WHEREAS, Ardent Lighting Group of Knoxville, Iowa has performed services in connection with the Centennial Park Ball Field Lighting Project, and the City's engineer,

Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2-Final in the amount of \$4,325.50, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$43,255.00</u>
Contract Sum To Date	43,255.00
Gross Amount Due	43,255.00
Retainage	.00
Amount Due to Date	43,255.00
Less Previous Certificates for Payment	<u>38,929.50</u>
Current Payment Due	\$ 4,325.50

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of July 27, 2009, as shown by Exhibit "B" attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Accept the Certificate of Substantial Completion submitted by Paulsen, Inc. and approved by Miller & Associates for the 2009 Part 1 Improvements for the 5th Avenue Asphalt Overlay Project and approve **Resolution No. 2009-159.**

RESOLUTION NO. 2009-159

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the Airport Road Relocation Project; and

WHEREAS, under an emergency clause and per the Council's direction, costs to repave 5th Avenue from 16th Street to 19th Street were received from contractors having open contracts with the City of Kearney and Paulsen Inc. submitted the lowest cost for the work in the amount of \$258,540.00 and a Change Order was issued under the current contract for the Airport Road Relocation Project; and

WHEREAS, the contractor and the City's engineer, Miller & Associates, have filed with the City Clerk a Certificate of Substantial Completion indicating the work is completed as of August 16, 2009, as shown by Exhibit "A" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that the Certificate of Substantial Completion as shown on Exhibit "A" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY

STANLEY A. CLOUSE
PRESIDENT OF THE COUNCIL

CITY CLERK

AND EX-OFFICIO MAYOR

14. Approve the Agreement between the City of Kearney and Sorensen Group, Inc. to lease all of Lot 13 and part of Lot 14 of Block 2, Kearney Land and Investment Company's Choice Addition (lying south of the Union Pacific Railroad and east of 8th Avenue) and approve **Resolution No. 2009-160**.

RESOLUTION NO. 2009-160

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the Agreement to lease all of Lot 13 and part of Lot 14 of Block 2, Kearney Land and Investment Company's Choice Addition (lying south of the Union Pacific Railroad and east of 8th Avenue), on behalf of the City of Kearney, with Sorensen Group, Inc. of Kearney, Nebraska, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

15. Approve the request submitted by the Kearney Police Department/Buffalo County Sheriff's Office to temporarily block off Avenue B from North Railroad Street to 21st Street for the auto auction to be held on October 10, 2009 from 7:30 a.m. until 1:00 p.m.

16. Approve the Right-of-Way Agreement between the City of Kearney and Gavilon Grain, LLC, dba Peavey Company for 27th Street immediately north of their elevator building located at 2610 Grand Avenue and approve **Resolution No. 2009-161**.

RESOLUTION NO. 2009-161

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 Right-of-Way Agreement between the City of Kearney and Gavilon Grain, LLC, dba Peavey Company for 27th Street immediately north of their elevator building located at 2610 Grand Avenue. A copy of said Right-of-Way Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

17. Approve Supplemental Agreement No. 2 between the City of Kearney and the Nebraska Department of Roads for Project No. STPD-30-4(148) to improve Highway 30 from Avenue B to Avenue L and approve **Resolution No. 2009-162**.

RESOLUTION NO. 2009-162

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 Supplemental Agreement No. 2 for Project No. STPD-30-4(148) on behalf of the City of Kearney. A copy of said Supplemental Agreement No. 2, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

18. Approve Application and Certificate for Payment No. 9 in the amount of \$116,155.80 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. 2009-163**.

RESOLUTION NO. 2009-163

WHEREAS, Hausmann Construction of Lincoln, Nebraska has performed services in connection with the construction of the Peterson Senior Activity Center located at the E.K. and Mary Yanney Heritage Park, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Application and Certificate for Payment No. 9 in the amount of \$116,155.80 as shown on Exhibit "A" attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$2,879,000.00
Change Order No. 1 (11-25-2008)	- 21,081.00
Change Order No. 2 (11-25-2008)	- 40,000.00
Change Order No. 3 (11-25-2008)	- 25,000.00
Change Order No. 4 (11-25-2008)	+ 4,900.00
Change Order No. 5 (2-24-2009)	- 1,959.00
Change Order No. 6 (3-10-2009)	- 7,226.00
Change Order No. 7 (4-14-2009)	+ 3,667.00
Change Order No. 8 (5-12-2009)	+ 3,072.00
Contract Sum to Date	\$2,795,373.00
Total Completed and Stored to Date	2,157,868.00
Retainage	215,786.80
Amount Due to Date	1,942,081.20
Less Previous Certificates for Payment	<u>1,825,925.40</u>
Current Payment Due	\$ 116,155.80

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 9, as shown on Exhibit "A", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:

STANLEY A. CLOUSE

MICHAELLE E. TREMBLY
CITY CLERK

PRESIDENT OF THE COUNCIL
AND EX-OFFICIO MAYOR

- 19.** Approve the application for a Special Designated License submitted by Alley Rose, Inc., dba Alley Rose in connection with their Class IK-21763 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 10, 2009 from 6:00 p.m. until 1:00 a.m. for a reception.
- 20.** Approve the application for a Special Designated License submitted by KEARNEY STEAK COMPANY, dba Whiskey Creek in connection with their Class IK-35628 catering liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 17, 2009 from 5:30 p.m. until 1:00 a.m. for a reception.
- 21.** Approve the application for a Special Designated License submitted by JUAN LAZO, dba El Tropico in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 10, 2009 from 6:00 p.m. until 1:00 a.m. for a Mexican dance.
- 22.** Approve Change Order No. 10 showing an increase in the amount of \$700.00, Application and Certificate for Payment No. 9 in the amount 40,600.00 submitted by Blessing, LLC and approved by Brungardt Engineering for the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and approve **Resolution No. 2009-164.**

RESOLUTION NO. 2009-164

WHEREAS, Blessing, LLC has performed services in connection with the construction of the E.K. & Mary Yanney Heritage Park North Parking Lot Addition and the City's engineer, Brungardt Engineering, have filed with the with the City Clerk Change Order No. 10 showing an increase in the amount of \$700.00 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

WHEREAS, Blessing, LLC and the City's engineer, Brungardt Engineering, have filed with the with the City Clerk Application and Certificate for Payment No. 9 in the amount of \$40,600.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

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

Change Order No. 10 (9-22-2009)	+ <u>700.00</u>
Contract Sum to Date	938,937.00
Total Completed and Stored to Date	933,885.60
Retainage	.00
Amount Due to Date	933,885.60
Less Previous Certificates for Payment	<u>893,285.60</u>
Current Payment Due	\$ 40,600.00

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 10 as shown on Exhibit "A" and Application and Certificate for Payment No. 9 as shown on Exhibit "B" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

23. Authorize the City Manager to execute the Purchase Agreement between the City of Kearney and the Kearney Area Children’s Museum for property described as 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. 2009-165.**

RESOLUTION NO. 2009-165

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 held a public hearing on September 8, 2009 and authorized the City Attorney and City Manager to complete negotiations for the purchase of Lots 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 negotiations have been completed and the City Manager is hereby authorized and directed to execute the Purchase Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

24. Approve the request submitted by Heath Smallcomb on behalf of The Garage to block off 10-11 parking stalls in front of their business located at 15 East 24th Street and the Thurston building on September 25, 2009 from 2:00 p.m. until 1:00 a.m. to allow the bus to stop and allow the bands to load and unload their equipment.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7547 – WATER CONNECTION DISTRICT NO. 2009-1

Ordinance Nos. 7547 and 7548 pertain to the same area, just different districts.

Section 16-6,102 of the Revised Statutes of Nebraska allows the City by ordinance passed by not less than a three-fourths vote of all members of the City Council to create water and sanitary sewer connection districts within or one mile beyond the corporate limits.

Water Connection Districts 2009-1 and 2009-2 are being proposed to lay a 16-inch diameter water main in 56th Street from the existing City Limits, one mile east to a point ½ mile east of Antelope Avenue. The water main will serve the Data Center/Power Park that was announced by Governor Heineman last week.

Connection Districts are not a lien on abutting property, annual payments are not required and interest does not accrue. When the abutting property owners connect to the water and sewer main they pay a connection fee that will be levied by the City Council and certified to the County. Depending on the cost of the project, City Administration proposes to pay cash or issue bonds to pay for the 56th Street water main to the Data Center/Power Park.

Council Member Lear introduced Ordinance No. 7547, being Subsection 1 of Agenda Item V to create Water Connection District No. 2009-1 for 56th Street from Antelope Avenue west a distance of 2643.85± feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7547 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7547 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7547 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. 7548 – WATER CONNECTION DISTRICT NO. 2009-2

Ordinance Nos. 7547 and 7548 pertain to the same area, just different districts.

Council Member Lear introduced Ordinance No. 7548, being Subsection 2 of Agenda Item V to create Water Connection District No. 2009-2 for 56th Street from Antelope Avenue east a distance of 2637.55± feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7548 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7548 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7548 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. 7549 – WATER CONNECTION DISTRICT NO. 2009-3

Ordinance Nos. 7549 and 7550 pertain to the same area, just different districts.

Section 16-6,102 of the Revised Statutes of Nebraska allows the City by ordinance passed by not less than a three-fourths vote of all members of the City Council to create water and sanitary sewer connection districts within or one mile beyond the corporate limits.

Water Connection District 2009-3 and Sanitary Sewer Connection District 2009-1 are for an 8-inch diameter water and sanitary sewer main to be located in 17th Street between Avenue K and Avenue M. Community Development Block Grant funds will be used to pave the street next spring and the water and sanitary sewer mains need to be installed before the paving is constructed.

Connection Districts are not a lien on abutting property, annual payments are not required and interest does not accrue. When the abutting property owners connect to the water and sewer main they pay a connection fee that will be levied by the City Council and certified to the County. The water and sanitary sewer main to be

constructed 17th Street from Avenue K to Avenue M will be paid for using cash included in the 2009-2010 water and sanitary sewer budget.

Council Member Lear introduced Ordinance No. 7549, being Subsection 3 of Agenda Item V to create Water Connection District No. 2009-3 for 17th Street from Avenue K to Avenue M, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7549 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7549 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7549 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. 7550 – SANITARY SEWER CONNECTION DISTRICT NO. 2009-1

Ordinance Nos. 7549 and 7550 pertain to the same area, just different districts.

Council Member Lear introduced Ordinance No. 7550, being Subsection 4 of Agenda Item V to create Sanitary Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. 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. 7550 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7550 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7550 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

KEARNEY HOUSING AGENCY ANNUAL REPORT

Mayor Clouse opened for discussion the Kearney Housing Agency Annual Report.

Executive Director Elaine Wiseman presented this matter to the Council. The following are some of the highlights of the year:

- Renovation of the former Normandy Apartments, now called Plaza Boulevard Apartments.
- They received a USDA/NPR of \$566,500 which they used to replace the roofs, windows and siding. They still need to do some work on the inside, but outside was a major accomplishment.
- They repaired hail damage on their homes in southeast Kearney and are just finishing up the siding on those houses.
- They have installed energy efficient front loading washers and dryers at Kearney Manor.
- They have done extensive tree trimming in this last fiscal year.
- They installed vinyl fencing at Autumn Village.
- They completed the installation of the ductless, mini split systems at Gibbon.
- They improved drainage at Minden.
- They purchased two new pickups.
- All of their properties were inspected by ReAct and scored better than 90 on all of them, plus one got a 98 which makes them look even better to HUD.
- They had 41 units vacated in their public housing units, with 40 leased in the last fiscal year.
- They paid \$352,480 in rental assistance to private landlords in Kearney.
- They served 15,176 congregate meals with an average attendance of 61 people a day.
- Their Family Self Sufficiency program had a total of 12 graduates and 2 of them moved to home ownership.
- They have 49 families employed who are participating in their FSS program and 40 families enrolled in higher education.
- There were 5 families that completed the Financial Peace University which helps people put their credit in order and move on with their lives.
- They also received a couple of Ross Grants last year for a total \$54,919. These funds allowed them to offer some incentives for people to become better educated and employed.

- They also received the Wells Fargo housing foundation of \$2,500 to apply to a down payment for their participants.
- They received 200 CFLs from Nebraska Public Power.
- Kearney Housing Authority is high in promoting energy efficient appliances and equipment to reduce their costs and improve the environment.

Ms. Wiseman stated the biggest news has been the stimulus funds. They received stimulus funds for their owned and public housing properties. Kearney received \$286,160 which will be used to improve their HVAC and tankless hot water heaters. They have advertised bids for that equipment separately from their equipment and installation bids and are currently preparing the installation bids. That is their project for the future.

Council members commented on how impressed they were with the Annual Report and how busy the Kearney Housing Agency is with regard to programs and events.

Moved by Clouse seconded by Kearney to accept the Kearney Housing Agency Annual Report as presented. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

ORDINANCE NO. 7551 – CREATE SENIOR SERVICES ADVISORY BOARD

Senior Services Coordinator Deb Eirich presented this matter to the Council. She stated the Peterson Senior Activity Center is nearing completion with an expected public opening date of January 4, 2010. The creation of a Senior Services Advisory Board is necessary to begin development of services and programs for the senior citizens and to promote and stimulate public interest. The Board will consist of five members and must be age 50 or older. The City has advertised the opening in the Kearney Hub, as well as sent out a Press Release. Expression of Interest forms are due by October 1, 2009 with the intent of making these appointments at the October 13, 2009 Council meeting.

Council Member Kearney introduced Ordinance No. 7551, being Subsection 2 of Agenda Item VI to amend the City Code by adding a new article entitled Article 16 entitled "Senior Services Advisory Board" to Chapter 1 "Administration"; to create a Senior Services Advisory Board to recommend policies and procedures for development of the senior services; to recommend services and programs for the senior citizens of the City and to promote and stimulate public interest which encourages social, recreational, and business interaction of the citizens of the City of Kearney; to assist in developing short and long-range priorities for the provision of senior services; and to promote coordination of senior services activities with those of public officials, civic groups and other organizations, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been

concurrent in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7551 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 Lammers seconded by Lear that Ordinance No. 7551 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. 7551 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.

WORLD THEATRE FOUNDATION SIDEWALK PROPOSAL

Mayor Clouse opened for discussion the proposal submitted by the World Theatre Foundation to replace the existing sidewalk at 2318 Central Avenue with a non-standard material and granite.

Grant and Marketing Coordinator Suzanne Brodine presented this matter to the Council. The World Theatre Foundation is a non-profit that was formed to begin their restoration and reopening of the World Theatre in downtown Kearney. Recently, they discovered there is a problem with the sidewalk in front of their building. The sidewalk has settled in some places, with some upheaval from tree roots which is causing water to leak into their basement. To fix this problem, they want to combine that repair with their fund raising efforts. As they bring in donations, they want to give their donors the opportunity to purchase a square of sidewalk in front of the building, which they will replace with a star with the donors name in it. They are looking at a granite or bronze star to put into the sidewalk to recognize the donors on this project. The Code specifies that the sidewalks need to be concrete and this would be a non-standard material. She spoke with Development Services and the Downtown Improvement Board and they feel very confident that the granite or bronze would stand up as well as concrete to traffic that they see downtown. It was specified in the request to the Foundation, that they would need to come back to Development Services with their decision about the material they decide to use to make sure that the Building Inspector and the Street Department are comfortable with the material they will be using and the way it is set in the sidewalk.

Council member Lammers asked if the number of stars would be lined up ahead of time and done all at once or would they be placed piece by piece as the funds come in. Ms. Brodine stated her understanding is that they will do a certain number at time, perhaps five at once, a section in front of the building and as more donations are received adding more on the side of the building.

John Bokenkamp stated the idea is to keep it as simple as possible. They would do as many as they could at one time. If there is a second stage to it, then more could be done at that time. It would not be a patchwork type project. They would like to see how much they can raise and set those and then if they need to come up with another round

of fund raising to do other renovations within the building they set more. The stars could contain names of donors, in memory of, or families. The stars would be installed mainly in front of the World Theatre lobby entrance and probably not extend in front of the Masonic Temple part of the building.

The main problem of the leakage into the building is from the sidewalk on the north side of the building. Those are the areas they would really like to get repaired. Depending on how many they acquire they would set them in front and start stretching towards the west around the building later. Pricing would depend on the size of the star; they would have a larger one and also a 10-12 inch would be a smaller one. He guessed there might be 15-20 larger ones and 30-40 smaller ones. This is basically another take on the brick program. MONA did this before with the bricks, but this would be a little more tailored to their project. This idea actually came from a fund raising company that contacted them because it is something they frequently do.

Moved by Lear seconded by Buschkoetter to approve the proposal submitted by the World Theatre Foundation to replace the existing sidewalk at 2318 Central Avenue with a non-standard material and granite contingent upon approval of construction dates and plans by the Downtown Improvement Board and Development Services. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

REJECT BIDS FOR SOUTH PARKS MAINTENANCE BUILDING

Mayor Clouse opened for discussion the bids received for the construction of the South Parks Maintenance Building located at E.K. and Mary Yanney Heritage Park.

At the August 25, 2009 Council meeting, the Council approved the plans and specifications for the construction of a maintenance building at the E.K. and Mary Yanney Heritage Park. Sealed bids for this project were received on September 16, 2009. The City received bids from:

- TL Sund Contracting, Lexington, NE - \$285,370 base bid
- Chief Construction, Kearney, NE - \$295,800 base bid
- McKinney Enterprises, Kearney, NE - \$354,600 base bid
- Central Contracting, Kearney, NE - \$359,800 base bid

The Engineer's Opinion of Probable Construction Cost for the base bid was \$253,000. The low bid submitted by TL Sund Contracting is 12.7 Percent above the Engineer's Opinion of Probable Construction Cost. The dates of completion ranged from 120 to 270 days.

City Manager Michael Morgan stated that the Council previously authorized staff to advertise for the construction of the maintenance building to service Yanney Park. Unfortunately, the costs that came in with the bid were significantly higher than the engineers estimate. Although, it shows that it was roughly 13 percent above that, it did not include some basics like fencing and a few other major items that concerned them. The cost was in excess of \$300,000 and in looking at the project they believed that they needed to take a step back and evaluate some other options. He believed this would be an excellent opportunity to pursue some new alternatives.

The State of Nebraska allows City governments to design build or “construction manager risk” which staff is going to evaluate and bring forth to the Council some of the policies necessary to be able to do that type of program. This is a small project, but would allow the City the opportunity to evaluate that process and see how it would work. School districts and County governments have used this process for some time. Cities have not been able to use it until the last legislative session. He thought the City can do a little better if it followed that process and is interested in how that would work.

Mayor Clouse stated the process is pretty comprehensive, but might give the City an option to manage the construction projects coming up to protect our citizens and tax payers from cost overruns and still get the product that is wanted.

Moved by Buschkoetter seconded by Clouse to reject the bids received for the construction of the South Parks Maintenance Building located at E.K. and Mary Yanney Heritage Park. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

CLOSE OUT SAFE ROUTES TO SCHOOL GRANT

Mayor Clouse opened for discussion closing out the Nebraska Department of Roads Safe Routes to School Grant.

Grant and Marketing Coordinator Suzanne Brodine presented this matter to the Council. The Safe Routes to School Grant was awarded in 2007 in the amount of \$250,000. The purpose was to create infill sidewalks and do some sidewalk construction in the Kenwood district. The wider ADA accessibility sidewalks were to encourage children to ride bicycles and walk to school. This has been a very arduous process with this in changing guidelines. It has been a very serious burden on the property owners in this area because of the restrictions this project has with the federal dollars that are tied to it. There were a lot of property owners in the Kenwood area that were very concerned about the number of mature trees that would need to be taken out (approximately 70 trees). There were a lot of property owners who were going to have some very interesting grading issues happening on their property.

This project required a very large setback from the street before the sidewalk could be built and a 5-foot wide sidewalk. In the Kenwood area, those houses were not designed for that sort of a setback and would have resulted in those sidewalks being very close to people's homes. The City has worked with the engineers to try and find a way to go through with this project that is fair to the property owners, but still follow the required federal guidelines that were mandated. In the meantime, they still have not received final approval for this from the State.

Since Kenwood's bond issue passed and they anticipate moving the Kenwood students to a new school and the existing school becoming the administration building, they do not believe this project will any longer meet the intent of the grant. Once students are no longer attending school at this location, the proposed sidewalk no longer meets that purpose of funneling students to their school. There are two reasons why they want to close this project out. First is the changing of the school district, the purpose of the grant

is not being met and second is the burden that it would be placing on the residents of this area.

The City actually has not received any funding from the state yet. Over the last few years, they have had some guideline changes come down from the state and federal levels. They have done several revisions on their engineering and that is all that has been done so far on this project which the City has paid for as they went along. At this point, it is just a matter of writing a letter to the state and saying that we do not believe the project is a good fit any more.

City Manager stated the City still has \$115,000 of remaining funds, so when the new school site is determined the City will go into the Kenwood area and get students to the new school. This will provide the ability for the City to have the flexibility to do a lot of work. Standard sidewalks are currently four feet and if the City could have done some curb sidewalks in some areas, it would have met the intent and the spirit of the project. The state declined to allow the City to do that and, in looking at the site itself, it was determined there must be a better way to do this. Mayor Clouse stated that a better way for the City to do it is to do it and set its own rules.

Council member Buschkoetter said he was excited to get the grant in his neighborhood, but now that they are not going to do it, he is again excited because it was a bureaucratic nightmare. City Manager stated with federal dollars, there are communities where these monies can be used more effectively.

Moved by Clouse seconded by Kearney to approve closing out the Nebraska Department of Roads Safe Routes to School Grant and approve **Resolution No. 2009-166**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2009-166

WHEREAS, on September 25, 2007 the City of Kearney, Nebraska entered into an Agreement with the State of Nebraska Department of Roads to construct 50 blocks of new sidewalks to fill gaps in the Kenwood Elementary area and to place digital speed readers at the intersection of 5th Avenue and 11th Street with funds made available through STP Safe Routes Program funds; and

WHEREAS, the federal share payable was \$250,000.00 and the City of Kearney committed to in-kind donation in the amount of \$6,950.00 and additional local funding of approximately \$143,806.00; and

WHEREAS, the proposed sidewalks were designed to channel students from the surrounding area to the Kenwood building; and

WHEREAS, with the passage of the recent school bond issue, the Kearney Public Schools intend to repurpose the Kenwood building as an administration building, thereby reducing the need for the project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that based on the results of the recent school bond issue and the restructuring of the Kenwood building as an administration building that the Nebraska Department of Roads Safe Routes to School Grant be closed out.

BE IT FURTHER RESOLVED that the Mayor be authorized and directed to proceed with the formulation of any documents necessary so as to effect closing out the Safe Routes to School Grant.

PASSED AND APPROVED THIS 22ND DAY OF SEPTEMBER, 2009.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$82,701.35, PLATTE VALLEY STATE BANK - \$46,118.12

Moved by Kearney seconded by Lammers that Open Account Claims in the amount of \$46,118.12 payable to Platte Valley State Bank, and in the amount of \$82,701.35 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:58 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK