

*Kearney, Nebraska
October 26, 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 October 26, 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 City Manager; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Terry Eirich, Ken Tracy, Paul Younes, Larry Butler, Paul Brungardt, Tony Blake, Bill Rochford, Margaret Briggs, Tim Hughbanks, 4 UNK students, Steve Altmaier fro KGFW Radio, Kevin Hervert 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

Pastor Doug Shada from Cornerstone Berean Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Three 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 – GOLDEN K KIWANIS CLUB

Bill Rochford, on behalf of the Golden K Kiwanis, made a presentation to the City Council. Their Kiwanis Club of 107 members is only one of many service organizations in the Kearney community. Their club members regularly report their volunteer hours at their weekly meetings which allows them to keep an ongoing record. This past club year between October 1, 2009 and September 30, 2010 their members reported 8,453 hours of community, youth, and human and spiritual services. By valuing their time at

\$10.00 per hour, their club members have donated time at \$84,530.00 to the Kearney community. If one were to multiply that sum by 15 service clubs in the community, including those at the high school and both middle schools, the contribution of those who serve as volunteers in Kearney results in a major impact.

CITY OF KEARNEY INSURANCE PROGRAM

Tim Hughbanks from Barney Insurance presented information to the City Council on the City's insurance program. Four years ago when they wrote this program, the premium was right at \$600,000. The expiring carrier at that time was renewing with an estimated 15 percent increase which would have put them at \$1 million that year. The first year with EMC, there was a savings of about \$400,000. With a couple changes in the policy, the way the work comp is written and with some increases in property, there have still been some decreases in premium. This amounts to as much as \$100,000 below what they originally wrote it for three years ago this year. The current year's renewal premium is \$499,680. Totaling this up over the past four years, it is a \$1.9 million in savings that the City has realized by making this change from the previous carrier. Mr. Hughbanks stated that their rates have stayed very steady. The fluctuation from one year to the next has been due to the growth of the City by adding some significant properties at Harmon Park and the Library Expansion and changes in vehicles and equipment which have all impacted the rates. Even with the claims of the tornado, the company has remained steady with the premiums.

The City's carrier, Employers Mutual, is very happy with the City's performance. They are in constant contact with the City representative, Kristi Grint. Mr. Hughbanks stated that he attends most of the Safety Committee meetings and safety audits and makes a report back to his underwriter with each and every visit. The underwriter continues to tell him there is just not another community in the state that takes safety as seriously as Kearney does. The underwriter tries to reward that diligence with keeping the rates as steady as they have.

City Manager Michael Morgan stated the ultimate goal is employee safety and believed that the City has done a good job as an employer. It is important to look at that number; it is almost a \$2 million savings. That number is a little bit less than the City collects in a year for property taxes. This is an excellent program with an excellent company that the City is doing business with and a local provider as well. The City employees have done a great job and are a big part of this. The Safety Committee was also commended.

II. UNFINISHED BUSINESS

OPEN ACCOUNT CLAIM TO SCHOOL DISTRICT #7 - \$6,703.00

Moved by Kearney seconded by Lammers to remove from the table the Open Account Claim to School District #7 which was postponed from the September 28, 2010 meeting. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

Moved by Clouse seconded by Kearney that the Open Account Claim in the amount of \$6,703.00 payable to School District #7 be allowed. Roll call resulted as follows: Aye:

Clouse, Buschkoetter, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

III. PUBLIC HEARINGS

LIQUOR APPLICATION FOR YOUNES CONFERENCE CENTER

Mayor Clouse opened the public hearing on the Application for a Class ID-92150 Liquor License submitted by YOUNES CONFERENCE CENTER LLC, dba Younes Conference Center located at 416 Talmadge Road, consider the Manager Application for Paul Younes, and to consider Resolution No. 2010-200.

Larry Butler, attorney for the Younes Conference Center, presented this matter to the Council. He and Mr. Younes wanted to express their appreciation to the City and staff in terms of bringing this project forward. A complete application has been submitted. A review of all the facilities that Mr. Younes has around the state was done and it was found there have been no violations reported. Mayor Clouse stated Mr. Younes should be commended for that. Mr. Butler stated that Mr. Younes does work hard with his staff to make sure that they stay within the law and do things in a proper way regarding alcohol.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and recommend approval to the Nebraska Liquor Control Commission the Application for a Class ID-92150 Liquor License submitted by YOUNES CONFERENCE CENTER LLC, dba Younes Conference Center located at 416 Talmadge Road, approve the Manager Application for Paul Younes, and adopt **Resolution No. 2010-200**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2010-200

WHEREAS, YOUNES CONFERENCE CENTER LLC, dba Younes Conference Center has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class ID-92150 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 416 Talmadge Road, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, YOUNES CONFERENCE CENTER LLC, dba Younes Conference Center also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Paul Younes; and

WHEREAS, a hearing was held relating to said application on October 26, 2010.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class ID-92150 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to YOUNES CONFERENCE CENTER LLC, dba Younes Conference Center located at 416 Talmadge Road, Kearney, Nebraska, and to approve the application for Corporate Manager of Paul Younes.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the

Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

BOARD OF EQUALIZATION FOR WATER AND SEWER CONNECTION DISTRICTS

Mayor Clouse opened the public hearing meeting as the Board of Equalization to determine a connection fee in the amount of special benefits accruing to the property in 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; Water Connection District No. 2009-3 for 17th Street from Avenue K to Avenue M; and Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M and to consider Resolution No. 2010-201.

Director of Utilities Kirk Stocker presented this matter to the Council. At the September 22, 2009 City Council meeting the Council created Water Connection Districts 2009-1 and 2009-2 for a water main to be constructed in 56th Street from the existing City Limits one mile east to a point ½ mile east of Antelope Avenue. Also, at the same meeting the Council created Water Connection District 2009-3 and Sanitary Sewer Connection District 2009-1 for a water and sanitary sewer main to be constructed in 17th Street between Avenue K and Avenue M.

The connection fee for these connection districts are not levied as liens or assessments against the benefited property whereby annual payments that accumulate interest are due. Rather, the connection fee is approved by the City Council sitting as the Board of Equalization then filed at the Buffalo County Register of Deeds Office so that future owners are aware that connection fees will be collected when the property connects to City water and/or sewer.

The following connection fees have been calculated according to City policy:

- Water Connection District No. 2009-1 – \$21.57 per foot of frontage
- Water Connection District No. 2009-2 – \$21.57 per foot of frontage
- Water Connection District No. 2009-3 – \$30.53 per foot of frontage
- Sanitary Sewer Connection District No. 2009-1 – \$48.66 per foot of frontage

The property owners pay the connection fee multiplied by the property frontage when they connect to the water main. The policy calls for the cost of an 8-inch diameter pipe to be charged to the abutting or benefited properties. The City pays for larger diameter pipe in excess of 8 inches, fire hydrants, valves, and pipefittings, etc.

Miller & Associates, the City's engineer for the projects, prepared a spread sheet summarizing each item of work in the contract and calculated the assessable and general obligation costs for each district. The City staff then calculates the connection fee for the benefited property by dividing the assessable cost among the total footage of benefited property within the district. Then an abstractor researched the owners and

mortgage holders of the property within the districts and those owners and mortgage holders have been notified about the meeting of the Board of Equalization for the purpose of establishing connection fees for the districts.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing meeting as the Board of Equalization determining a connection fee in the amount of special benefits accruing to the property in 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; Water Connection District No. 2009-3 for 17th Street from Avenue K to Avenue M; and Sewer Connection District No. 2009-1 for 17th Street from Avenue K to Avenue M and adopt **Resolution No. 2010-201**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

RESOLUTION NO. 2010-201

WHEREAS, on the 22nd day of September, 2009, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7547 creating Water Connection District No. 2009-1, the said water main has been constructed in accordance with said Water Connection District No. 2009-1 and the costs thereof have been reported to the City Council; and

WHEREAS, on the 22nd day of September, 2009, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7548 creating Water Connection District No. 2009-2, the said water main has been constructed in accordance with said Water Connection District No. 2009-2 and the costs thereof have been reported to the City Council; and

WHEREAS, on the 22nd day of September, 2009, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7549 creating Water Connection District No. 2009-3, the said water main has been constructed in accordance with said Water Connection District No. 2009-3 and the costs thereof have been reported to the City Council; and

WHEREAS, on the 22nd day of September, 2009, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7550 creating Sewer Connection District No. 2009-1, the said sewer main has been constructed in accordance with said Sewer Connection District No. 2009-1 and the costs thereof have been reported to the City Council; and

WHEREAS, the City Council, sitting as a Board of Equalization, has determined the benefits to abutting property in the Districts to be shown on the Schedule, marked Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Section 16-6,103 of the Nebraska Revised Statutes provides that the special benefits determined by the Board of Equalization shall not be levied as special assessments against the property within the Districts, but shall be certified to the Register of Deeds of the County.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the benefits to abutting property in Water Connection District Nos. 2009-1, 2009-2, 2009-3 and Sewer Connection District No. 2009-1 are as found

and determined by the Council, sitting as a Board of Equalization, as shown and set forth on Exhibit "A".

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file a certified copy of this Resolution in the Office of the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that a connection fee equal to the amount of the benefit accruing to the property as set by the benefit schedule (Exhibit "A") shall be paid to the City at the time the respective properties are connected to the water main constructed in Water Connection District Nos. 2009-1, 2009-2 and 2009-3 and that no property thus benefited by said main improvements shall be connected to the respective water main until said connection fee is paid.

BE IT FURTHER RESOLVED that a connection fee equal to the amount of the benefit accruing to the property as set by the benefit schedule (Exhibit "A") shall be paid to the City at the time the respective properties are connected to the sewer main constructed in Sewer Connection District No. 2009-1 and that no property thus benefited by said main improvements shall be connected to the sewer main until said connection fee is paid.

BE IT FURTHER RESOLVED that upon payment by abutting owners of the connection fee, the City shall notify the Buffalo County Register of Deeds that the individual connection fees have been paid and satisfied.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 17 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 October 12, 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 \$176.76 smcs; ABC-CLIO \$461.70 smcs; Access Data \$655.00 smcs; Ace Hardware \$920.28 smcs; Action Training \$2,007.07 smcs; Advance Auto Parts \$42.93 smcs; Advisors Marketing Group \$532.30 smcs; Afternooners \$49.00 smcs; Air Delights \$77.92 smcs; Airgas North Central \$47.00 smcs; Al-Jon Mfg \$323.15 smcs; All Makes Office \$1,744.26 smcs; All Points \$44.69 smcs; Allied Electronics \$321.51 smcs; Amazon \$1,697.72 smcs; Amer Electric \$677.27 smcs; Amer Legion \$241.35 smcs; Amer Library Assn \$305.00 smcs; APWA \$766.00 smcs; Amsan \$966.64 smcs; Andersen Wrecking \$26.75 smcs; Apple Market \$44.54 smcs; ARC Network \$175.00

smcs; Arrow Seed \$801.81 smcs; Artful Furniture Restoration \$66.21 smcs; Ask Supply \$267.42 smcs; Asknet-Shopscom \$29.95 smcs; Audio Go \$112.26 smcs; Aurora Coop \$81.60 smcs; Auto Glass-Safelite \$265.00 smcs; Awards Unlimited \$71.71 smcs; Baetz,C \$49.50 smcs; Bairdholm \$3,011.00 smcs; Baker & Taylor Books \$4,613.06 smcs; Barco Municipal Products \$887.62 smcs; Barney Ins \$18,013.50 smcs; Bartels,D \$270.18 smcs; Bells Curb Grinding \$620.00 co; Blessing \$477,889.99 co; Bluecross Blueshield \$124,210.28 smcs; BMTmiro-infocom \$19.82 smcs; Bob's Super Store \$16.41 smcs; Boogaart's \$12.54 smcs; Brennan Industries \$661.25 smcs; Brilliance Audio \$1,494.24 smcs; Broadfoot's Sand & Gravel \$937.00 smcs,co; Brown's Shoe Fit \$150.00 smcs; Bryan,J \$42.53 smcs; BSB Construction \$141,700.27 co; Buffalo Co Register Deeds \$243.00 smcs; Buffalo Outdoor Power \$252.18 smcs; Buggy Bath Car Wash \$2,009.00 smcs; Builders Warehouse \$3,736.18 smcs,co; Business Office Systems \$1,700.00 smcs; Cabela's \$314.91 smcs; Carquest \$1,308.13 smcs; Carriage Paper \$166.86 smcs; Casey's \$25.00 smcs; Cash-Wa \$1,680.97 smcs; CDW Government \$959.12 smcs; Center Point Large Print \$220.75 smcs; Central Contracting \$83,000.70 co; Central Dist Health \$4,408.00 smcs; Central Fire & Safety \$133.00 smcs; Central Hydraulic Systems \$796.72 smcs,co; Central NE Bobcat \$191.24 smcs; Charter \$209.99 smcs; Cheaper Than Dirt \$51.66 smcs; Chesterman \$760.30 smcs; Chief Supply \$342.23 smcs; City of Ky \$17,459.67 smcs,ps; Clipper Publishing \$60.00 smcs; Cold Spring Granite \$340.60 smcs; College Savings Plan of NE \$200.00 ps; Collison,G \$23.77 smcs; Colorid Ribbons \$57.08 co; Computer Warehouse #4 \$98.24 smcs; Construction Accessories \$442.87 smcs; Construction Rental \$758.50 smcs,co; Cook,G \$42.07 smcs; Copycat Printing \$876.37 smcs; Corey's Complete Detailing \$200.00 smcs; CR Toys \$60.79 smcs; Creative Teacher \$7.98 smcs; Credit Management Services \$220.68 ps; Crossroads Ford \$964.19 smcs; CT Flags \$61.25 smcs; Culligan \$110.00 smcs; Cummins Central Power \$478.37 smcs; D&S Lighting \$255.43 smcs; Dave Waggoner Plumbing \$4,929.00 smcs; Davis Equipment \$767.67 smcs; Dawson Co PPD \$1,109.93 smcs; Daylight Donuts \$58.00 smcs; Dell \$16,621.03 smcs,co; Delta Medical Systems \$164.80 smcs; Diamond Vogel Paint \$394.23 smcs; Dirt Works \$5,800.00 smcs; Dish Network \$50.63 smcs; Displays 2 Go \$166.70 smcs; Dog Poop Bags \$75.83 smcs; Double M Farms \$204.00 co; Dowling,J \$150.00 smcs; DPC Industries \$5,934.24 smcs; Dultmeier Sales \$115.70 smcs; Dutton-Lainson \$148.71 smcs; Eakes \$2,179.99 smcs; Ecolab \$31.00 smcs; Economic Development \$90,000.00 smcs; Elliott Equipment \$199.22 smcs; Embassy Suites \$201.11 smcs; EMC Ins \$505,740.23 smcs; Eventbrite \$50.00 smcs; Expression Wear \$739.00 smcs; Extended Download \$11.72 co; Fairbanks Int'l \$220.06 smcs; Farmers Union Coop \$26.65 smcs; Fastenal \$884.92 smcs; Fedex \$195.40 smcs; Fiddelke Heating \$145.49 smcs; Firecom \$105.65 smcs; Fort Bend Services \$2,816.00 smcs; Fred Pryor Seminars \$99.00 smcs; Frontier \$162.53 smcs; Gale \$278.04 smcs; Galetton Gloves \$1,425.48 smcs; Galls \$193.99 smcs; Garrett Tires \$2,532.17 smcs; Gaylord Brothers \$94.80 smcs; Gear for Sports \$6,290.58 smcs; Gel Pro \$107.90 smcs; General Traffic Controls \$205.69 smcs; Golf Course Superintendent \$280.00 smcs; Gooch Brake \$864.92 smcs; Goodner,D \$31.00 smcs; Goodwill Industries \$3.25 smcs; Google \$2.98 co; Graham Tire \$429.81 smcs; Grainger \$1,152.10 smcs; Graybar Electric \$527.78 smcs; Great Plains One Call \$493.36 smcs; Great Plains Safety \$435.00 smcs; Grimes,J \$62.00 smcs; H&H Distributing \$265.80 smcs; HW Wilson Co \$225.00 smcs; Haack,S \$35.25 smcs; Hali-Brite \$305.27 smcs; Hanes,K \$25.60 smcs; Harshbarger,K \$483.50 smcs; HD Supply \$2,400.00 smcs; Heartland Services \$292.79 co; Highsmith \$267.59 smcs; Hilti \$1,054.48 co; Hobby-Lobby \$20.95 smcs; Hoehner Turf \$825.00

smcs; Holiday Inn \$731.92 smcs; Holmes Plumbing \$723.08 smcs,co; Hooker Brothers \$217.60 smcs; Horst,R \$63.47 smcs; HSBC Bank Nevada \$318.25 ps; I-80 Eppley Express \$637.50 smcs; ICMA RC \$4,120.63 ps; Industrial Sales \$10.31 co; IRS \$101,407.24 ps; Int'l Association \$60.00 smcs; Jack Lederman \$141.27 smcs; JDL Lesco \$142.37 smcs; Johnstone Supply \$43.78 smcs; Just Blinds \$1,213.00 co; K&K Parts \$700.44 smcs; Kaito Electronics \$56.66 smcs; Ky Clinic \$1,599.00 smcs,ps; Ky Concrete \$11,934.50 co; Ky Crete & Block \$1,200.40 smcs,co; Ky Hub \$258.23 smcs; Ky Implement \$1,243.32 smcs; Ky Quality \$299.00 smcs; Ky Towing \$209.00 smcs; Ky Warehouse \$1,577.52 smcs; Ky Winlectric \$349.12 smcs; Ky Winnelson \$107.89 smcs,co; Killion Motors \$73.36 smcs; Kindle \$20.98 smcs; K-Log \$1,963.44 smcs; Kmart \$59.98 smcs; Kohl's \$216.04 smcs; Konica Minolta \$480.75 smcs; KRNY/KGFW \$430.00 smcs; Lawn Builders \$45.00 co; Lawson Products \$50.93 smcs; LCL Truck Equipment \$2,036.00 smcs; LeDroit,D \$24.20 smcs; Library Store \$66.18 smcs; Linweld \$419.22 smcs; Lockmobile \$71.41 smcs; Love S Country \$20.00 smcs; Lush,S \$19.11 smcs; Magic Cleaning \$5,460.00 smcs; Mail Express \$115.79 smcs; Malleck,J \$26.50 smcs; Manning,N \$13.68 smcs; Maple View Products \$132.00 ps; Marlatt Machine Shop \$141.25 smcs; Mason Motors \$950.00 co; Master Leasing \$129.00 smcs; Mattson,M \$50.00 smcs; Max-R \$524.15 smcs; Meith,T \$37.45 smcs; Melroy,M \$21.87 smcs; Menards \$3,920.61 smcs,co; Midas Auto Service \$74.85 smcs; Midlands Contracting \$14,320.00 smcs; Midwest Turf \$677.08 smcs; Milco Environmental \$7,546.00 smcs; Miller Signs \$785.00 smcs,co; Misko Sports \$35.00 smcs; Moonlight Embroidery \$3,261.00 smcs; Motion Industries \$19.65 smcs; Murphy Tractor \$961.69 smcs; My Pilot Store \$275.80 smcs; Napa All Makes \$2,560.37 smcs; Nathan Detriots \$21.00 smcs; Natl Electrical Seminars \$130.00 smcs; NCL of Wisconsin \$630.04 smcs; NCS Equipment \$162.27 smcs; NE Arborists \$100.00 smcs; NE Child Support \$2,454.98 ps; NE Dept of Aeronautics \$1,470.00 ds,er; NE Dept of Environmental \$15,789.25 smcs; NE Dept of Revenue \$72,131.10 smcs; NE Firefighters Foundation \$50,000.00 co; NE Law Enforcement \$100.00 smcs; NE Liquor Control \$45.00 smcs; NE St Board Landscape \$170.00 smcs; NE St Historical Society \$1,430.50 smcs; NE Truck Center \$866.86 smcs; NE Workforce Development \$2,147.21 ps; NEland Distributors \$359.55 smcs; Neofunds \$2,999.50 smcs; Neopost \$3,000.00 smcs; Newegg \$648.31 smcs,co; Newman Signs \$2,741.18 smcs; Nitrodesk \$53.47 smcs; NMC \$518.40 smcs; NP Telegraph \$210.27 smcs; Northern Brewer Ecommerce \$150.00 smcs; Northern Tool \$769.21 smcs; Northwest Electric \$231.19 smcs; Northwestern Energy \$1,488.90 smcs; NP Realty \$38.86 smcs; NTOA \$150.00 smcs; Office Max \$1,827.80 smcs; Officenet \$406.00 smcs; Olive Software \$4,022.02 smcs; O'Reilly Auto \$1,891.77 smcs; Oriental Trading \$91.99 smcs; Orscheln \$270.85 smcs; Oshkosh \$569.73 smcs; Owl Systems \$312.50 smcs; Paraben \$360.00 smcs; Paramount \$94.90 smcs; Party America \$51.22 smcs; Patterson,B \$113.56 smcs; Paypal \$779.37 smcs,co; Pervasive Software \$855.00 smcs; Platte Valley Comm \$802.57 smcs; Platte Valley Medical \$506.00 smcs; Popeye's \$7.48 smcs; Precision Roller \$207.00 smcs; Presto-X \$469.80 smcs; Prince Sports \$36.00 smcs; Provantage \$730.47 smcs; Quill \$498.13 smcs; Radioshack \$8.55 smcs; Random House \$121.56 smcs; RDJ Specialties \$344.00 smcs; Ready Mixed Concrete \$12,507.99 co; Reams \$2,269.92 smcs,co; Recognition Unlimited \$452.85 smcs; Recorded Books \$95.44 smcs; Reno,E \$5.46 smcs; Research Technology \$94.95 smcs; Residence Inns \$108.77 smcs; Resource Management \$1,345.89 smcs; Restaurant Equippers \$223.63 smcs; Rick's Sod Farm \$2,475.00 co; River City Enterprises \$3,500.00 smcs; Roper's Radiator \$2,035.00 smcs; Roth,K \$16.59 smcs; Russell's Appliances \$599.00 smcs;

Sahling Kenworth \$41.78 smcs; Sanitation Products \$620.33 smcs; Sapp Brothers \$24,586.99 smcs; Sara Lee Baker \$31.00 smcs; Sawin,M \$31.00 smcs; School Outfitters \$399.00 smcs; Sears \$233.93 smcs; Services Solutions \$23.45 smcs; Sherwin Industries \$374.39 smcs; Sherwin Williams \$59.77 smcs; Showcases \$966.82 smcs; SHRM NE \$338.00 smcs; Simeon,A \$14.00 smcs; Slumberland \$391.99 smcs; Snap-On Tools \$466.00 smcs; Softchoice \$2,210.10 smcs; Solid Waste Equipment \$3,916.34 smcs; SOS Portable Toilets \$100.00 smcs; South Central Diesel \$46.15 smcs; Spangler,S \$148.86 smcs; Steinbrinks Landscaping \$732.02 smcs,co; Stumbo,J \$105.24 smcs; Sunmart \$35.34 smcs; Superior Signals \$87.00 smcs; SWPScom \$74.09 smcs; SYS Tools Software \$344.71 co; Target \$75.98 smcs; Team Jedi Marketing \$276.00 smcs; Thompson,J \$62.00 smcs; Tiger Direct \$474.92 smcs,co; Tilley Sprinkler \$711.45 smcs; Titan Machinery \$1,801.67 smcs; Titleist \$2,518.10 smcs; Tractor-Supply \$1,447.63 smcs; Tri City Outdoor Power \$51.79 smcs; Triple Crown Shuffleboard \$5.23 smcs; Uline \$76.29 smcs; Unique Management \$393.80 smcs; United Seeds \$337.50 smcs; UPS \$122.16 smcs,co; US Bank \$13,792.50 ds; USPS \$288.53 smcs; Van Diest Supply \$1,717.46 smcs; Versa Products \$737.00 smcs; W.S.Darley & Co. \$200.59 smcs; Wal-Mart \$1,011.92 smcs; Watchguard Video \$264.25 co; Webce \$59.80 smcs; West Payment Center \$1,454.43 smcs; Wicks Sterling Trucks \$622.56 smcs,co; Wiegand Security Service \$80.00 smcs; Wilke Donovan's \$205.58 smcs; Wilkins Hinrichs Stober \$5,646.58 co; Williams,M \$49.25 smcs; World Herald \$220.64 smcs; WPCI \$160.50 ps; Yanda's Music \$767.90 smcs; Zimmerman Printers \$1,315.99 smcs7; Payroll Ending 10-9-2010--\$318,628.06; Payroll Ending 10-23-2010--\$316,443.7. 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 November 9, 2010 at 7:00 p.m. as date and time for hearing on those applications where applicable.
4. Approve the request submitted by the Kearney Family YMCA to conduct the Turkey Trot on November 25, 2010 beginning at 9:00 a.m. The route for the 2-Mile Run/Walk is to begin/finish at the YMCA, south on 6th Avenue, west on 35th Street, south on 7th Avenue, southeast through Harmon Park to the intersection of 29th Street and 5th Avenue, north on 5th Avenue, west to 33rd Street, north on 6th Avenue to YMCA. The route for the 5-Mile Run is to begin/end at YMCA, south on 6th Avenue, east on 33rd Street, south on 5th Avenue, west on 26th Street through Campus, north on 15th Avenue, west on hike/bike trail, north on Country Club Lane, east on 35th Street, north on 11th Avenue, east on 39th Street, north on 6th Avenue to YMCA.
5. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic 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 November 20, 2010 from 6:00 p.m. until 1:00 a.m. for a dance.
6. Approve the application for a Special Designated License submitted by Kearney BBQ Co., dba Skeeter Barnes in connection with their Class IK-55865 liquor license to dispense beer and wine at Cabela's, 3600 East Highway 30, on November 21, 2010 from 5:00 p.m. until 10:00 p.m. for a customer appreciation event.

7. Approve T-Hangar B-B Garage Lease Agreement between the City of Kearney and Buck Enterprises, dba Thrifty Car Rental for storage at the Kearney Regional Airport and adopt **Resolution No. 2010-202.**

RESOLUTION NO. 2010-202

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 T-Hangar B-B Garage Lease Agreement, on behalf of the City of Kearney, Nebraska, with Buck Enterprises, dba Thrifty Car Rental, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve T-Hangar C-1 Lease Agreement between the City of Kearney and Blair Rodgers and Ed Spillman, dba Rodgers Helicopter for storage at the Kearney Regional Airport and adopt **Resolution No. 2010-203.**

RESOLUTION NO. 2010-203

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 T-Hangar C-1 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Blair Rodgers and Ed Spillman, dba Rodgers Helicopter, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the Tenant Use and Operations Agreement between the City of Kearney and Buffalo Air Service for T-100, T-708, T-707A, T-707B, and T-932 for the operation of a crop spraying service, office area, and storage area between the City of Kearney and Aurora Coop Elevator, dba Buffalo Air Service and adopt **Resolution No. 2010-204.**

RESOLUTION NO. 2010-204

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 at the Kearney Regional Airport, on behalf of the City of Kearney, Nebraska with Aurora Coop Elevator Company, dba Buffalo Air Service for T-100, T-707A and T-707B, T-708, T-932 for the operation of a crop spraying service,

office area, and storage area, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the Agreement and Permit for Aeronautical Services at the Kearney Regional Airport between the City of Kearney and Aurora Coop Elevator, dba Buffalo Air Service and adopt **Resolution No. 2010-205.**

RESOLUTION NO. 2010-205

BE IT RESOLVED by the President and Council of the City of Kearney, that the President be and is hereby authorized and directed to execute the Agreement and Permit for Aeronautical Services on behalf of the City of Kearney, Nebraska, with Aurora Coop Elevator Company, dba 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 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the Tenant Use and Operations Agreement for Loading Dock located at the Kearney Regional Airport between the City of Kearney and Aurora Coop Elevator, dba Buffalo Air Service and adopt **Resolution No. 2010-206.**

RESOLUTION NO. 2010-206

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, Nebraska with Aurora Coop Elevator, dba 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 26TH DAY OF OCTOBER, 2010.

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. 6 in the amount of \$85,275.59 submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 1 Improvements consisting of 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 adopt **Resolution No. 2010-207.**

RESOLUTION NO. 2010-207

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 1 Improvements consisting of paving 16th Street from 30th Avenue east to its terminus and the paving of 30th Avenue from North Railroad Street and 11th Street, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 6 in the amount of \$85,275.59, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,256,795.30
Change Order No. 1 (8-24-2010)	+ 5,812.40
Contract Sum To Date	<u>1,262,607.70</u>
Gross Amount Due	1,198,212.10
Retainage	23,964.24
Amount Due to Date	1,174,247.86
Less Previous Certificates for Payment	<u>1,088,972.27</u>
Current Payment Due	\$ 85,275.59

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. 6, as shown on Exhibit "A", be and is hereby accepted and approved.
 PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

13. Accept the Certificate of Substantial Completion submitted by Chief Construction and approved by Miller & Associates for the construction of the South Parks Maintenance Building located at E.K. and Mary Yanney Heritage Park and adopt **Resolution No. 2010-208.**

RESOLUTION NO. 2010-208

WHEREAS, Chief Construction of Kearney, Nebraska has performed services in connection with the construction of the South Parks Maintenance Building located at E.K. and Mary Yanney Heritage Park, and the City's engineer, Miller & Associates, have filed with the City Clerk the Certificate of Substantial Completion as shown on Exhibit "A" attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

14. Approve Application and Certificate for Payment No. 2 in the amount of \$63,585.00 submitted by Blessing, LLC and approved by Miller & Associates for the 2010 Part 2 Improvements – Bid B 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 and adopt **Resolution No. 2010-209.**

RESOLUTION NO. 2010-209

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2010 Part 2 Improvements – Bid B 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, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$63,585.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$698,752.00
Change Order No. 1 (9-28-2010)	<u>+ 8,284.00</u>
Contract Sum To Date	707,036.00
Gross Amount Due	152,165.00
Retainage	15,216.50
Amount Due to Date	136,948.50
Less Previous Certificates for Payment	<u>73,363.50</u>
Current Payment Due	\$ 63,585.00

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. 2, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

15. Approve the application for a Special Designated License submitted by Earn & Return Investments, dba The Cellar Bar & Grill in connection with their I-64728 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on December 3, 2010 from 5:00 p.m. until 11:00 p.m. for a party.

16. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 6, 2010 from 5:00 p.m. until 12:00 a.m. for a reception.

17. Approve the application submitted by Donald Sluti on behalf of the American Legion Post 52 to conduct the Veterans Day Parade on November 11, 2010 beginning at 4:00 p.m. with the parade starting at Railroad Street, north on Central Avenue and ending at the parking lot located north of the Museum of Nebraska Art.

18. Adopt **Resolution No. 2010-210** supporting Amendment 1 which would change the powers of municipalities with respect to sources they may draw upon to fund economic or industrial development.

RESOLUTION NO. 2010-210

WHEREAS, on March 26, 2010, the Legislature voted 47-0 to place Amendment 1 (LR 297CA) on the ballot at the November 2010 General Election; and

WHEREAS, if passed by voters this November, Amendment 1 would amend Article XIII, Section 2 of our state constitution to allow the Legislature to grant municipalities more flexibility in funding sources for LB 840 plans which fund local economic or industrial projects and programs, subject to a local vote of the people; and

WHEREAS, LB 840 plans approved by voters in 53 municipalities have already resulted in successful economic and industrial projects and programs to help promote job retention, create thousands of better jobs, develop a more diversified local economy as well as develop a broader tax base for cities and villages to reduce pressure on local property tax payers; and

WHEREAS, our state constitution currently authorizes the Legislature to allow LB 840 plans to be funded ONLY with property tax dollars and/or local option sales tax dollars, with local voter approval; and

WHEREAS, if passed by voters this November, Amendment 1 would authorize the Legislature to allow municipalities with voter approved LB 840 plans to use funds (in addition to those raised from property taxes and local option sales tax) derived from “any other general tax levied by the city or village or generated from municipally owned utilities or grants, donations, or state and federal funds received by the city or village subject to any restrictions of the grantor, donor, or state or federal law”; and

WHEREAS, virtually all of the 53 municipalities with LB 840 plans obtained voter approval using some portion of their local option sales tax; and

WHEREAS, more flexibility in funding LB 840 plans is needed by municipalities across the state due to increasing pressure on property taxpayers, local budgets and local option sales tax dollars already committed to fund other important municipal services and programs; and

WHEREAS, if approved by voters at the General Election this November, the Legislature would have the authority to pass enabling legislation to allow municipalities to use sources of revenue listed in Amendment 1, in addition to property taxes and local option sales tax to fund LB 840 plans, with local voter approval; and

WHEREAS, once the Legislature passes enabling legislation, municipalities would then be able to submit proposals to obtain local voter approval for using any such additional sources of revenue to fund LB 840 plans; and

WHEREAS, a vote for Amendment 1 is a vote for LOCAL CONTROL and FLEXIBILITY in funding LB 840 plans with local voter approval for the retention and creation of jobs and businesses.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska supports passage of Amendment 1 on the November 2010 ballot.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ANNEXATION OF BROWN PROPERTIES, 1616 30TH AVENUE

Mayor Clouse opened for discussion the agreement submitted by Brown Properties, LLC to annex into the City limits Lot 1, Knapp's Second Subdivision of Buffalo County, Nebraska (1616 30th Avenue) and to consider Resolution No. 2010-212.

City Attorney Michael Tye presented this matter to the Council. When Brown Church Development built at their current location along 30th Avenue, part of the Development Agreement indicated that they would agree to be annexed once the City limits were adjacent to their property.

City services are available to Brown Church Development from 30th Avenue and they are in the process of connecting to those services. Because of the development by The Buckle, the City limits are now adjacent and contiguous to the Brown Church Development property. Therefore, Brown Properties was contacted and requested their signature on an Annexation Agreement. Brown Properties, LLC has been very cooperative and, as is indicated in the Agreement, they desire to be annexed into the City of Kearney.

Moved by Clouse seconded by Kearney to approve the agreement submitted by Brown Properties, LLC to annex into the City limits Lot 1, Knapp's Second Subdivision of Buffalo County, Nebraska (1616 30th Avenue) and adopt **Resolution No. 2010-211**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2010-211

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Annexation between the City of Kearney and Brown Properties, LLC, a Nebraska Limited Liability Company, for a tract of land described as Lot 1, Knapp's Second Subdivision of Buffalo County, Nebraska (1616 30th Avenue) be and is hereby accepted.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Agreement on behalf of the City of Kearney for the annexation of the respective business.

PASSED AND APPROVED THIS 26TH DAY OF OCTOBER, 2010.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REQUEST TO SELL FIREWORKS FOR CELEBRATION OF NEW YEAR

Mayor Clouse opened for discussion the request submitted by Monte Dakan on behalf of the Kearney Catholic Activities Association to allow the sale of fireworks for the celebration of the New Year.

Paul Brungardt, 1114 East 52nd Street presented this matter to the Council. They are interested to see if the City of Kearney is interested or would consider allowing the sale of fireworks during the New Year's holiday. The State legislature recently passed LB 880 which allows for the sale and igniting of fireworks during the New Year's celebration beginning this year. This is subject to approval by an ordinance in each city. He knew of two cities that have approved so far which are Scottsbluff and Bellevue.

Mr. Brungardt stated the Kearney Catholic Activities Association is a group of parents whose children attend Kearney Catholic. The main focus of the association is fund raising to help supplement the various activities that the kids participate in. They help finance such things as speech, band (this year contributed to new band uniforms), sporting activities, etc. Their major fund raiser during the year is Valentine's Night Out which is in February and is held at the Holiday Inn Convention Center. Another event that they do is a fireworks stand for 4th of July. When the state ordinance came out, they decided to consider this as an option, but have gone no further. They know there are some issues with fireworks, noise control, and fire and safety concerns. They understand they cannot sell them out of a permanent structure and know that their stand is not conducive for the winter months. Mr. Brungardt has talked to Fire Administrator Ken Tracy from the Fire Department about what they can and cannot do; but the association has not discussed this as a group. They are just making an inquiry of the City to see if they are interested in allowing this.

Mayor Clouse asked what kind of lead time they would need to order the fireworks. He believed that he would like to hear the Council's discussion, but rather than taking an action at this meeting taking time to get a little more feedback. Mr. Brungardt stated if they have the approval by December 1st they could get the order within 2-3 weeks from their supplier.

Fire Administrator Ken Tracy stated some of the concerns he had is the health and safety of the occupants selling at the stand because they are constructed for summertime use. They will need to bring into the stand some type of auxiliary heat (possibly an electric space heater) and those stands do not have 3-foot clearance from around the space heater near combustible material. There would not only be the fireworks itself, the stand and the people themselves inside the stand. Another concern

is the sales might go into the evening hours and would require some additional electrical needed for lighting. The safety of the consumer and especially the person that lights the fireworks must be considered.

When fireworks are lit at night and it is cold outside, they would be wearing heavier clothing than in the summer that would restrict their movement and slow them down from moving away from the fireworks. The material that winter clothing is made out of is sometimes nylon which is very flammable. The down and fill material is highly flammable. During the winter months there is usually ice and snow conditions, which could trip the shooter of the fireworks and they could fall into the fireworks possibly knocking them over and causing a problem. In the winter, outside water faucets are usually drained and shut off and garden hoses are put away. There would be no outside water source in the event of a small fire being put under control with a garden hose. It is possible the weather conditions at that time of year could be quite pleasant, as firefighters they look at the worst case scenario, such as freezing temperatures, ice and snow.

Fire Chief Terry Eirich stated they are not against groups raising money for a fund raiser; however, he agreed with the concerns that the Fire Administrator stated. One of the other things that could happen if the weather is nice and there are still some dry leaves around, is the fireworks could come down and ignite them. Another concern if there were a fire incident, it would require their members to respond and put themselves in danger because of the icy roads or freezing weather conditions. These are the reasons they would be opposed to this idea. If the Council would like to approve this, they could work around it by setting some mandates about hours of operation and requiring that the 3-foot clearance is maintained around the space heater, etc. The Fire Department would abide by the Council's decision.

Mayor Clouse stated that he is sure that some of these same concerns were raised at the state level before passing LB880; however, he had not checked on the discussion that was held there. Although not all for it, he believed that more opportunity is needed to see how we can work through this because we are solution based to mitigate some of the risks that have been talked about.

City Manager Michael Morgan stated that the Fire Department is made up of volunteer and paid employees and this is a New Year's Eve holiday. He wondered if many of the employees would be available because it is a little different type of holiday than July 4th. The State Legislature allows sales from December 28th through January 1st, but it could be limited to one day if that is what Kearney wanted to do.

Council member Lammers stated it gets dark very early in the winter and usually cold and windy and believed the danger of lighting fireworks with gloves and winter clothing is great. There are a lot of ways to raise funds other than fireworks over the holidays between Christmas and New Years. He wondered if the danger level that would present to the fireworks shooters, people selling fireworks in the stand and the firefighters was worth it. Fire Chief Eirich added that he can see people standing right in the doorway of their garage with the door open because it is cold with the heater running behind them trying to shoot fireworks from the garage door. The possibility of hitting the soffet on their garage, gas cans and oily rags or a tree right above them will increase. Most

generally people get out in the street on July 4th and set them off.

Council member Buschkoetter stated he believed that people are not going to make an evening of shooting fireworks. It is more likely they would light some artillery shells around midnight. They could put a restriction on the fireworks that only artillery shells could be sold. He believed that it would not be a big money maker for any group. He also believed there may be other groups that would like to do it as well. He thought there were many citizens that would be interested in doing this and there are a few of those that do it illegally anyway. He agreed with some of the safety issues expressed, but they have some of those same issues on the 4th of July.

Chief of Police Dan Lynch stated that from the fire services, it is at least a moderate to significant risk. This is the driest part of the year whether there is snow or no snow. Structures that are commonly used for selling fireworks in the summer get drier in the winter, plus the grass and trees are drier. His point is that if fireworks are approved at this time of the year, it is also the highest demand time for police services starting the next to the last week of November continuing through the majority of January. There are events, parties, gathering almost every night of that period. They have a high number of calls during that time for police services. He checked during the period of time in the summer, when they lawfully allow the sale of fireworks and found there was an average of 30 additional calls a day just regarding fireworks. He will do whatever the Council decides, but his point is that his officers are plenty busy during this time already and he believed this would exacerbate it. The Police Department's goal during that time is to get people from point A to point B safely which is a big job. He added in his past experience with behaviors regarding fireworks, he would not be surprised at anything people find as entertaining to do with them. He is not worried about the retailers; they will do a good job. The consumers are the ones to be concerned about despite the regulations that might be set forth.

Moved by Kearney seconded by Lammers to deny the sale of fireworks for the celebration of the New Year and that the City Code remain as it currently is written. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: Clouse. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$86,461.31, PLATTE VALLEY STATE BANK - \$96,315.26, SCHOOL DISTRICT #7 - \$4,750.45

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the amount of \$96,315.26 payable to Platte Valley State Bank, and in the amount of \$86,461.31 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lammers, Kearney, Buschkoetter. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that Open Account Claims in the amount of \$4,750.45 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Kearney, Lear. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

MARKET GRANT FOR AIRPORT

Assistant City Manager Suzanne Brodine stated that in conjunction with the decision to move the Kearney Airport from a Class III to a Class II, last summer the City applied for a grant from the Department of Transportation. This is a planning grant to help Kearney do a market study to determine how many passengers it could potentially have at the Airport, the best way to increase that traffic, how to improve the Airport and what kinds of incentives to offer. The City was notified it will receive a \$50,000 grant from the Department of Transportation to conduct that study in a 1-year time period. They will bring back a resolution for the Council to accept that award. The match for the City is \$15,000 which is considerably less than what was budgeted for marketing in a year for the Airport. So that amount was set aside to match that grant. They are very excited to see the results of that study to give staff direction. The City will be going out for a bid process to find a specialty firm that deals with aviation studies in this market.

UPDATE OF ½ CENT SALES TAX

City Manager Michael Morgan stated that he had the opportunity to do a few tours in conjunction with the 5-year anniversary of the ½ cent sales tax. City Council made some commitments after the citizens supported that initiative and he was pleased to report that many of those commitments have been met. At that time, they received 16,037 different suggestions from the public and held 42+ different meetings. It is exciting to cross those off the list as they are completed. Many of the big things that were promised have been completed with more to come next year. He invited the public to continue with their input. He toured the Library expansion which essentially doubles the square footage. He also went out to 11th Street and 30th Avenue which was promised to be completed by November 1st. There was some significant amount of traffic out there at 5:00 p.m. and so he is going to request the Director of Public Works conduct traffic counts out there. The ½ cent sales tax has helped to fund the streets, Library, Harmon Park Activity Center, the Airport, and Children's Museum, beautification of the entrances to the City, sidewalks, infrastructure, gravel street removal, Senior Center, Kearney Centre and Old Towne improvements. In the future Kearney will need to look at recreational facilities on a bigger scale, as well as water activities including splash grounds and improving pool operations, skate board park, etc. as suggested.

LISTENING SESSIONS

City Manager Michael Morgan stated with the completion of some of these other projects, citizens to be thinking about street and recreational projects to be done in the future. They need to find more ways to reach out and get the public's input perhaps by using more media. It will take initiative on the City staff's part to make this happen. The requirement that was put in when the sales tax initiative was voted on is that the Council would have a public hearing to get suggestions from citizens. The listening sessions were very well attended in the past. The focus was on groups for the most part last time and now that that process is in place, the Council agreed it was time to act on it in within the next 90 days.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 8:08 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**