

Kearney, Nebraska
March 23, 2010
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 March 23, 2010, 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; Suzanne Brodine, Assistant to the City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Jim Lynaugh, Airport Manager were also present. Some of the citizens present in the audience included: Al Jambor, Scott Stober, Candy Kuntz, Paul Brungardt, Ruth Sajevik, Jane Musil, Steve Altmaier from KGFW Radio and Sara Gibboney 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

Representative Dean Pofahl provided the Invocation.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS – POLICE DEPARTMENT VOLUNTEER PROGRAM

Dean Pofahl stated the senior volunteer program began at the Police Department 16 years ago. They have volunteered several thousands of hours which total \$18,055 for 1,278.75 hours over the past year.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

PROPOSED ACQUISITION – CORNERSTONE BEREAN CHURCH

Public Hearings 1, 2 and 3 were discussed together but voted on separately. They pertain to proposed acquisition of tracts of land on 30th Avenue and 11th Street.

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2010-53 accepting the Warranty Deed granted by Cornerstone Berean Church

City Attorney Michael Tye presented this matter to the Council. As a part of the construction to be completed along 11th Street and 30th Avenue, it is necessary for the City to acquire certain easements and additional right-of-way. It is necessary for the City to acquire additional right-of-way at the corner of 11th Street and 30th Avenue from the Cornerstone Berean Church for future improvements. A Warranty Deed was granted by the church to the City of Kearney at no cost to the City.

Also, it is necessary for the City to acquire additional right-of-way at the intersection of 11th Street and 30th Avenue for improvements at that intersection. A Warranty Deed was granted by RHOJCOAMT Partnership transferring the property necessary to make such improvements to the City of Kearney. Again, this right-of-way is granted at no cost to the City.

Finally, a Temporary and Permanent Sanitary Sewer Easement was granted by RHOJCOAMT Partnership who owns the adjacent property. The City is acquiring this easement for placement of permanent sanitary sewer along 11th Street and 30th Avenue. The property owner is granting this easement to the City of Kearney at no cost.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the proposed acquisition of a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2010-53** accepting the Warranty Deed granted by Cornerstone Berean Church. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2010-53

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 right-of-way purposes and voted in favor to proceed with the acquisition; and

WHEREAS, Cornerstone Berean Church has granted to the City of Kearney, Nebraska a Warranty Deed for right-of-way purposes for a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 9, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and more particularly describe as: the North 50.0 feet of the East 1054.07 feet of the Northeast Quarter of the Northeast Quarter of said Section 9, except that part of a tract conveyed to Buffalo County by deed recorded May 12, 1942 and filed in Book 137, Page 140 of the Buffalo County Register of Deeds office; TOGETHER WITH the East 50.0 feet of the South 1060.0 feet of the North 1110.0 feet of the Northeast Quarter of the Northeast Quarter of said Section 9, containing 2.427 acres more or less, of which the North 20 feet and East 20 feet are presently being used for road purposes and containing 0.979 acres and except 0.32 acres deeded to Buffalo County.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deed granted by Cornerstone Berean Church to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

PROPOSED ACQUISITION – RHOJCOAMT PARTNERSHIP

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

Mayor Clouse opened the public hearing on the proposed acquisition of a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2010-54 accepting the Warranty Deed granted by RHOJCOAMT Partnership.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the proposed acquisition of a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2010-54** accepting the Warranty Deed granted by RHOJCOAMT Partnership. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2010-54

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 right-of-way purposes and voted in favor to proceed with the acquisition; and

WHEREAS, RHOJCOAMT Partnership Ltd., a Texas Limited Partnership, has granted to the City of Kearney, Nebraska a Warranty Deed for right-of-way purposes for a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, being more particularly described as follows: Beginning at the intersection of the North right-of-way line of 11th Street (a street in the City of Kearney, Buffalo County, Nebraska) and the East right of way line of 30th Avenue (a street in the City of Kearney, Buffalo County, Nebraska) said point being 33.0 feet North of the South line of the Southwest Quarter of the Southwest Quarter and 33.0 feet East of the West line of the Southwest Quarter of the Southwest Quarter of said Section 3 and assuming the South line of said Southwest Quarter of the Southwest Quarter as bearing S89°27'04"E and all bearings herein are relative thereto; thence S89°27'04"E on the North right of way line of said 11th Street a distance of 201.03 feet; thence N00°32'56"E perpendicular to said right-of-way line a distance of 3.0 feet; thence northwesterly on a 193.0 foot radius non-tangent curve to the right (concave southwesterly) forming a central angle of 91°25'28" an Arc distance of 308.11 feet to a point 3.0 feet easterly of the East right of way line of 30th Avenue as measured perpendicular to said east line, said point bearing N43°44'20"W a Chord distance of 276.45 feet from the previous described point; thence N88°01'33"W and perpendicular to said East right of way line a distance of 3.0 feet to the East line of said 30th Avenue; thence S01°58'27"W and on the afore said East line of 30th Avenue a distance of 201.03 to the point of termination, containing 0.22 Acres more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deed granted by RHOJCOAMT Partnership Ltd., a Texas Limited Partnership to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SANITARY SEWER EASEMENT – RHOJCOAMT PARTNERSHIP

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

Mayor Clouse opened the public hearing on the proposed acquisition for a Temporary and Permanent Sanitary Sewer Easement granted by RHOJCOAMT Partnership for a tract of land being part of the Southwest Quarter of the Southeast Quarter, part of the Southeast Quarter of the Southwest Quarter, and part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2010-55.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the proposed acquisition for a Temporary and Permanent Sanitary Sewer Easement granted by RHOJCOAMT Partnership for a tract of land being part of the Southwest Quarter of the Southeast Quarter, part of the Southeast Quarter of the Southwest Quarter, and part of the Southwest Quarter of the Southwest Quarter of Section 3,

Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2010-55**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2010-55

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 a Temporary Sanitary Sewer Main Easement and a Permanent Sanitary Sewer Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, RHOJCOAMT Partnership Ltd., a Texas Limited Partnership, has granted to the City of Kearney, Nebraska a Temporary Sanitary Sewer Main Easement on a 20 feet wide tract of land being part of the Southwest Quarter of the Southeast Quarter, part of the Southeast Quarter of the Southwest Quarter, and part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: a 20 feet wide tract lying Easterly, Northerly and Westerly and abutting the above described tract; and

WHEREAS, RHOJCOAMT Partnership Ltd., a Texas Limited Partnership, has granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer Main Easement on a 30 feet wide tract of land (15 feet each side of centerline) being part of the Southwest Quarter of the Southeast Quarter, part of the Southeast Quarter of the Southwest Quarter, and part of the Southwest Quarter of the Southwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, the centerline of which is more particularly described as follows: Referring to the Southeast corner of said Southwest Quarter of the Southeast Quarter and assuming the South line of said Southeast Quarter as bearing N89°27'38"W and all other bearings shown hereon relative thereto; thence N89°27'38"W on said South line (also the centerline of 11th Street as platted in the City of Kearney, Buffalo County, Nebraska) a distance of 24.89 feet; thence N00°32'22"E perpendicular to said South line a distance of 33.00 feet to the Northerly right-of-way line of said 11th Street and the ACTUAL POINT OF BEGINNING of said centerline; thence N00°32'22"E continuing perpendicular to said South line a distance of 27.00 feet; thence N89°27'38"W parallel with said South line a distance of 1289.18 feet to POINT 'A' (a point to be referred to later in this description); thence N89°27'20"W parallel with the South line of said Southeast and Southwest Quarter of the Southwest Quarter a distance of 1200.00 feet to POINT 'A' (a point to be referred to later in this description); thence continuing N89°27'20"W parallel with said South line a distance of 1300.00 feet; thence S00°32'40"W perpendicular to said South line a distance of 27.00 feet to said North line of 11th Street and the point of termination; AND a tract whose centerline begins at previously described POINT 'A'; thence S00°32'22"W a distance of 27.00 feet to said North line of 11th Street and the point of termination; AND a tract whose centerline begins at previously described POINT 'B'; thence S00°32'40"W a distance of 27.00 feet to said North line of 11th Street and the point of termination, said tracts containing 2.69 acres, more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Temporary Sanitary Sewer Main Easement and the

Permanent Sanitary Sewer Main Easement granted by RHOJCOAMT Partnership Ltd., a Texas Limited Partnership, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

TRAIL AND UTILITY EASEMENT – SOUTHSIDE REAL ESTATE

Public Hearings 4 and 5 were discussed together but voted on separately. They pertain to easements needed for the hike/bike trail and a pedestrian bridge across Turkey Creek.

Mayor Clouse opened the public hearing on the proposed acquisition for a Temporary and Permanent Trail Right-of-Way and Utility Easement granted by Southside Real Estate, LLC for a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2010-56.

City Attorney Michael Tye presented this matter to the Council. The City is in the process of constructing a pedestrian bridge across Turkey Creek as a part of the City's hike-bike trail system. It is necessary for the City to acquire temporary and permanent trail right-of-way easements for the extension of the trail in connection to this pedestrian bridge. The City had earlier received permission to proceed with construction and now has received signed easements from the property owners. These easements grant to the City of Kearney permanent trail right-of-way for the hike-bike trail. The property owners involved are donating the property for both the temporary and permanent trail right-of-way easement and so there is no expenditure of City funds for the purpose of acquiring this additional trail right-of-way.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the proposed acquisition for a Temporary and Permanent Trail Right-of-Way and Utility Easement granted by Southside Real Estate, LLC for a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2010-56**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2010-56

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 a Temporary Trail Construction Easement and a Permanent Trail Right-of-Way and Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Southside Real Estate, LLC, has granted to the City of Kearney, Nebraska a Temporary Trail Construction Easement for a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and being more particularly described as follows: Beginning at the Northeast Corner of Lot 1, Interstate Second Addition, said point being the point of intersection of the south bank of the North Channel of the Platte River and the westerly right-of-way line of Nebraska State Highway No. 44 and assuming the west right-of-way line as bearing S07°07'27"W and all bearings contained herein and relative thereto; thence S07°07'27"W on said westerly right-of-way line a distance of 90.0 feet; thence N82°52'33"W a distance of 20.66 feet; thence N03°03'55"E a distance of 20.71 feet; thence N82°16'01"W a distance of 7.27 feet to the southeast corner of an existing concrete sign base; thence N08°42'36"E and along the easterly edge of said sign base a distance of 4.85 feet to the northeast corner of said sign base; thence N82°16'01"W and parallel with the northeasterly edge of said existing sign base a distance of 27.37 feet to a point, said point being 5.0 feet southeasterly of as measured perpendicular to the south line of an existing 10 foot trail and utility easement; thence S62°55'15"W parallel with and 5.0 feet southeasterly of said south line of said trail and utility easement a distance of 54.92 feet; thence N82°52'33"W a distance of 7.94 feet to a point on the south line of said existing 10 foot trail and utility easement; thence N07°07'27"E and parallel with east line of said Lot 1 and the west right-of-way line of Nebraska State Highway No. 44 a distance of 38.39 feet to a point on the north line of said Lot 1; thence N76°59'19"E and on the north line of said Lot 1 a distance of 75.15 feet; thence N59°11'06"E and continuing on the north line of said Lot 1 a distance of 50.01 feet to the point of beginning, containing 4,910 sq. ft. (0.113 Acres) more or less, all in Buffalo County, Nebraska; and

WHEREAS, Southside Real Estate, LLC, has granted to the City of Kearney, Nebraska a Permanent Trail Right-of-Way and Utility Easement for a tract of land being part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and being more particularly described as follows: Beginning at the Northeast Corner of Lot 1, Interstate Second Addition, said point being the point of intersection of the south bank of the North Channel of the Platte River and the westerly right-of-way line of Nebraska State Highway No. 44 and assuming the west right-of-way line as bearing S07°07'27"W and all bearings contained herein and relative thereto; thence S07°07'27"W on said westerly right-of-way line a distance of 85.0 feet; thence N82°52'33"W a distance of 16.0 feet; thence N03°03'55"E a distance of 17.98 feet to a point on a non-tangent curve; thence on a 48.4 foot radius non-tangent curve to the left forming a central angle of 67°05'04", an arc distance of 56.67 feet, to a point on the south line of an existing 10 foot trail and utility easement, said point bearing N83°32'13"W a chord distance of 53.49 feet from the point of non-tangency; thence N27°04'45"W a distance of 10.0 feet to a point on the north line of said existing 10 foot trail and utility easement; thence N62°55'15"E on said north line of said existing trail and utility easement a distance of 39.1 feet; thence N07°21'27"E and leaving the north line of said trail and utility easement a distance of 5.01 feet to a point on the north line of said Lot 1; thence N76°59'19"E and on the north line of said Lot 1 a distance of 4.89 feet; thence N59°11'06"E and continuing on the north line of said Lot 1 a distance of

50.01 feet to the point of beginning, Containing 2,807 sq. ft. (0.064 Acres) more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Temporary Trail Construction Easement and a Permanent Trail Right-of-Way and Utility Easement granted by Southside Real Estate, LLC, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

TRAIL EASEMENT – TN PROMOTIONS

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

Mayor Clouse opened the public hearing on the proposed acquisition of tracts of land: Temporary and Permanent Trail Right-of-Way Easement granted by TN Promotions, LLC for a tract for a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and to consider Resolution No. 2010-57.

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 tracts of land: Temporary and Permanent Trail Right-of-Way Easement granted by TN Promotions, LLC for a tract for a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and approve **Resolution No. 2010-57**. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2010-57

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 a Temporary Trail Construction Encroachment Easement and a Permanent Nonexclusive Trail Right-of-Way Easement and voted in favor to proceed with the acquisition; and

WHEREAS, TN Promotions, LLC, a Nebraska Limited Liability Partnership, has granted to the City of Kearney, Nebraska a Temporary Trail Construction Encroachment Easement for a 30 foot by 66 foot Sign Easement and included within the following described Trail Easement: a tract of land being that part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and being more particularly described as follows: Beginning at the Northeast Corner of Lot 1,

Interstate Second Addition, said point being the point of intersection of the south bank of the North Channel of the Platte River and the westerly right-of-way line of Nebraska State Highway No. 44 and assuming the west right-of-way line as bearing S07°07'27"W and all bearings contained herein and relative thereto; thence S07°07'27"W on said westerly right-of-way line a distance of 90.0 feet; thence N82°52'33"W a distance of 20.66 feet; thence N03°03'55"E a distance of 20.71 feet; thence N82°16'01"W a distance of 7.27 feet to the southeast corner of an existing concrete sign base; thence N 08°42'36" E and along the easterly edge of said sign base a distance of 4.85 feet to the northeast corner of said sign base; thence N82°16'01"W and parallel with the northeasterly edge of said existing sign base a distance of 27.37 feet to a point, said point being 5.0 feet southeasterly of as measured perpendicular to the south line of an existing 10 foot trail and utility easement; thence S62°55'15"W parallel with and 5.0 feet southeasterly of said south line of said trail and utility easement a distance of 54.92 feet; thence N82°52'33"W a distance of 7.94 feet to a point on the south line of said existing 10 foot trail and utility easement; thence N07°07'27"E and parallel with east line of said Lot 1 and the west right-of-way line of Nebraska State Highway No. 44 a distance of 38.39 feet to a point on the north line of said Lot 1; thence N76°59'19"E and on the north line of said Lot 1 a distance of 75.15 feet; thence N59°11'06"E and continuing on the north line of said Lot 1 a distance of 50.01 feet to the point of beginning, containing 4,910 sq. ft. (0.113 Acres) more or less, all in Buffalo County, Nebraska; and

WHEREAS, TN Promotions, LLC, a Nebraska Limited Liability Partnership, has granted to the City of Kearney, Nebraska a Permanent Nonexclusive Trail Right-of-Way Easement for a 30 foot by 66 foot Sign Easement and included within the following described Trail Easement: a tract of land being part of Lot 1, Interstate Second Addition to the City of Kearney, an addition located in Government Lot 5 of Section 11, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska and being more particularly described as follows: Beginning at the Northeast Corner of Lot 1, Interstate Second Addition, said point being the point of intersection of the south bank of the North Channel of the Platte River and the westerly right-of-way line of Nebraska State Highway No. 44 and assuming the west right-of-way line as bearing S07°07'27"W and all bearings contained herein and relative thereto; thence S07°07'27"W on said westerly right-of-way line a distance of 85.0 feet; thence N82°52'33"W a distance of 16.0 feet; thence N03°03'55"E a distance of 17.98 feet to a point on a non-tangent curve; thence on a 48.4 foot radius non-tangent curve to the left forming a central angle of 67°05'04", an arc distance of 56.67 feet, to a point on the south line of an existing 10 foot trail and utility easement, said point bearing N83°32'13"W a chord distance of 53.49 feet from the point of non-tangency; thence N27°04'45"W a distance of 10.0 feet to a point on the north line of said existing 10 foot trail and utility easement; thence N62°55'15"E on said north line of said existing trail and utility easement a distance of 39.1 feet; thence N07°21'27"E and leaving the north line of said trail and utility easement a distance of 5.01 feet to a point on the north line of said Lot 1; thence N76°59'19"E and on the north line of said Lot 1 a distance of 4.89 feet; thence N59°11'06"E and continuing on the north line of said Lot 1 a distance of 50.01 feet to the point of beginning, containing 2,807 sq. ft. (0.064 Acres) more or less, all in Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Temporary Trail Construction Encroachment Easement and a Permanent Nonexclusive Trail Right-of-Way Easement granted by TN Promotions, LLC, a Nebraska Limited Liability Partnership, to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CDBG FOR WORLD THEATRE

Mayor Clouse opened the public hearing concerning an application to the Department of Economic Development for Community Development Block Grant Funds pertaining to the World Theatre project and to consider Resolution No. 2010-58.

Candy Kuntz from Miller & Associates and the City's Grant Administrator presented this matter to the Council. The Tourism Development program is a funding category within the Community Development Block Grant (CDBG) program funded and developed by the Nebraska Department of Economic Development. This program allows DED to award funds to tourism attractions (for profit or non-profit, public or private entities) at sites that are expected to draw 2,500 or more visitors from origins of at least 100 miles away. Tourism attractions are sites and facilities that draw visitors because of their scenic, historic, cultural, scientific and/or recreational attributes.

In order to be eligible for CDBG funds the project has to meet one of two national objectives: (1) At least 51% of the persons who would benefit from implementation of the project are low-to-moderate income persons. Any such activity for an area or a community composed of persons of whom are at least 51% low-and-moderate income persons shall be considered to meet this national objective. This project fits into the Limited Clientele National Objective (LMC) as it will remove architectural barriers and make the building handicapped accessible. (2) Activities that eliminate specific conditions addressing slums and blight will meet this national objective. This project will also meet this national objective, as it will be eliminating blighted conditions in a dilapidated structure in Redevelopment Area #4.

The total funds requested from CDBG for the project are \$200,000. Cash match and in-kind labor and material donations will also be a part of the project. The matching portion is \$205,000. The World Theatre Foundation is also contributing non-CDBG leveraged funds for the project in the amount of \$74,650. This brings the CDBG portion of the project to \$405,000 and the total project to \$479,650. The funds will be used for making the building and restrooms handicapped accessible, replacing the seating, remodeling the stage, installing a fire sprinkler system, new sound equipment and a projector and other renovations to the interior and exterior of the building.

If funded, the project will have a 24-month completion schedule. The World Theatre Foundation is planning on completing the renovations by May 2011 which will be well within the grant agreement period. The City will not be contributing any money toward the project, as they will be the grantee for the funds and the World Theatre Foundation is the sub-recipient. The World Theatre Foundation will be responsible for all matching funds.

They are applying for \$200,000 from CDGB which is the maximum amount they can apply for. She noted that in the funding summary that the matching portion is \$200,000 rather than \$205,000 from the World Theatre Foundation. They will also contribute the non-leveraged funds. This brings the CDGB portion of the project to \$400,000 rather

than the \$405,000 that was in the notice. The total project cost with the CDGB funds, the matching funds and the non CDGB leveraged funds is \$474,650. She hoped to get the application sent in this week with hopefully a quick turn around from the DED to get notice of award. She knows that the Theatre is planning to do a limited run of the theatre being open this summer through the end of December. They hope to start ADA and public improvement renovations in January 2011. This will allow people to experience where their donations have gone so far.

Ben Rowe on behalf of the World Theatre Foundation thanked the City, City Council, Candy Kuntz and Suzanne Brodine for what they have done to put this grant together for them. These funds will help them realize their dreams on this project. The conceptual drawings done by Robert Hanna show what the theatre is proposed to look like and will be put on their Foundation website and Facebook so the public can view them.

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 Community Development Block Grant Funds pertaining to the World Theatre project and approve **Resolution No. 2010-58**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2010-58

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 \$200,000 for tourism development for the World Theatre project.

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

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated that City staff has withdrawn Item 12 of the Consent Agenda from consideration.

12. Approve Agreement for the Construction of Two Homes between the City of Kearney and the Kearney Area Habitat for Humanity in connection with the Neighborhood Stabilization Program grant and consider Resolution No. 2010-61.

Moved by Lammers seconded by Lear that Subsections 1 through 11 and 13 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held March 9, 2010.

2. Approve the following Claims:

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

AT&T \$137.10 Smcs; Allen,T \$898.00 Smcs; Amer First Aid \$161.11 Smcs; Ask Supply \$572.65 Smcs; Aurora Coop \$2,485.20 Smcs; Baird Holm \$4,737.50 Smcs; Baker & Taylor Books \$5,724.60 Smcs; Bamford \$200.00 Smcs; BBC Audiobooks \$496.92 Smcs; Bert Gurney & Assoc \$31,430.00 Co; Bill's Trailer Sales \$5,200.00 Co; Blevins,D \$240.00 Smcs; Bluecross Blueshield \$156,011.18 Smcs; Bosselman \$5,942.92 Smcs; Broadfoot's \$975.00 Smcs; Brodine,S \$231.00 Smcs; Buffalo Co Reg Deeds \$201.00 Smcs; Buffalo Co Treasurer \$18,750.00 Smcs; Buffalo Surveying \$1,101.40 Smcs; Cash-Wa \$535.50 smcs,co; CCDC \$90.38 Smcs; Central Hydraulics \$6,492.34 Smcs; CH Diagnostic \$460.00 Smcs; Charter \$389.97 Smcs; Child's World \$783.21 Smcs; City of Kearney \$10,603.29 co,ps; City of Kearney \$7,300.31 Smcs; College Savings Plan of NE \$150.00 Ps; Copycat Printing \$631.50 Smcs; Cummins \$137.09 Smcs; Dawson Co PPD \$19,407.00 Smcs; Depository Trust \$3,455,422.03 Ds; Dish Network \$50.63 Smcs; DPC Industries \$4,661.19 Smcs; Eakes \$4,643.23 smcs,co; Eckhoff Construction \$13,176.58 Co; Elliott Equipment \$234.74 Smcs; EMC Ins \$20,418.37 Smcs; Environmental Direct \$1,490.00 Smcs; Farmers Union Coop \$499.50 Smcs; Fearnely,M \$121.99 Smcs; Fedex \$337.35 Smcs; Footjoy \$2,016.82 Smcs; Ft Ky Shooting \$5,000.00 Smcs; Frontier \$8,239.41 Smcs; Full Tilt Management \$1,300.00 Smcs; Gale \$737.22 Smcs; Gangwish Turf \$35.00 Smcs; Garrett Tires \$102.30 Smcs; GE Money Bank \$2,008.48 Smcs; Gensler \$3,935.11 Smcs; Glinnsmann,D \$21.96 Smcs; Graham Tire \$31.80 Smcs; Graham,M \$35.00 Smcs; Great Plains One Call \$194.83 Smcs; Grupe,B \$59.80 Smcs; Gustafson,L \$23.77 Smcs; HD Supply \$9,348.08 Smcs; Highsmith \$378.25 Smcs; Hollman \$300.00 Smcs; Howe,C \$37.45 Smcs; Huerta's Upholstery \$50.00 Smcs; Humphreys Carpet \$225.00 Co; HWS Consulting Group \$20,379.11 Co; Hydrite Chemical \$1,784.70 Smcs; ICMA RC \$4,625.01 Ps; Industrial Fabrics \$1,416.70 Smcs; IRS \$106,854.26 Ps; Jack Lederman \$987.37 Smcs; Jacobsen,C \$100.00 Smcs; Jelinek,T \$18.30 Smcs; Ky Clinic \$894.00 smcs,ps; Ky Comm Foundation \$1,000.00 Smcs; Ky Hub \$799.00 Smcs; Ky Implement \$2,384.73 Smcs; Kearney Towing \$75.00 Smcs; KGFV \$693.92 Smcs; Kirkham Michael \$911.11 Co; Konica Minolta \$369.01 Smcs; Krebs,J \$27.22 Smcs; Lang,L \$70.50 Smcs; Large,J \$170.00 Smcs; League of NE Municipalities \$1,032.00 Smcs; Lerner Publishing \$1,050.09 Smcs; LexisNexis Mathew Bender \$289.31 Smcs; Lieske Law Firm \$696.58 Smcs; Linda's Upholstery \$104.70 Smcs; Linweld \$31.92 Smcs; Lohmann,M \$21.77

Smcs; LVNV Funding \$276.09 Ps; Magic Cleaning \$5,160.00 Smcs; Mail Express \$309.77 Smcs; Marlatt Machine Shop \$45.00 Smcs; Marriott \$476.00 Smcs; Metlife \$8.10 Ps; Microfilm Imaging Systems \$2,590.00 Smcs; Miller & Associates \$24,514.45 Co; Mines Safety Appliances \$805.04 Smcs; Miracle Recreation \$2,003.45 Co; Motorola \$26,345.00 Smcs; Municipal Supply \$16,597.15 Smcs; NE Aviation Trades Assoc \$75.00 Smcs; NE Child Support \$2,950.20 Ps; NE Coalition for Victims \$50.00 Smcs; NE Dept of Aeronautics \$995.00 Ds; NE Dept of Roads \$15.00 Smcs; NE Environmental Products \$100.00 Smcs; NE Firefighters Museum \$5,000.00 Co; NE Humanities Council \$50.00 Smcs; NE Municipal Clerk Institute \$230.00 Smcs; NE Press Advertising \$1,180.00 Smcs; Northwestern Energy \$16,118.58 Smcs; NOVA Fitness Equipment \$141.72 Ps; Novus \$108.00 Smcs; O'Keefe Elevator \$3,777.00 smcs,co; Otto Environmental \$380.00 Smcs; Oxford University Press \$46.27 Smcs; Paramount \$16.17 Smcs; Pedcor \$100.00 Smcs; Petersen,S \$22.43 Smcs; Platte River Radio \$164.00 Smcs; Platte Valley Comm \$213.55 Smcs; Portfolio Recovery Assoc \$393.58 Ps; Presto-X \$162.75 Smcs; Pro-Quest \$3,135.00 Smcs; Pulliam,R \$40.00 Smcs; Random House \$120.00 Smcs; Recorded Books \$1,341.94 Smcs; Richardson,M \$264.00 Smcs; Rodiek,D \$69.55 Smcs; Sapp Brothers \$23,621.00 Smcs; Sentry Armor Systems \$2,359.13 Smcs; S-F Lab \$1,231.00 Smcs; Sheen,S \$16.00 Smcs; Snap-On Tools \$486.45 Smcs; Sorensen Group \$22,570.20 Co; Sorrell,K \$2.54 Smcs; St of NE \$240.00 Smcs; Stocker,K \$18.30 Smcs; Strong,R \$35.00 Smcs; Super Shine Auto \$8.50 Smcs; Technical Maintenance \$325.67 Smcs; Titleist \$291.14 Smcs; Traffic & Transportation \$556.00 Smcs; Turfwerks \$207.00 Smcs; Turner Body Shop \$75.00 Smcs; Unique Management \$313.25 Smcs; Viaero Event Center \$3,500.00 Smcs; Village Uniform \$412.45 Smcs; Wellness Works \$250.00 Ps; West Payment Center \$1,372.10 Smcs; Wiederspan,R \$59.80 Smcs; Wiegand Security \$75.00 Smcs; Wilkins Hinrichs Stober \$2,673.00 Co; Willmar Electric \$25,480.00 Co; WPCI \$107.00 Ps; Yanda's Music \$29.00 Co; Payroll Ending 3-13-2010 -- \$314,848.96. 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 April 13, 2010 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the application for a Special Designated License submitted by KEARNEY INVESTMENT CORP., dba Holiday Inn in connection with their Class CK-17964 catering liquor license to dispense beer, wine and distilled spirits inside the Museum of Nebraska Art and in a tent located north of the building, 2401 Central Avenue, on April 10, 2010 from 5:00 p.m. until 11:00 p.m. for a reception.
5. Approve the application for deferral of special assessments submitted by Kelly Rapp and Laureen Striker-Rapp in connection with Paving Improvement District Nos. 2010-938 and 2010-939, Water District No. 2010-559 and Sanitary Sewer District No. 2010-499 pertaining to Park View Estates Fifth Addition for property described as part of the Northwest Quarter of the Northwest Quarter of Section 11, Township 8 North, Range 16 West of the 6th P.M. and part of the Southwest Quarter of the Southwest Quarter of Section 2, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska.
6. Approve the request submitted by Terry Broadfoot to extend Conditional Use

Permit No. 2000-03 to operate a gravel mining operation located ¾ mile west of Fort Kearny Inn and south of I-80 for a period of five years.

7. Approve the revised Kearney Public Library Policy Manual and approve **Resolution No. 2010-59.**

RESOLUTION NO. 2010-59

WHEREAS, the “Policy Manual for the Kearney Public Library and Information Center” of the Kearney Public Library and Information Center was adopted on September 12, 2006 by Resolution No. 2006-156; and

WHEREAS, the entire policy was revamped and on April 8, 2008 the Council adopted Resolution No. 2008-57 approving the new policy; and

WHEREAS, the Library Advisory Board has revised and updated the policy which needs to be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the recommendation from the Library Advisory Board, on adopting the Policy Manual for the Kearney Public Library, a copy marked as Exhibit “A”, attached hereto and made a part hereof, be and is hereby accepted and approved.

BE IT FURTHER RESOLVED that the revised policy adopted in 2008 by Resolution No. 2008-57 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the request submitted by the Kearney Public Schools and the Human Performance Lab at UNK to conduct the 2nd Annual PATH Walk/Run on April 24, 2010 beginning at 8:45 a.m. The route will begin at UNK Foster Field, east on 28th Street, south on 6th Avenue, west of 26th Street, south on 15th Avenue, west of 25th Street, south on 19th Avenue, west of 24th Street, north on Country Club land to the hike/bike trail, east on hike/bike trail to University Drive, north through parking lot and ending at UNK Foster Field.

9. Approve the request submitted by the Kearney Hub, the Viaero Event Center, and the Kearney Volunteer Fire Department, in conjunction with Kidz Explore, to block off the west end of Platte Road in front of the Viaero Event Center, 609 Platte Road, on April 24, 2010 from 9:00 a.m. until 5:00 p.m. and on April 25, 2010 from 12:00 p.m. until 5:00 p.m.

10. Approve Application and Certificate for Payment No. 4 in the amount of \$36,344.17 submitted by Midlands Contract and approved by Miller & Associates 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 approve **Resolution No. 2010-60.**

RESOLUTION NO. 2010-60

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with 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 the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$36,344.17, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$341,655.00</u>
Contract Sum To Date	341,655.00
Gross Amount Due	320,230.00
Retainage	16,011.50
Amount Due to Date	304,218.50
Less Previous Certificates for Payment	<u>267,874.33</u>
Current Payment Due	\$ 36,344.17

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. 4, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

11. Approve the Plans and Specifications for the 2010 Part 2 Improvements consisting of Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street; Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street; Water District No. 2010-559 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street; and Sanitary Sewer District No. 2010-499 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street and set the bid opening date for April 21, 2010 at 2:00 p.m.

13. Approve the Memorandum of Understanding between the City of Kearney and the World Theatre Foundation outlining the terms of the CDBG Tourism Development Grant and approve **Resolution No. 2010-62.**

RESOLUTION NO. 2010-62

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 Memorandum of Understanding between the City of Kearney and the World Theatre Foundation outlining the terms and conditions of the CDBG Tourism Development Grant. A copy of the

Memorandum of Understanding, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7583 – PROMISSORY NOTE FOR AIRPORT TERMINAL IMPROVEMENTS

As you will recall, on September 8, 2009, the City Council approved the 2009-2010 City of Kearney budget document after a public hearing. Included in the 2009-2010 budget document is a transfer of \$750,000 from the Kearney Area Solid Waste Agency Fund to the Kearney Regional Airport Fund. The purpose of the transfer is to provide funding for the Kearney Regional Airport Terminal addition and renovation project.

The transfer will be in the form of a formal promissory note as allowed pursuant to State Statute 18-1750. By law, the term of the loan cannot exceed two years; however, since the intention is to repay the loan over a three-year period, the loan will be renewable every two years. The interest rate will be three percent; therefore, the annual payment will be \$265,147.77. Funding has been included in the Special Sales Tax Fund to repay the loan over the next three years.

Council Member Lear introduced Ordinance No. 7583, being Subsection 1 of Agenda Item V providing for the issuance of a Promissory Note in the amount of \$750,000 for the payment of claims against the City relating to capital expenditures for Airport Terminal Improvements; agreeing to pay the Notes and accrued interest from funds collected or to be collected upon current or subsequent tax levy and ordering the publication of the ordinance in pamphlet form, 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, 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. 7583 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 Buschkoetter seconded by Clouse that Ordinance No. 7583 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. 7583 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

AWARD BID FOR AIRPORT TERMINAL ADDITION AND RENOVATION

Mayor Clouse opened for discussion the bids received for the Kearney Regional Airport Terminal Addition and Renovation Project and to consider Resolution No. 2010-63 awarding the bid to Central Contracting Corporation of Kearney, Nebraska in the amount of \$694,450.00 for the base bid and Alternates 1 through 4.

On February 9, 2010 the City Council approved the plans and specifications for the Airport Terminal Addition and Renovation Project. This project consists of constructing approximately 1,800 square feet of new wood frame addition, and the renovation of approximately 5,000 square feet of the existing terminal. Renovation will involve mainly fixtures and new finishes. On March 4, 2010 the City received the following seven bids:

Contractor	Base Bid	Alternate 1 Windows, EIFS	Alternate 2 New West Entry	Alternate 3 New Canopy	Alternate 4 Reroofing	Alternate 5 Generator
Central Contracting	\$468,950	\$61,000	\$78,000	\$30,000	\$56,500	\$28,000
Tri Valley Builders	\$477,700	\$73,500	\$89,500	\$40,500	\$54,800	\$28,000
Carmichael Construction	\$486,000	\$57,000	\$69,800	\$31,000	\$61,000	\$27,000
Chief Construction	\$494,500	\$60,800	\$86,500	\$35,700	\$51,100	\$28,490
Sampson Construction	\$510,000	\$59,500	\$85,500	\$35,000	\$67,000	\$28,000
Simon Constructors	\$538,000	\$67,900	\$88,800	\$34,900	\$55,200	\$28,600
Walt Broer Construction	\$577,700	\$67,700	\$87,700	\$39,700	\$66,700	\$31,700

Wilkins Hinrichs Stober Architects recommends awarding the bid to Central Contracting for a total amount of \$694,450.00 for the base bid and Alternates 1 through 4. The completion date for this project is December 14, 2010. The Engineer's estimate of construction cost was \$675,000.00.

Scott Stober from Wilkins Hinrichs Stober Architects presented this matter to the Council. He stated that originally they had put in the schedule that the contractor would be required to be complete by December 2010. With the Council's approval, they will meet with the contractor this week and get started on construction. They will work with them to get the exact phasing schedule in order to keep the terminal operating and working with the air service to make sure everything is operational through the construction period. They will probably start with the addition first. Once that is operational and they have the new restrooms, then they can close down the existing restrooms and begin renovating and working through the rest of the terminal. He believed that the completion date is generous and the project could be completed before that December date.

Moved by Clouse seconded by Kearney to approve the bids received for the Kearney Regional Airport Terminal Addition and Renovation Project and approve **Resolution No. 2010-63** awarding the bid to Central Contracting Corporation of Kearney, Nebraska in the amount of \$694,450.00 which includes Alternates 1 through 4. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion

carried.

RESOLUTION NO. 2010-63

WHEREAS, Wilkins Hinrichs Stober Architects and the City of Kearney have reviewed the sealed bids which were opened on March 4, 2010 at 2:00 p.m. for the Kearney Regional Airport Terminal Addition and Renovation Project; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$675,000.00; and

WHEREAS, the said engineers have recommended the bid offered by Central Contracting Corporation of Kearney, Nebraska in the sum of \$694,450.00 be accepted as the lowest responsible bid; and

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 Central Contracting Corporation of Kearney, Nebraska be and is the lowest responsible bidder for the Kearney Regional Airport Terminal Addition and Renovation Project to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Central Contracting Corporation of Kearney, Nebraska in the sum of \$694,450.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$675,000.00 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 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

PLANS AND SPECIFICATIONS FOR AIRPORT TERMINAL PARKING LOT

Mayor Clouse opened for discussion the Plans and Specifications for the Kearney Regional Airport Terminal Parking Rehabilitation (AIP Project No. 3-31-0045-23) and set the bid opening date for April 6, 2010 at 2:00 p.m. subject to F.A.A. approval.

Al Jambor from HWS Consulting Group presented this matter to the Council. As part of the Kearney Capital Improvement Program (CIP) and the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP), the resurfacing and expansion of the Terminal parking lot has been designed and is ready for bid. The plans and specifications for the parking lot have been prepared; however, F.A.A. has not authorized the advertising of the project.

City Manager Michael Morgan stated that it would be better not to describe this project as rehabilitation, but as complete removal and replacement. Essentially, everything to the west of the airport terminal gets taken out except the small building which will get refaced. This is the City's first opportunity for the new consulting group that was appointed a few months ago. They have done a wonderful job in getting this project going. It is unfortunate that federal dollars have been held up the past three years and

reauthorization funds for airports. The money has been set aside in that account; however, no airport has the authority to release those funds at the current time. The City will be waiting on the Federal government to hopefully reauthorize those funds. Mr. Jambor stated that he recently heard that the reauthorization has now gone to the House and the Senate and is ready for the Conference Committee, then on to the President.

City Manager stated this project would be completed before the terminal renovations, but they want to do some of these things together if possible. The challenge is the Federal approval, so at this meeting they can only ask for Council's acceptance of Plans and Specifications because they cannot advertise the bid. They are asking for Council's authorization to move forward as soon as they can. City staff will follow up with a separate budget for signage and landscaping which will significantly change the appearance of the area.

Mr. Jambor stated in order not to disrupt business, they have phased the project in two phases so that the north part of the project can be constructed while they provide some temporary parking on the south half and visa versa using that temporary access. The lighting will be located with two at the entrance and four that are lower along the drive that goes in front of the building and the other 20'-25' lights spread around the area. At their design review meetings they discussed having the lighting on all the time, since it is out in the country and fairly dark.

The proposed access road will be aligned with a future arterial road that is planned by the City on the west side of Airport Road. The new alignment will shift the access road intersection approximately 50 feet to the south. A one way loop road flow configuration has been designed. The use of one-way traffic, curb and gutters will allow efficient and safe drop off/pick up and parking for the public. A grassed island area/offset near the intersection with Airport Road is provided to allow for the development of a future left turn lane when required. This project includes the removal and replacement of the parking lot including area lighting. It will have 130 parking stalls.

Moved by Kearney seconded by Lammers to approve the Plans and Specifications for the Kearney Regional Airport Terminal Parking Rehabilitation (AIP Project No. 3-31-0045-23) subject to F.A.A. final comments and authorize City staff to advertise the project once F.A.A. has given final approval and has authorized the City to proceed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION OF INTENT TO ANNEX STEINBRINK LANDSCAPING

Mayor Clouse opened for discussion Resolution No. 2010-64 on the intent to annex the following tract of land: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of

said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue) and to set the public hearing date for April 13, 2010 at 7:00 p.m.

City Manager Michael Morgan presented this matter to the Council. The City of Kearney has received an agreement from Rocky Steinbrink from Steinbrink Landscaping and Greenhouses favoring the annexation of his property along 30th Avenue. The Council accepted the agreement on February 9, 2010.

Section 16-117 of the Nebraska Revised Statutes provides for the process of annexation. This matter was first considered at a public hearing before the Planning Commission at their meeting held on March 19, 2010 and was approved. The second action in this process is for the City Council to consider passing a resolution stating its intent to annex, approve an annexation plan, and to set a public hearing for comment on the proposed annexation before the City Council.

Moved by Lammers seconded by Lear to approve **Resolution No. 2010-64** on the intent to annex the following tract of land: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083 (1930 and 2010 30th Avenue) and to set the public hearing date for April 13, 2010 at 7:00 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2010-64

WHEREAS, the City of Kearney, Nebraska in accordance with Section 16-117 of the Nebraska Revised Statutes is considering the annexation of contiguous or adjacent lands, lots, tracts, streets or highway as are urban or suburban in character and a plan for extending city services to the following described tract of land: part of the East Half of the Northeast Quarter and part of the Northeast Quarter of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of the 6th P.M., Buffalo County Nebraska described as: bound by a line beginning at a point on the east line of Section 4, which is 1320 feet south of the northeast corner of said Section 4, running thence west parallel with the north line of said Section a distance of 660 feet; thence south parallel with the east line of said Section to the north line of the right-of-way of the Union Pacific Railroad Company; thence in an easterly direction along the north line of said right-of-way to the intersection with the east line of said Section 4; thence north along said east line to the place of beginning. Subject to public road right-of-way as recorded in the Road Record

Books as filed in the Buffalo County Surveyor's Office, except a tract of land deeded to the City of Kearney by Warranty Deed recorded June 23, 1999 as Inst. 1999-5083.

WHEREAS, the City Council will conduct a public hearing on April 13, 2010 or as soon thereafter as the matter may be heard to receive testimony from all interested parties and/or individuals; and

WHEREAS, the plan outlining the City services, including but not limited to: (a) water, sanitary sewer, storm sewer, refuse collection, are currently being provided and maintained by the City of Kearney and no additional utility improvements will be required; and (b) a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the City and the general land use pattern in the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that a plan outlining the City services available to the above-described properties, together with a map showing the current boundaries of the City, a map showing the proposed boundaries of the City after annexation, and a map showing the general land use pattern in the land proposed for annexation is hereby adopted and approved and shall be available for inspection during regular business hours in the office of the City Clerk.

BE IT FURTHER RESOLVED that a public hearing on the proposed annexation shall be held at 7:00 p.m. on April 13, 2010, or as soon thereafter as the matter may be heard, in the City Council Chambers located at City Hall, 18 East 22nd Street, Kearney, Nebraska to receive testimony from all interested parties and/or individuals.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to publish in the *Kearney Hub* at least once, not less than ten days preceding the date of the public hearing, a copy of this Resolution and a map drawn to scale delineating the land proposed for annexation.

BE IT FURTHER RESOLVED that the City Clerk be and is hereby authorized and directed to send by first-class mail, a copy of the resolution providing for the public hearing to the school board of the school district including the lands proposed for annexation.

PASSED AND APPROVED THIS 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

AWARD BID FOR 2010 PART I IMPROVEMENTS

Mayor Clouse opened for discussion the bids received for the for the 2010 Part 1 Improvements consisting of the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street and to consider Resolution No. 2010-65 awarding the bid to Blessing, LLC of Kearney, Nebraska in the amount of \$1,256,795.30.

Director of Public Works Rod Wiederspan presented this matter to the Council. At the February 9, 2010 Council meeting, the City Council approved the plans and specifications for 2010 Part 1 Improvements consisting of the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street. Sealed bids for this project were received on March 15, 2010.

The following were the bids received: Blessing LLC of Kearney, Nebraska in the amount of \$1,256,795.30 and Paulsen Inc. of Cozad, Nebraska in the amount of \$1,647,932.60. The Engineer's Opinion of Probable Construction Cost was \$1,468,765. The low bid from Blessing, LLC of Kearney, Nebraska is 14 percent below the Engineer's Opinion of Probable Construction Cost. The work involved is scheduled to be complete before October 22, 2010.

Moved by Lear seconded by Buschkoetter to approve the bids received for the for the 2010 Part 1 Improvements consisting of the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street and approve **Resolution No. 2010-65** awarding the bid to Blessing, LLC of Kearney, Nebraska in the amount of \$1,256,795.30. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2010-65

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on March 15, 2010 at 2:00 p.m. for the 2010 Part 1 Improvements consisting of the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$1,468,765.00; and

WHEREAS, the said engineers have recommended the bid offered by Blessing, LLC of Kearney, Nebraska in the sum of \$1,256,795.30 be accepted as the lowest responsible bid; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Blessing, LLC of Kearney, Nebraska be and is the lowest responsible bidder for the 2010 Part 1 Improvements consisting of the paving of 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing, LLC of Kearney, Nebraska in the sum of \$1,256,795.30 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$1,468,765.00 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 23RD DAY OF MARCH, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

OPEN ACCOUNT CLAIMS: NPPD - \$43,202.41, PLATTE VALLEY STATE BANK - \$50,052.95, STAN CLOUSE - \$104.50, SCHOOL DISTRICT #7 - \$2,288.65

Moved by Buschkoetter seconded by Kearney that Open Account Claims in the amount of \$50,052.95 payable to Platte Valley State Bank, in the amount of \$43,202.41 payable

to Nebraska Public Power District, and in the amount of \$104.50 payable to Stan Clouse be allowed. Roll call resulted as follows: Aye: Kearney, Buschkoetter, Lammers. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Clouse seconded by Kearney that Open Account Claims in the amount of \$2,288.65 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

CLOSED SESSION

Moved by Clouse seconded by Kearney that Council adjourn into closed session at 7:32 p.m. for the protection of the public interest to discuss real estate matters. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

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

Moved by Lear seconded by Buschkoetter that Council reconvene in regular session at 8:07 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 8:07 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK