

Kearney, Nebraska
March 8, 2011
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 8, 2011 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter, and Bob Lammers. Absent: Bruce Lear and Don Kearney. 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: Doug Kristensen, Roger Petersen, Mitch Humphrey, Craig Bennett, Terry Broadfoot, Tara Shaw, Kris Shaw, Lance Lang, Bobbi Pettit, 3 UNK students, Steve Altmaier from 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 Rob Kuefner from Holy Cross Lutheran Church 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 SENIOR VOLUNTEER PROGRAM

Mayor Clouse stated that because of the weather, the presentation on the Senior Volunteer Program is postponed until April 12.

ORAL COMMUNICATIONS – UNK CHANCELLOR DOUG KRISTENSEN

Chancellor Kristensen stated the University appreciated the opportunity to participate in the listening sessions that the City provided. To supplement that listening program, he asked to speak to the Council. In particular, there was a listening session with the UNK students which he believed was above and beyond the call. He was a little nervous about asking 5,000 what they want, but found the answers were consistent with what the University officials had given.

He wanted to give an update on the impact of the UNK Campus and some of the ideas that came from the listening session that he wanted to briefly expand on. The value of the campus is not just in an intellectual capacity and people. It is also in physical assets and buildings which represent about \$285 million that does not include their equipment in the City of Kearney. The campus occupies roughly 514 acres of land with 47 buildings, most of which have been updated and improved in the last 20-25 years. In the last 10 years, they have put in \$94 million (a mix of private money, some state money and bonded indebtedness) in the infrastructure of the campus. They spend about \$124 million every year.

The biggest share of this money goes to salaries, aid and loans to their students. They distribute about \$22 million of need based aid that they get from the federal government that comes into this community, another \$3 million from merit and private individuals and \$16 million of aid which comes from a variety of sources, federal, state and private. There is an additional \$34 million that comes from the state. This is money that comes directly into the City of Kearney and goes to students and not entirely to salaries. It can be used for rent, groceries, clothes, entertainment and a variety of things students enjoy as they live in the City of Kearney.

The infrastructure maintenance and operating cost is their third area of cost. This is used to primarily open their buildings everyday and keep those 47 buildings open. As a good employer, UNK employs 1,000 employees and over 500 student workers. The 1,000 employees are basically a full time work force, the student workers are temporary and part time workers, but are a key ingredient to their work force. This many employees make UNK one of the largest employers in the community. Their salaries are above the average salaries in the community and they contribute greatly in that manner. They are a stable employer and have very little turn over. They have had constant growth in this community since 1905. It has been an increasing trajectory which is due to the success of the City of Kearney which in turn has led to the success of UNK as well.

There are 5,000 students who live on campus or in the immediate area. Roughly 2,000 of those students live in resident halls that are physically located on their campus. If you count the students, faculty and staff, they are about 1/5 of the community's population. If you add a spouse and two kids to all the employees the impact to the community is even greater.

Chancellor Kristensen stated one of the huge impacts the campus has on the community is the 4-year degrees that can be obtained from UNK. Looking at Kearney, they have a higher than average population in the state of Nebraska of people over the

age of 25 with a 4-year degree. This adds to economic vitality and contributes to the community in a variety of ways. That is one of the reasons Kearney and Buffalo County are very unique because of their educational attainment. They have a high quality of national reputation and last year was named in the top ten of a 12-state region as an undergraduate institution with a graduate program. They have peer reviews, peer reports and the University Board of Regent studies have put them at the top of their peers in many of the important areas; including athletics and other measures comparing them to other institutions.

UNK has other influences in the community as well. There are 4,400 UNK Alumni in the community and Buffalo County has 5,200 including Kearney. There are an additional 5,200 alumni in the contiguous counties around Buffalo County. There are well over 10,000 graduates of UNK who live in very close proximity to this community. Their influences are applied research and consulting by their faculty and students, doing projects for the Chamber of Commerce and numerous businesses. They have also been engaged with projects for the City of Kearney. They provide education for career advancement in a variety of settings and a variety of professions. The leadership contributions of their faculty and students serving on boards, service clubs and elected offices are considerable.

Perhaps their largest impact is bringing people to the City of Kearney. There are numerous events scheduled for the next two weeks in Kearney. The State Speech Meet will be attended by 1,500 people from all over the state during the spring break. They will be staying in Kearney, shopping and eating at restaurants. State Band will bring in 1,000 people. Often these types of events are not included in the Visitors Bureau and Economic Development stats because they are run out of the UNK campus and are not uniformly reported. The National Wrestling Championship will be here in the next week. They tried to keep track of the number of visitors to the Health and Sports Center last year which was approximately 10,000 including all visitor events. That number does not include their intramurals and general usage for students.

Another impact of the campus is bringing permanent residents to Kearney who are a group of people from diverse backgrounds that make this a very rich and satisfying community to live in. They have an impact on the culture here with their diverse student body. They have ten percent international students in their undergraduate population, the highest of any institution in the State of Nebraska. It is unusual to have undergraduates who are international students. Most universities in this country bring over graduate students, but UNK integrates the undergraduate students into the regular population. The intellectual contributions of their faculty have an impact on the culture in this community. They have a wide variety of cultural events such as the World Affairs Conference and the International Food Festival which took place last week.

The future for UNK is to be a premier quality undergraduate/graduate residential campus. They want to attract, retain and graduate more students. They want to attract high quality faculty. It gets harder every year to do that. Kearney is very attractive to people which is good for the university. Many of their faculty remains in Kearney because they like the public school system and the amenities Kearney has to offer. Their strategic plan is not to just have more students. They want to have an impact on the community and the region. Their elements for successes are to improve the quality

of everything that they do, not only academically but to build more buildings and have more amenities. They have currently achieved record numbers of students graduated. They encourage students not to just live in a residence hall, but to be engaged in the community and to be part of that community.

The City has taken a tremendous initiative on capital improvement projects. These projects are visible and tangible to the community. UNK has similar priorities to those of the City. UNK has a list of capital projects they are going to work on. They are now at the point they need to find other ways in which to finance these projects. Their concept of expanding a residential experience (residential renewal) on their campus is to increase the quality of living. They are more attentive to what they offer, to esthetics and landscaping, what residence halls look like and the student union. They want to extend and change what a residential campus is like. They want to expose more people to living close to the campus not only the students, but faculty members or community members who want to live closer to campus.

What sets UNK apart is that Kearney is half of their name. When they go out to market the University, they also market the City of Kearney. They go hand and hand. It is their belief that if they can do something good for the City and UNK that is a win/win situation. UNK has some projects in common with the City. He wanted to introduce some of those projects that will also be an improvement and bring growth to the community. This will attract visitors, people to live in the community and bring their businesses which will attract more businesses in that type of environment. The pilot project on Highway 30 with the banners in the median has been extremely popular and well received. There is more to be done there and they look forward to working with the City. The traffic roundabout project is also part of that existing project. There is also a concern with the traffic going up the sides of the campus with the neighborhoods and they want to continue working on that. Memorial Field is a wonderful addition to their campus and the community.

One thing that reaches high value for them is the maintenance and improvement of high traffic buildings such as the Health and Sports Center. With the high usage, it begins to wear out. It becomes more and more difficult to take academic resources and put them into those sorts of facilities for visitors as is their theater, the concert hall, etc. It is their priority to maintain and begin to improve those types of buildings which attract visitors to the community. One of the most popular programs on campus is the wellness center. When they built the new residence halls, they made space for beds and maximized this living space. They had looked at other campus residence halls that had many fancy amenities, but decided to concentrate on the living environment for now. Later as they expand, they want to find ways to provide those amenities after finding out what the students really want. The health and wellness center has led the pack by far in interest. They have received private money that has been given as a challenge grant. They are focused on finding the other resources, including the students' help to do a health and wellness center.

The South Campus is a development primarily that would not only engage the community, but the University to find joint things that would be attractive. They have a variety of things that have come along to add new academic classes and courses which will require some alteration of buildings such as laboratory space. Brunner Hall is a

great example of changing the way they teach, but they need funds to be able to address those needs. Opportunities like these will be coming their way in the next year or two that would expand their faculty and attract students to the community.

South Campus is the property that is directly south of the college of business. It is 107 acres and their vision for it is a multi-faceted university village. The goals of the South Campus are to develop a unique center for the university and for community life. They believe that they will be able to combine the University and the community together to provide a distinctive residential and retail center. They want to do something with South Campus that would meet the needs of the community and advance its potential that would be congruent with UNK. They want to know what the University can do that would serve the needs of the campus, as well as the needs of the community. It would be a mixed use center, containing residential settings, academic village field with housing. As an anchor, a new University Heights would be built to replace the old location. The University is under a mandate to sprinkle all of their residential buildings which the present University Heights location does not have. They have found that it would not be a good financial investment to install them and might be better to update and modernize it for the community.

They have identified some needs gathered over the past two years from students. They found that housing is crucial and a study is being done to see what the size of this need is. They want to do more and have a vision of what they could do for recreational facilities. They foresee campus and community recreation and sports, such as track, tennis and softball as three of the identifiable needs. The UNK campus had the capability for these things, but due to renovation and other improvements on the campus they no longer have space available. They must have the ability to leverage some private donations they have to make this work for them. There is ample room to do these things on the 107 acres and all would fit nicely. There could also be trails which hook up with the existing trails. Parking, lighting and safety would be very valuable in this project.

They envision the possibility for an upscale urban academic village where people other than students could also live. They would have the ability to interact with the students. They have visited examples of this in other communities. In these communities they have mixed use, commercial and residential. They have people living in one level and commercial or retail operations below or beside it. They have a green space and a commons area which provides for a unique area. People who want to live next to the university and take advantage of their social, cultural activities, sporting events and theater can do that in a convenient way. UNK has some standards and objectives and really want to be lead certified in these projects. They are very concerned about landscaping and the appearance of this project.

The entrance to campus is another identifiable need. They have been working on this for some period of time. It is the missing piece of their campus. At the present time, there is no visible signage or identifiable entrance. As they begin to recruit more students from Lincoln, Omaha, Denver and Kansas City, they are going to need identifiable entrances, welcome center and visitors information on campus. They need to expand what they already have in place.

UNK is close on the academic capabilities and opportunity to work with their sister campus, the Med Center, UNL and UNO to jointly bring programs to rural Nebraska, but will need some facilities to do that. They are not talking about full academic buildings, but the opportunities to renovate buildings and add laboratory spaces, etc.

Chancellor Kristensen stated that this is a very unique opportunity for the University to come and say "this is what we need". He expressed their appreciation of the Council's willingness to listen to their needs and hear what is best for the campus, the City and the citizens. Their thought is that many of these projects will be capital, visible and long lasting.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONING PROPERTY AT 113 WEST 27TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for NP Investments, Inc. (Owner) to rezone from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as the east 50 feet of Lot 249, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (113 West 27th Street). Planning Commission recommended approval.

The applicant is requesting rezoning of the third lot east of 2nd Avenue and north of 27th Street from R-2 to UC, Urban Corridor District. In September 2005 the applicant successfully rezoned the two lots between this lot and 2nd Avenue as well as the three lots north of the alley. A small commercial strip building was constructed north of the alley which today contains businesses such as Big City Burrito and Bridal Images.

The same developer that completed the north project is requesting this rezoning to repeat what was previously done by adding another small strip commercial building on the south side of the alley. The proposed project will basically be a "mirror image" of the north project in terms of site layout. Whether the building materials and architectural style will be exactly the same is unknown. These lots are not in a planned development district. Logic says that the proposed building will probably be very similar to the existing building so that they are compatible with one another. You will recall the majority of the off-street parking required for the second building was actually installed when the first building was constructed. The remainder will be constructed in conjunction with the new building.

A 20-foot wide landscaped bufferyard will be required along the east property line of the property since the abutting land use to the east is residential. A 20-foot buffer was similarly required when the north strip mall was constructed. Paving of the east-west public alley must be extended east from its current terminus to the east edge of the owner's property. The rezoning request is in conformance with the Future Land Use

Map of the Kearney Comprehensive Development Plan.

Mitch Humphrey was present to answer any questions.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Buschkoetter to close the hearing and approve the Application submitted by Mitch Humphrey from Buffalo Surveying (Applicant) for NP Investments, Inc. (Owner) to rezone from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as the east 50 feet of Lot 249, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (113 West 27th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear and Kearney absent. Motion carried.

FINAL PLAT FOR AUSTIN ESTATES FOURTH SUBDIVISION

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Terry Broadfoot (Owner) for the Final Plat and Subdivision Agreement for Austin Estates Fourth Subdivision, Buffalo County, Nebraska for a tract of land being part of the West Half of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of 66th Street west of 2nd Avenue) and to consider Resolution No. 2011-23. Planning Commission recommended approval.

The applicant is requesting approval to plat a 4-lot subdivision for rural residential use on the south side of 66th Street Place west of 2nd Avenue. One lot is shown as "Outlot B" and contains an existing pond that will be used for stormwater management. The remaining three lots are intended as rural residential home sites. The proposed lots are 4.77 acres, 4.82 acres and 5.23 acres in size while Outlot B is 6.27 acres. The property is zoned RR-1, Rural Residential District (Rural Standards).

Staff expressed some concern with the length of 66th Street and 68th Street as dead-end streets. Until future development occurs to the west, these streets are basically long cul-de-sacs with only one access to State Highway 10. The Unified Land Development Ordinance restricts the length of a cul-de-sac to 600 feet maximum, although there are several cul-de-sacs in town that exceed this length. In this case, a maximum of seven rural lots will be served by the dead-end streets. At some point in the future the streets will be extended west. Planning Commission wanted to insure that the roads will indeed be extended in the future and staff assured them that the connection points and easements are in place. The Final Plat shows the location where these streets meet the adjoining property.

Staff has prepared a Subdivision Agreement that recognizes the length of the streets and allows for the three new lots to be platted. The Subdivision Agreement also stipulates that the applicant will not protest the creation of improvement districts or annexation in the future. For the foreseeable future, the homes will be served by individual well and septic systems, but the City will eventually extend services to this area and annex the properties. Stormwater will drain into the existing pond. Fire protection will be provided by rural pumper truck using water from the existing pond. A

Public Works Plan is not required. All required easements are shown on the Final Plat.

Craig Bennett Miller and Associates presented this matter to the Council. The proposed plat location would allow access to circulate off of 66th Street onto a street right-of-way northwesterly and then westerly. At the present time, it would have a terminus point on the west side of the property and then go south to a cul-de-sac. The proposed plat would consist of three residential lots and one outlet. The outlet is an existing lake which looks like a park as it has been well manicured and maintained by Mr. Broadfoot. These are very large lots and larger than the exiting lots that are out there. Mr. Broadfoot also owns the property to the north and to the east of the road. They are not subject to subdividing anything, leaving a parcel of less than 10 acres.

On the final plat they have shown the 100-year flood plane along the lake area. It also displays the 100-year floodway which would be in the back of the lots. There is still a large area that remains outside the 100 and 500 year flood plane. These lots range in size from 4.7 to a little over 5 acres. The road would be built consistent with a rural road section. When FEMA modeled this particular area and region, the pipes that were already in this floodway were taken into account. Those particular structures will be able to stay in place. The road can exist over the top of that. They worked with staff on the sanitary sewer to make provisions on the master planning to extend the 30-inch sanitary sewer truck main northwesterly along the railroad right-of-way and come through this subdivision. Mr. Broadfoot has allowed an easement for the sanitary sewer so it will be ready when it comes through to migrate and attach to this sanitary sewer. There is a lift station by the school and one in the Spruce Hollow First Addition both of which would be removed in the event that sanitary sewer is brought up to this place. At the present time, this site is just outside of the City limits. It will have registered wells and septic tanks at this particular point.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and approve the Application submitted by Craig Bennett from Miller & Associates (Applicant) for Terry Broadfoot (Owner) for the Final Plat and Subdivision Agreement for Austin Estates Fourth Subdivision, Buffalo County, Nebraska for a tract of land being part of the West Half of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (north of 66th Street west of 2nd Avenue) and adopt **Resolution No. 2011-23**. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: None. Lear and Kearney absent. Motion carried.

RESOLUTION NO. 2011-23

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Austin Estates Fourth Subdivision, a subdivision of Buffalo County, Nebraska for a tract of land being part of the West Half of the Northeast Quarter of Section 23, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska being more particularly described as follows: Beginning at the northwest corner of 66th Street as platted on Austin Estates Second Subdivision, and assuming the west line of said Northeast Quarter as bearing N00°24'30"W and all bearings contained herein are relative thereto; thence N00°24'30"W on said west line a

distance of 1289.96 feet; thence N89°35'12"E a distance of 705.55 feet; thence southeasterly on a tangent curve to the right, having a central angle of 48°55'12", a radius of 233.00 feet, and an arc length of 198.94 feet; thence S41°29'37"E tangent to said curve a distance of 354.12 feet; thence southeasterly on a tangent curve to the right having a central angle of 30°05'37", a radius of 233.00 feet, and an arc length of 122.38 feet; thence S11°24'00"E tangent to said curve a distance of 11.07 feet to a point on the north line of Austin Estates Subdivision, Buffalo County, Nebraska and the north line of 66th Street as platted on said Subdivision; thence southwesterly on a non-tangent curve to the left and on said north line, having a central angle of 38°30'15", a radius of 233.00 feet, an arc length of 156.58 feet and a chord bearing S67°29'25"W a distance of 153.65 feet; thence S48°14'18"W tangent to said curve and continuing on said north line a distance of 150.00 feet; thence continuing on said north line southwesterly on a tangent curve to the left having a central angle of 08°47'48", a radius of 533.00 feet, and an arc length of 81.83 feet; thence S39°26'30"W tangent to said curve and continuing on said north line a distance of 193.52 feet; thence continuing on said north line southwesterly on a tangent curve to the left having a central angle of 18°11'36", a radius of 333.00 feet, and an arc length of 105.74 feet; thence continuing on said north line S21°14'54"W tangent to said curve a distance of 116.32 feet; thence continuing on said north line southwesterly on a tangent curve to the right having a central angle of 23°24'34", a radius of 242.00 feet, and an arc length of 98.87 feet; thence continuing on said north line westerly on a compound curve to the right having a central angle of 62°41'39", a radius of 80.00 feet, and an arc length of 87.54 feet; thence continuing on said north line westerly on a reverse curve to the left having a central angle of 76°38'18", a radius of 80.00 feet, and an arc length of 107.01 feet to a point on the north line of Austin Estates Second Subdivision, Buffalo County, Nebraska and the north line of 66th Street as platted on said Subdivision; thence continuing on said north line southwesterly on a reverse curve to the right having a central angle of 45°04'10", a radius of 80.00 feet, and an arc length of 62.93 feet; thence continuing on said north line S75°46'59"W tangent to said curve a distance of 369.87 feet to the point of beginning, containing 23.85 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

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

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

LIQUOR LICENSE FOR QWEST FUEL, 414 2ND AVENUE SOUTH

Mayor Clouse opened the public hearing on the Application for a Class B-86939 liquor license submitted by KB & KS Investments, LLC, dba Qwest Fuel located at 414 2nd Avenue South, consider the manager application for Tara Shaw and to consider Resolution No. 2011-24.

Tara Shaw, store manager of Qwest Fuel, presented this matter to the Council. They had a liquor license in the past. Due to the violation of employees selling to minors the license was revoked. The company now has different policies regarding selling to minors. Their computer systems now will have the check date function where the birth date must be entered to complete the sale. All the employees are required to take the TIPS training through the Buffalo County Coalition. They were scheduled to do it this week, but was cancelled due to the weather. It will be rescheduled within the next couple of weeks. They have gone over the City Ordinance with all of their employees. They have all acknowledged that they understand it. Except for one employee, all of their employees have been there for over 1½ years. They have been responsible and reliable employees during that time who she anticipates will be staying.

Ms. Shaw stated that previously, her boss did not have an alcohol policy or handbook. She has within the last few months implemented a termination policy if there is an alcohol violation which in the past they did not have. All employees now have signed agreements stating they agree to that fact. They had not had the TIPS training before. The employees that she has now are older than the ones in the past. They are from 27-40 years old which has made better employees.

City Attorney Michael Tye stated the options the Council has they can recommend to the Liquor Control Commission that a new license be issued, not be issued or just take no position on the application. The Council's authority for a liquor license is fairly limited. They do not govern whether the license gets issued; only the Liquor Control Commission has that authority.

City Clerk Michaele Trembly stated that KB & KS Investment's first license was issued under Diamond/Shamrock. The then changed the name to Valero and had a manager change. Now it is doing business as Qwest Fuel, but is still the same owners KB & KS Investments, LLC.

Mayor Clouse stated that when they came to the Council in 2005 as a manager change, the Council had some concerns at that time. Ms. Shaw stated that she has been the manager since 2005 and they have had two violations during that time. They had one violation right before she was employed there.

City Clerk stated the Liquor Commission issued a license to them in 2004. What the Liquor Commission does as a general guideline is to go back four years during the time they had a license. The number of violations depends on the penalty. In this case, they had four violations within the four year period which resulted in the license being cancelled. The four years starts from the day of the first offense which would have been June 17, 2005.

Council member Lammers stated his biggest concern is that they have the same

ownership group and same management. He understands that they now have different plans and guidelines than previously. No matter what the Council's decision is, the application will go to the Liquor Commission regardless and management of Qwest will have to testify before them.

Council member Buschkoetter stated that having the same owners and management, even though they have implemented new policies was of concern to him. He thought that perhaps there was a manager change after the first two strikes, but then two more occurred under Ms. Shaw's management. He had some doubts if there was really going to be a change in how things operate even with these policies in place.

Ms. Shaw stated that the owners are in Hays, Kansas and she is pretty much here on her own. When she first started the manager position, she was not allowed to do any type of policy changes and did not have the authority to fire anybody or do many other duties. She has recently taken upon herself to tell management that this is the way things need to be and implemented these policies. She does not meet with them often, but talks with them on the phone everyday. She is doing the best she can basically on her own, although management has not disagreed with her.

Council member Buschkoetter stated after hearing the testimony he had somewhat changed his mind and believed that Ms. Shaw is doing what she can at this time.

Council member Lammers stated he is concerned about how committed the ownership group is in backing Ms. Shaw up. When push comes to shove, they must be behind it because Ms. Shaw is just the manager. If they instruct her to do something that is what she must do. It is the same group that has had numerous violations and lost a license because of it. He was not comfortable in recommending approval at this point.

Mayor Clouse stated he agreed with Council member Lammers comments about the ownership group. He believed that it is their business to manage and should have been here to back their manager with that initiative. He was leaning toward making no recommendation, but on further consideration shifting to denial.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2011-24** recommending denial to the Nebraska Liquor Control Commission the Application for a Class B-86939 liquor license submitted by KB & KS Investments, LLC, dba Qwest Fuel located at 414 2nd Avenue South, the manager application for Tara Shaw for the following reasons: (1) the number of violations of selling alcoholic liquor to a minor within a 4-year period, (2) the Nebraska Liquor Control Commission had revoked the license in September of 2009, (3) the lack of support of the corporation, KB & KS Investments, LLC by failing to appear before the Council in support of their manager. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear and Kearney absent. Motion carried.

RESOLUTION NO. 2011-24

WHEREAS, KB & KS Investments, LLC, dba Qwest Fuel has filed with the

Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class B-86939 (Beer – Off Sale Only) Liquor License to do business at 414 2nd Avenue South, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, KB & KS Investments, LLC, dba Qwest Fuel also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Tara Shaw; and

WHEREAS, a hearing was held relating to said application on March 8, 2011 and the cost of the published notice was \$11.29.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska that the application submitted by KB & KS Investments, LLC, dba Qwest Fuel be denied or recommend denial to the Nebraska Liquor Control Commission for the issuance of a Class B-86939 (Beer – Off Sale Only) Liquor License located at 414 2nd Avenue South, Kearney, Nebraska for the following reasons: (1) the number of violations of selling alcoholic liquor to a minor within a 4-year period, (2) the Nebraska Liquor Control Commission had revoked the license in September of 2009, (3) the lack of support of the corporation, KB & KS Investments, LLC by failing to appear before the Council in support of their manager.

BE IT FURTHER RESOLVED the application for Corporate Manager of Tara Shaw be and is hereby denied.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action denying or recommending denial of the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Lammers seconded by Buschkoetter that Subsections 1 through 9 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear and Kearney absent. Motion carried.

1. Approve Minutes of Regular Meeting held February 22, 2011.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services
 - ER Equipment Rental
 - CO Capital Outlay
 - DS Debt Service

Aflac \$2,946.02 ps; All Makes Office Equipment \$40,107.65 co; Amer First Aid \$334.61 smcs; Ask Supply \$477.41 smcs; Audio Go \$223.87 smcs; Baird Holm \$1,581.25 smcs; Baker & Taylor \$3,274.17 smcs; Bamford \$200.00 smcs; BennettT \$790.50 smcs; Blessing \$255.00 smcs; Blevins,D \$227.40 smcs; Bluecross Blueshield \$272,590.36 smcs; CFA Software \$2,995.00 smcs; City of Ky \$279,341.78 smcs,ps; Construction

Rental \$6.75 smcs; Cordova,T \$312.00 smcs; Danko Emergency \$23.01 smcs; Davis,C \$43.84 smcs; Depository Trust \$5,085.00 ds; Dish Network \$66.47 smcs; Dowhy Towing \$225.00 smcs; Driver's License Guide \$28.95 smcs; Dutton-Lainson \$16.16 smcs; E&D Enterprises \$440.00 smcs; Eakes \$153.58 smcs; Easterday,K \$9.21 smcs; Ecolab \$31.00 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$14,588.00 smcs; ESRI \$6,300.00 smcs; Eustis Body Shop \$355.00 smcs; Express Distributing \$78.00 smcs; Farm Plan \$1,156.34 smcs; Farmers Union Coop \$379.50 smcs; First Financial Investment \$191.84 ps; Fleetpride \$1,476.93 smcs; Foster,D \$70.00 smcs; Gale \$366.64 smcs; General Excavating \$255,206.69 co; Gough,P \$120.00 smcs; Great Plains Safety \$350.00 smcs; H&H Distributing \$177.20 smcs; HD Supply \$924.95 smcs; HHS Div of Public Health \$80.00 smcs; Holiday Inn \$7,015.00 smcs; Hometown Leasing \$444.91 smcs,co; ICMA RC \$4,079.64 ps; IRS \$98,391.78 ps; Jack Lederman \$30.86 smcs; Ky Hub \$30.00 smcs; Ky Humane Society \$6,825.00 smcs; Ky Towing \$450.00 smcs; Ky United Way \$667.24 ps; Ky Visitors Bureau \$23,209.75 smcs; Konica Minolta \$553.41 smcs; League of NE Municipalities \$150.00 smcs; Linda's Upholstery \$361.50 smcs; Madden,C \$7.79 smcs; Magic Cleaning \$3,050.00 smcs; Mail Express \$34.63 smcs; Matheson Tri-Gas \$85.95 smcs; McCarty,D \$269.50 smcs; Menards \$43.43 smcs; Metlife \$6,607.60 ps; Mid-NE Garage Doors \$800.00 smcs; Midwest Service \$2,031.20 smcs; Midwest Turf & Irrigation \$1,260.00 smcs; Milco Environmental \$2,403.50 smcs; Miller & Associates \$40,332.07 co; Mitchell Repair \$780.00 smcs; Moonlight Embroidery \$1,148.50 smcs; Municipal Emergency \$30.00 ps; Nat'l Alliance for Youth \$180.00 smcs; NE Child Support \$2,454.98 ps; NE Dept of HHS \$656.00 smcs; NE Dept of Revenue \$62,610.36 ps; NE Law Enforcement \$50.00 smcs; NE Sec of State \$30.00 smcs; NE State Library \$65.50 smcs; NE Supreme Court \$65.50 smcs; NEland Distributors \$172.70 smcs; NEIAI \$50.00 smcs; New World \$3,750.00 smcs; NMC Exchange \$1,490.12 smcs; Northgate Vet Clinic \$55.00 smcs; Northwestern Energy \$11,207.44 smcs; Otto Environmental \$6,596.40 smcs; Overhead Door \$335.00 smcs; Paramount \$43.12 smcs; Payflex Systems \$531.25 smcs,ps; Pearson,J \$50.79 smcs; Presto-X \$104.00 smcs; Pulliam,R \$40.00 smcs; RW Sorensen Construction \$4,374.00 smcs,co; Random House \$143.36 smcs; Recorded Books \$1,116.37 smcs; Red Willow Co \$2,035.00 smcs; Reinke's Heating \$127.48 smcs; Reserve Account \$750.00 smcs; Safety-Kleen \$326.26 smcs; Scales \$1,000.00 smcs; Sesna,D \$126.00 smcs; Shea,S \$176.00 smcs; Sierra Auto Sales \$9,900.00 co; Simpson,J \$31.00 smcs; Snow,T \$50.00 smcs; Snyder,B \$12.00 smcs; Sorensen Partners \$212.43 ps; State of NE/AS Central \$3,518.00 smcs; Sun Life Financial \$42,691.14 smcs; Sydow,J \$40.00 smcs; Turner Body Shop \$1,603.50 smcs; Tye & Rademacher \$12,927.69 smcs; Verizon Wireless \$1,135.32 smcs; Wagnitz,C \$40.00 smcs; Walsh,C \$152.37 smcs; Ward Lab \$30.80 smcs; Warrington,D \$46.00 smcs; Wells Fargo Bank \$80,900.00 smcs; Williams Fire & Hazard \$2,228.84 smcs; Williams,M \$65.30 smcs; Yanda's Music \$2,095.00 co; Payroll Ending 2-26-2011 -- \$324,279.40. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 1978-01 to locate a manufactured home for security purposes located at 1202 West 19th Street for a period of one year.
4. Approve the application submitted by Ronald Huss to extend Conditional Use Permit No. 2006-03 to stockpile snow and manure at 1202 West 19th Street for a period

of one year.

5. Approve the application for a Special Designated License submitted by Sports Fans LLC, dba Fanatics in connection with their Class C-78257 liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on March 26, 2011 from 3:00 p.m. until 1:00 a.m. for a fund raiser.
6. Approve the request submitted by the Kearney Police Department/Buffalo County Sheriff's Office to temporarily block off Avenue B from North Railroad Street to 21st Street for the vehicle auction to be held on April 2, 2011 from 7:00 a.m. until 3:00 p.m.
7. Approve the Developer Constructed Infrastructure Agreement between the City of Kearney and Starostka Group Unlimited for constructing public improvements for Lots 1, 2, 3, 4 of Block One and Lots 1, 2, 3 of Block Two, Bel Air Second Addition to the City of Kearney and adopt **Resolution No. 2011-25**.

RESOLUTION NO. 2011-25

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lots 1-4 of Block One and Lots 1-3 of Block Two, Bel Air Second Addition" between the City of Kearney and Starostka Group Unlimited, Inc., a Nebraska Corporation, to construct water, sanitary sewer, storm sewer and paving to serve the property described as Lots 1, 2, 3, 4 of Block One and Lots 1, 2, 3 of Block Two, Bel Air Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Danny Starostka on behalf of Starostka Group Unlimited, Inc. to construct said water, sanitary sewer, storm sewer and paving as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 8TH DAY OF MARCH, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Approve the recommendation to award the bid to Nebraska Truck Center in the amount of \$102,282 for the purchase of a dump truck to be used in the Transportation Division of the Public Works Department.
9. Approve the request submitted by the World Theatre to temporarily block off the parking stalls on the north and south sides of 24th Street from Central Avenue to the alley from 8:00 a.m. March 11 to 5:00 p.m. March 14, and on the south side of 24th Street from Central Avenue to the alley from 8:00 a.m. on April 1 to 5:00 p.m. on April 4.

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7635 – REZONING PROPERTY AT 113 WEST 27TH STREET (PERTAINS TO PUBLIC HEARING 1)

Mayor Clouse stated that with the absence of Council members Lear and Kearney, Ordinance No. 7635 rezoning from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as the east 50 feet of Lot 249, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska and located at 113 West 27th Street will need to be postponed.

Moved by Buschkoetter seconded by Clouse to postpone any action on Ordinance No. 7635 rezoning property located at 113 West 27th Street until March 22, 2011. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: None. Lear and Kearney absent. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$944.63, PLATTE VALLEY STATE BANK - \$48,707.03

Mayor Clouse stated that with the absence of Council members Lear and Kearney, the Open Account Claim to NPPD will be placed on the March 22 Council agenda for approval.

Moved by Clouse seconded by Lammers that Open Account Claim in the amount of \$48,707.03 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lammers. Nay: None. Lear and Kearney absent. Motion carried.

VII. REPORTS

UPDATES FROM CITY MANAGER

City Manager Michael Morgan stated the state aid to local governments, counties and NRDs will be signed by the Governor. This is approximately \$230,000 annual state aid which is the amount expected. That is something they will be weary of as they move toward the budget discussions coming up. The good news is that Cherry Avenue Bypass project is proceeding. A new agreement will shortly be brought to the Council which recognizes our prior agreement and some changes with respect to proportional increases as is fair and reasonable. We were up to \$4.8 million and are now back to \$1.8 for the City's cost share so those negotiations went well. He expressed his appreciation to Monty Frederickson, Director of the Department of Roads. They also secured a payment from Union Pacific of \$192,000 in funding with respect to closure of two rail crossings which will eventually be paid in cash to the City of Kearney. They are still looking at \$1.7 million for the City share. We are actually looking at less cost today

than we were three years ago.

City Manager stated that they anticipated the census numbers to be above 32,000. There are some unique situations across the state that contributed to those census numbers. Omaha went from 454,000 to 405,000. Kearney is not going to appeal its census because it seems to be reasonable and fair and in the range that was expected. However, Kearney is still a city of less than 50,000 so do not qualify for entitlement. They have trusted the Census Bureau and how they have calculated. Looking at the national appeals to the Census Bureau and how much they actually change is slim to none. Kearney had approximately 12 percent growth over the past 10 years and in comparison there were many communities that did not have as much growth. They only have the initial data from the census and will take a closer look when we get a more detailed report.

The Capital Improvement Projects results will follow. Staff will be putting together some information for the Council with a list of all the suggestions grouped together that were received during the listening sessions. They will try to format them which will make better sense and estimate some costs and more of an update on the ½ cent sales tax plan.

Mayor Clouse stated there are a lot of people who are anxious to see results of the listening sessions to see if there are any common themes for the community. He will be looking forward to the report.

Mayor Clouse stated he would be meeting with some Mayors to talk about the additional ½ sales tax that is going to the Revenue Committee of the Legislature. The League has asked a few mayors to get together and provide some input. There are a lot of things that the League is working on because these are tough times everywhere.

VIII. ADJOURN

Moved by Buschkoetter seconded by Lammers that Council adjourn at 8:09 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter. Nay: None. Lear and Kearney absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**