

**Kearney, Nebraska**  
**June 14, 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 June 14, 2011 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; Dan Lynch, Chief of Police; Bobbi Pettit, Assistant Development Services Director; and Lance Lang, City Planner were also present. Some of the citizens present in the audience included: Ron Blessing, Paul Brungardt, Gary Sorenson, Stacy Lauby, Paul Younes, Ron Follmer, Jerry Grossart, Dan Gallagher, Steve Altmaier from KGFW Radio, Kevin Hervert, Kearney Hub.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the City Council and a copy of their acknowledgment or receipt of such notice is attached to these minutes. Availability of the Agenda was communicated in the advance notice and in the notice to the Mayor and City Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

## **I. ROUTINE BUSINESS**

### **INVOCATION**

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silent prayer.

### **PLEDGE OF ALLEGIANCE**

Boy Scout Tyson Gitt 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**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **CONDITIONAL USE PERMIT TO BLESSING AND COAL CHUTE PARK FOR PORTABLE CONCRETE BATCH PLANT AT 3985 COAL CHUTE ROAD**

Mayor Clouse opened the public hearing on the Application submitted by Ron Blessing (Applicant) and Coal Chute Park, L.L.C. (Owner) for a Conditional Use Permit to locate a portable concrete batch plant in the future on property zoned District AG, Agricultural District and described as the East Half of the Northeast Quarter of the Northeast Quarter (a.k.a. the east 20 acres of Government Lot 8) in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road). Planning Commission recommended approval subject to compliance with the following conditions: a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant. These materials will include, but are not limited to: fuel, Portland cement, limestone, and chemical additives. b) This CUP shall be limited to a four year time limit that is renewable at the end of the four year period if the paving construction project is still ongoing. c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape. d) All equipment shall also be removed from the site by the time the CUP expires. e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate. 2. River gravel or river rock is not acceptable for rebuilding subgrade. 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule. Staff recommends that the road be watered and bladed every four hours when trucks are operating. 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times. f) Hours of operation shall not be limited. g) This operation shall meet all Federal and/or State agency requirements and standards.

The applicant is requesting a Conditional Use Permit for a future construction batch plant for the proposed Cherry Avenue Interchange and Bypass project. This site is located at 3985 Coal Chute Road, west and adjacent to the proposed Cherry Avenue alignment for the by-pass. The property is zoned Agricultural. The applicant has submitted a site diagram that indicates relative positioning of material stockpile areas, plant site and washout pit. The trucks will primarily take access from Cherry Avenue instead of Coal Chute Road, but if necessary, there may be some use of Coal Chute. Stone School is just east of the proposed site. Staff favors limiting the use of Coal Chute Road due to the close proximity of Stone School.

Staff recommends the following conditions be incorporated into the Conditional Use Permit:

a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant. These materials will include, but are not limited to: fuel, Portland cement, limestone, and chemical additives.

b) This CUP shall be limited to a four year time limit that is renewable at the end of the four year period if the paving construction project is still ongoing.

c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape.

d) All equipment shall also be removed from the site by the time the CUP expires.

e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road:

1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate.

2. River gravel or river rock is not acceptable for rebuilding subgrade.

3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule. Staff recommends that the road be watered and bladed every four hours when trucks are operating.

4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times.

f) Hours of operation shall not be limited.

g) This operation shall meet all Federal and/or State agency requirements and standards.

Ron Blessing, 311 Huron Drive, presented this matter to the Council. This project would be for the first phase of the Cherry Avenue Bypass which includes preparatory work. They are requesting this Conditional Use Permit in case they want or need to set up a portable plant. It is not certain if this will be necessary, but they want to be prepared if need be. Council member Lammers asked if Mr. Blessing felt comfortable in not using the Stone School route in the area any more than possible as was discussed at Planning Commission. Mr. Blessing stated that this activity will be basically south of Stone School in this phase. The second phase will have activity adjacent to the school.

Ron Fullmer, 42500 Kilgore Road, expressed a concern about the conditions of this Conditional Use Permit. He asked if the conditions of his Conditional Use Permit included a conservation plan for fuel and water pollution as he was required to do. City Planner Lance Lang responded that when Mr. Fullmer applied for his permit, his property involved two sites, one site was close along the river close to the City well field and within the City's well head protection area. That prompted concerns because of the proximity to ground water. Mr. Fullmer's other site on the north side along 11th Street was very similar to Mr. Blessing's site. When Mr. Blessing's CUP was prepared the same conditions were applied to his permit as Mr. Fuller's north side. So it is not quite the same scenario. Mr. Blessing has agreed to condition (g) which is to meet all Federal and/or State agency requirements and standards.

There was no one present in opposition to this hearing.

Moved by Kearney seconded by Lammers to close the hearing and approve the Application submitted by Ron Blessing (Applicant) and Coal Chute Park, L.L.C. (Owner) for a Conditional Use Permit to locate a portable concrete batch plant in the future on property zoned District AG, Agricultural District and described as the East Half of the Northeast Quarter of the Northeast Quarter (a.k.a. the east 20 acres of Government Lot 8) in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road) subject to compliance with the following conditions:

a) The CUP allows the applicant the right to operate a temporary paving batch plant to produce asphalt and/or Portland cement concrete. The operation of the batch plant shall include import and export of all materials required to operate said plant. These materials will include, but are not limited to: fuel, Portland cement, limestone, and chemical additives. b) This CUP shall be limited to a four year time limit that is renewable at the end of the four year period if the paving construction project is still ongoing. c) By the time this CUP expires, all stockpiled material must be either removed from the site or redistributed on site and re-vegetated as part of the natural landscape. d) All equipment shall also be removed from the site by the time the CUP expires. e) The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the road: 1. Applicant shall core all soft spots and pot-holed areas in the road and rebuild the subgrade with half-inch (1/2") limestone or crushed concrete aggregate. 2. River gravel or river rock is not acceptable for rebuilding subgrade. 3. Applicant shall provide a written schedule to water and blade the length of the gravel street surface with a motor grader and shall adhere to said schedule. Staff recommends that the road be watered and bladed every four hours when trucks are operating. 4. Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times. f) Hours of operation shall not be limited. g) This operation shall meet all Federal and/or State agency requirements and standards. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **DEVELOPMENT PLANS FOR 5609 1ST AVENUE**

Mayor Clouse opened the public hearing on the Application submitted by Paul Brungardt and Gary Sorensen (Applicant) for Jim Otto (Owner) for Planned District Development Plan Approval for office and retail center development on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District for property described as Lot 2, Block 2, Ingalls Crossing, an addition to the City of Kearney, Buffalo County, Nebraska (5609 1st Avenue) and to consider Resolution No. 2011-57. Planning Commission recommended approval.

The applicant is requesting approval of Development Plans for a commercial office and retail development at 5609 1st Avenue, adjacent to and north of the McDonalds which is located in Ingalls Crossing Subdivision. The property is zoned C-2/PD, Community Commercial/Planned Development Overlay District. There are three separate buildings proposed, two one-story buildings and one two-story building. The buildings will feature all brick construction with an emphasis on glass in the facades and hip roofs. Staff has reviewed the Development Plan package and offers the following comments:

a) Building A will likely be the first to be constructed and it is located at the northeast corner of the lot. It contains 9,024 square feet on two floors and is intended to be office use.

b) Building B is located along the south lot line to the east of Building C. Building B contains 3,000 square feet of floor area and Building C contains 6,000 square feet of floor area. Both of these buildings are single story and may contain office or retail uses or a mixture of both.

c) 84 parking spaces are required and 84 are provided. The Owner has indicated that they are not currently contemplating restaurant uses. Retail space devoted to restaurant use generates higher parking demand. Consequently, the amount of total floor area dedicated to restaurant use, if applicable, will be limited.

d) 57th Street borders the north side of this lot on the Preliminary Plat for Ingalls Crossing; however, it was never included in the Final Plat. Therefore, construction of 57th Street is not required at this time. A ten-foot wide landscape strip that will accommodate street tree plantings is provided along the entire frontage of 57th Street in order to accommodate the potential development of the street. The developer also has the option to relocate 57th Street further to the north in the future.

e) A Landscape Plan is provided and has been approved by the City Planner as required by code.

f) The requirement to show contours on the plans has been waived.

g) A Public Works Plan indicating how water and sewer are to be connected, drainage flow and outdoor lighting locations is included. Sharp cutoff fixtures are required for the outdoor lighting.

h) Final design and computations for stormwater management will be required prior to the issuance of a building permit. There is an existing detention cell to the east of this property that will be utilized to detain the stormwater from this site.

Paul Brungardt, Brungardt Engineering, presented this matter to the Council. The proposal is for a two story building (office center) which is approximately 9,000 square feet. On the south side of the property is a retail center which is approximately 6,000 square foot, single story building and a 3,000 square foot single story building. The projected number of parking stalls is about 80 stalls plus four handicapped and this site will have 80 plus five. They had a few issues raised on landscaping at Planning Commission. Currently, 57th Street is not platted and is unknown if it will be so they have created a 10-foot green space buffer along the parking lot. The C-2/PD requires a 25-foot setback, but this lot has a 30-foot building setback along all street sides so Building A will be 30 foot off this property line to the north. In the event that 57th Street comes in, they are prepared for that. City staff agreed to only putting in landscaping along 1st Avenue at this time.

For sanitary sewer they are tapping off the sanitary sewer line on 1st Avenue and will tap into the three buildings with the sanitary sewer. The water is on the west side of 1st Avenue but there is an 8-inch ductile pipe that comes across that they will tap into and provide water service to all three units. The drainage will drain naturally from the west to the east with curb inlets provided so they can collect the water. On the east side of this site, there is a detention cell that has been sized for the entire Ingall's Crossing Subdivision.

On the first floor of the two story structure, there will be some conference rooms, office space and inside stair well. On the east side there will be a back stairway. Above that will be more office space with cubicles. The structure will be all brick with a 6/12 pitch roof system. Building B currently has a shell only permit and will be completed as they

get developers. The exterior will be similar to Building A with a 6/12 pitch roof and all brick façade. The 6,000 square foot building is similar. There is a facility that could inhabit this building and they have a mock up plan for it with some restrooms and facilities.

Council member Lammers asked if an elevator is required if the same amenities are provided on each floor of the two-story building. Mr. Brungardt stated that is correct, an elevator is not required because there will be ADA compliant restrooms on each floor.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and approve the Application submitted by Paul Brungardt and Gary Sorensen (Applicant) for Jim Otto (Owner) for Planned District Development Plan Approval for office and retail center development on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District for property described as Lot 2, Block 2, Ingalls Crossing, an addition to the City of Kearney, Buffalo County, Nebraska (5609 1st Avenue) and adopt **Resolution No. 2011-57**. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2011-57**

WHEREAS, Paul Brungardt and Gary Sorensen (Applicant) for Jim Otto (Owner) have applied for Planned District Development Plan Approval for office and retail center development on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 2, Block 2, Ingalls Crossing, an addition to the City of Kearney, Buffalo County, Nebraska (5609 1st Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Paul Brungardt and Gary Sorensen (Applicant) for Jim Otto (Owner) for Planned District Development Plan Approval for office and retail center development on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 2, Block 2, Ingalls Crossing, an addition to the City of Kearney, Buffalo County, Nebraska (5609 1st Avenue) be approved.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **LIQUOR LICENSE FOR HAMPTON INN**

Mayor Clouse opened the public hearing on the Application for a Class C-94082 liquor license submitted by Mid-Plains Hospitality Group, Inc., dba Hampton Inn located at 118 3rd Avenue, consider the manager application for Paul Younes and to consider Resolution No. 2011-58.

This is an application submitted by Mid-Plains Hospitality Group, Inc., dba Hampton Inn for a license to sell alcohol located at its facility located at 118 3rd Avenue. The Applicant and Manager, Paul Younes has eight liquor licenses throughout Nebraska:

- Holiday Inn in Kearney – has not been cited for more than 10 years.
- Holiday Inn Express in Kearney – no violations.
- Younes Conference Center in Kearney – no violations.
- Holiday Inn Express in Norfolk – no violations.
- Holiday Inn Express in Fremont – no violations.
- Holiday Inn Express in Columbus – no violations.
- Holiday Inn Express in Hastings – no violations.
- Fairfield Inn & Suites in Grand Island – no violations.

On May 24 the Council recommended approval to the Liquor Commission the applications for a liquor license for both the Wingate Inn and the Fairfield Inn. Those have been submitted to the Liquor Commission for consideration.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicant. This is an additional license to the community. The Application for Manager identifies Paul Younes. Mr. Younes has extensive knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, on March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. Mr. Younes has indicated that the general manager and staff will attend the TIPS (Training for Intervention Procedures) program.

Paul Younes was present to answer any questions from the Council. He stated this is another one of his hotels that is providing drinks to their guests.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and recommend approval to the Nebraska Liquor Control Commission the Application for a Class C-94082 liquor license submitted by Mid-Plains Hospitality Group, Inc., dba Hampton Inn located at 118 3rd Avenue, consider the manager application for Paul Younes and adopt **Resolution No. 2011-58**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2011-58**

WHEREAS, Mid-Plains Hospitality Group Inc., dba Hampton Inn has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney,

Nebraska, an application for a Class C-94082 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 118 3rd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Mid-Plains Hospitality Group Inc., dba Hampton Inn 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 June 14, 2011 and the applicant has or will complete a state approved alcohol server/seller training program.

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 C-94082 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to Mid-Plains Hospitality Group Inc., dba Hampton Inn located at 118 3rd Avenue, Kearney, Nebraska, and to approve the application for Corporate Manager of Paul Younes upon the completion of a state approved alcohol server/seller training program.

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 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **LIQUOR LICENSE FOR SMOKER FRIENDLY/SF LIQUORS**

Mayor Clouse opened the public hearing on the Application for a Class C-94153 liquor license submitted by The Cigarette Store Corp., dba Smoker Friendly/SF Liquors located at 1325 2nd Avenue, Suite I, consider the manager application for Stacey Lauby and to consider Resolution No. 2011-59.

This is a new application submitted by The Cigarette Store Corp., dba Smoker Friendly/SF Liquors for a license to sell alcohol at its facility located at 1325 2nd Avenue, Suite I. The facility will sell alcoholic beverages as well as tobacco products. The store diagram does have a drive through window indicated but staff was informed and were well aware that alcohol sales via this window are not allowed. In checking, a similar situation exists in Grand Island at the Smoker Friendly store there and no problems have been reported or observed. The Grand Island store has never had a violation/complaint since opening in 2008. The North Platte Store had two sales to minors, one in 2007 and one in 2008 but nothing since.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicant. There was nothing found in the background that would indicate a problem with compliance with Council policy nor is there any recent history of any issues with any of the corporate stores in Nebraska. The Application for Manager identifies Stacey Lauby. None of the principal employees have any record indicating they would not be suitable for this business. The applicant has

knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, on March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. The applicant has indicated that the manager and staff will receive "SureSell" training or TIPS (Training for Intervention Procedures).

Dan Gallagher stated they have locations in Grand Island and North Platte which are a combination of tobacco and liquor store. On the liquor application, they applied for on premises as well as off premises in order to provide samplings and tasting with manufactures. They are not interested in having a bar or a restaurant that would be actually serving alcohol. As a company, they operate 85 stores; however, tobacco has been their background. The lifeblood of their company is selling age restrictive products. They have the two combo stores in Grand Island and North Platte and they have a very good record on the tobacco and the alcohol side in Nebraska. They have had one violation in five years, which was a clerk who failed a sting in North Platte three years ago. Their company policy is any violation of liquor or tobacco laws is immediate termination. They also conduct the self shop program where they send in shoppers for tobacco and alcohol who appear 26 years old or younger to make sure employees are being compliant. Their company policy for alcohol is that they card everybody and for tobacco anyone who appears to be under 35.

Stacey Lauby stated she has been with the Smoker Friendly company for three years. She currently manages the Smoker Friendly store in Kearney and will be taking over the liquor store portion of the business. She agreed that they cannot stress enough checking IDs and making sure all customers are of age. The Kearney store has had no tobacco violations. She has had several years of experience in serving alcohol doing bartending for the Cozad Country Club, Cozad Elk's Club and others. She has been very familiar with checking ID cards and how to comply with liquor rules and regulations. They will employ 6-8 employees and will always have 2-3 people on duty at all times.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and recommend approval to the Nebraska Liquor Control Commission the Application for a Class C-94153 liquor license submitted by The Cigarette Store Corp., dba Smoker Friendly/SF Liquors located at 1325 2nd Avenue, Suite I, consider the manager application for Stacey Lauby and adopt **Resolution No. 2011-59**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

#### **RESOLUTION NO. 2011-59**

WHEREAS, The Cigarette Store Corp., dba Smoker Friendly/SF Liquors has filed

with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-94153 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 1325 2nd Avenue, Suite I, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, The Cigarette Store Corp., dba Smoker Friendly/SF Liquors also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Stacey Lauby; and

WHEREAS, a hearing was held relating to said application on June 14, 2011 and the applicant has or will complete a state approved alcohol server/seller training program.

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 C-94153 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to The Cigarette Store Corp., dba Smoker Friendly/SF Liquors located at 1325 2nd Avenue, Suite I, Kearney, Nebraska, and to approve the application for Corporate Manager of Stacey Lauby upon the completion of a state approved alcohol server/seller training program.

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 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

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

Moved by Clouse seconded by Kearney that Subsections 1 through 16 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 May 24, 2011.
2. Approve the following Claims:
 

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

AT&T \$259.06 smcs; ABA Recovery \$175.94 ps; Aflac \$2,815.56 ps; Agrium Advanced \$427.50 smcs; Amer First Aid \$91.23 smcs; Ammis,F \$50.14 smcs; Anderson Bros \$681.50 smcs; Applied Industrial Tech \$13,209.14 co; Ask Supply \$353.41 smcs; Audio Go \$224.52 smcs; Aurora Coop \$27.20 smcs; Baker & Taylor Books \$2,126.66 smcs; Beezley,C \$3.68 smcs; Benson,N \$19.77 smcs; Bluecross Blueshield \$190,511.77 smcs; Bosselman \$18,558.81 smcs; Bowman,R \$400.00 smcs; Brandt,M \$38.81 smcs; Broadfoot's \$390.83 smcs; Brodine,S \$277.60 smcs; Bruha,S \$446.72 smcs; Buffalo Co Comm. Partners \$180.00 smcs; Buffalo Co Treasurer \$15.00 co; Builders Warehouse

\$2,844.47 smcs,co; Bush,K \$70.00 smcs; Business Computer Design \$6,745.00 smcs; Buttress,S \$19.98 smcs; CANDO \$2,000.00 smcs; Carquest \$733.08 smcs; Casarino Christman Shalk \$742.50 smcs; Casey's \$59.17 smcs; Cash-Wa \$3,424.05 smcs; Central Fire & Safety \$132.00 smcs; Central Hydraulic \$2,192.19 smcs; Charter \$339.22 smcs; City Glass \$207.06 smcs; City of Ky \$305,132.93 smcs,co,ps; Cold River Records \$1,750.00 smcs; Construction Rental \$170.00 co; Cordle,B \$2,000.00 smcs; Corey's Complete Detailing \$75.00 smcs; Danko Emergency \$924.05 smcs; Darling,L \$9.63 smcs; Data Power Technology \$1,567.44 smcs; Dawson Co PPD \$1,995.26 smcs; Deyle,K \$44.24 smcs; Dish Network \$58.16 smcs; Dowhy Towing \$75.00 smcs; DPC Industries \$18,293.65 smcs; Dutton Lainson \$16.20 smcs; Eakes \$799.06 co; Eirich,T \$50.00 smcs; Encore Funding \$325.44 ps; Engineered Controls \$1,700.00 smcs; Eustis Body Shop \$300.00 smcs; Evident \$30.00 smcs; Face At My Door Music \$1,000.00 smcs; Fairbanks \$1,579.98 smcs; Footjoy \$694.93 smcs; Frontier \$206.43 smcs; Gale \$418.44 smcs; Garrett Tires \$1,911.71 smcs; GE Money Bank \$1,034.18 smcs; Gough,P \$195.00 smcs; Grace,D \$4.41 smcs; Great Amer Outdoor \$165.00 smcs; Great Plains One Call \$537.45 smcs; Griffiths Construction \$1,005.00 smcs; Gronewoller,B \$15.00 smcs; H&H Distributing \$2,080.84 smcs; Hand,T \$60.00 smcs; Harley Davidson Central \$4,282.97 smcs; Harshbarger,K \$865.80 smcs; HD Supply \$16,203.27 smcs; Hebb,D \$12.50 smcs; Hillburn,C \$7.38 ps; Hometown Leasing \$693.97 smcs,co; Horst,L \$20.15 smcs; Hotwoods \$7,780.00 smcs; Hydrite Chemical \$3,495.00 smcs; ICMA RC \$3,816.35 ps; IMLA \$625.00 smcs; Ingraham,J \$43.84 smcs; Inter-Motion \$1,011.00 smcs; IRS \$106,315.01 ps; Iwashita,N \$21.61 smcs; J.C. Masonry \$413.00 co; Jack Lederman \$2,255.09 smcs; Jacobs,H \$23.71 smcs; James,D \$1,260.69 smcs; Jamson Painting \$837.00 smcs; Jelinek,T \$800.00 smcs; Jump A Roo \$600.00 smcs; K&K Parts \$866.09 smcs; Kaslon,D \$40.00 smcs; Ky Concrete \$676.78 smcs; Ky Hub \$250.40 smcs; Ky Humane Society \$6,825.00 smcs; Ky Towing \$75.00 smcs; Ky United Way \$615.24 ps; Ky Visitors Bureau \$34,707.75 smcs; Kenneda,W \$16.47 smcs; Konica Minolta \$2,004.20 smcs; Kowaleck,G \$33.53 smcs; Kratzer,B \$35.00 smcs; Krull Ins \$1,950.00 smcs; Kucera,M \$18.91 smcs; Lakatos,C \$14.15 smcs; Lake Fountains & Aeration \$11,175.56 co; Lincoln Winwater \$323.14 smcs; Linda's Upholstery \$205.93 smcs; Lockmobile \$94.33 smcs; Luke,D \$566.08 smcs; Magic Cleaning \$3,400.00 smcs; Mail Express \$334.21 smcs; Marlatt Machine Shop \$15.98 smcs; Matheson Tri-Gas \$55.06 smcs; McLaughlin,P \$618.57 smcs; Metlife \$6,671.28 ps; Meznarcich,R \$13.20 smcs; Mid Peterson Meal Program \$211.00 smcs; Midwest Breathing \$274.59 smcs; Midwest Mailing \$265.00 smcs; Midwest Storage Solutions \$43,344.00 co; Miller & Associates \$17,096.16 co; Miller,A \$12.50 smcs; Mooberry,E \$41.84 smcs; Moonlight Embroidery \$3,131.50 smcs; Moonlight Horseshoeing \$60.00 smcs; MPH Industries \$219.70 smcs; Nanfita,A \$39.01 smcs; Ndoumu-Kovakou,K \$28.44 smcs; NE Child Support \$2,861.15 ps; NE Dept of Revenue \$71,594.26 smcs,ps; NE Dept of Roads \$2,400.00 smcs; NE Library Assn \$50.00 smcs; NE Library Commission \$359.00 smcs; NE State Fair \$400.00 smcs; Neland Distributors \$916.53 smcs; Neland Equipment \$1,159.18 smcs; Neopost \$6,000.00 smcs; Nicklasson,R \$35.00 smcs; NMC Exchange \$2,944.00 smcs; Northwestern Energy \$6,239.36 smcs; NOVA Fitness Equipment \$464.50 ps; NRG Media \$72.00 smcs; Nuttelman Fencing \$5,360.00 smcs; Office Depot \$848.08 smcs; O'Keefe Elevator \$471.57 smcs; Paramount \$472.94 smcs; Patterson,B \$104.75 smcs; Payflex Systems \$535.50 smcs,ps; Pep Co \$51.10 smcs; Plains Tree Farm \$8,621.00 smcs; Platte Valley Comm \$1,370.70 smcs,co; Pramac \$2,991.46 smcs; Presto-X \$225.00 smcs; Pulliam,R \$40.00 smcs; Random House \$233.60 smcs; Ravenna Good

Samaritan \$48.00 smcs; Ready Mixed Concrete \$407.27 smcs; Recorded Books \$910.45 smcs; Reeves,B \$313.60 ps; Riverside Mfg \$703.49 ps; Roth,J \$39.46 smcs; Rouse,H \$31.00 smcs; Sage,P \$35.00 smcs; Sapp Bros \$40,241.00 smcs; Scott Entertainment \$500.00 smcs; Shea,S \$153.00 smcs; Silvers,D \$110.00 smcs; Smith,C \$31.00 smcs; Snow,T \$50.00 smcs; Spellman Drafting \$200.00 smcs; St. Francis Medical Center \$41.95 ps; State of NE/AS Central \$3,805.06 smcs,co; Steinbrink Landscaping \$1,172.21 smcs; Strategic Insights \$675.00 smcs; Sun Life Financial \$43,242.59 smcs; Sysco \$116.10 smcs; Tabbert,D \$25.18 smcs; Technical Maintenance \$315.00 smcs; Theis,J \$60.00 smcs; Thome,B \$825.80 smcs; Titleist \$1,436.13 smcs; Troyer,K \$50.06 smcs; Tye & Rademacher \$10,577.24 smcs; Uden,B \$15.39 smcs; Van Cleave,A \$100.00 smcs; Van Wall Equipment \$300.00 smcs; Verizon Wireless \$1,062.26 smcs; Village Uniform \$376.55 smcs; Vivint \$50.00 smcs; Voss Lighting \$228.96 smcs; Wald & Co \$13,000.00 smcs; Walters Electric \$496.82 smcs; Warren,R \$33.13 smcs; West Payment Center \$1,454.43 smcs; West,K \$60.00 smcs; Wiegand Security \$85.00 smcs; Williams,M \$194.49 smcs; WPCI \$267.50 ps; Yanda's Music \$1,500.00 smcs; Zimmerman Printers \$866.42 smcs; Payroll Ending 5-21-2011 -- \$348,044.91 and Payroll Ending 6/4/2011 -- \$379,127.81. 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. Accept the report from the City Clerk on the sufficiency of objection/protest filed in connection with Paving Improvement District No. 2011-947 for the alley lying between 26th Street and 27th Street from 4th Avenue to 5th Avenue.

4. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropico in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on July 2, 2011 from 6:00 p.m. until 1:00 a.m. for a dance.

5. Approve Change Order No. 6 showing an increase in the amount of \$4,750.00, accept the Certificate of Substantial Completion submitted by Central Contracting and approved by Wilkins Hinrichs Stober Architects for the Kearney Regional Airport Terminal Addition and Renovation Project and adopt **Resolution No. 2011-60**.

**RESOLUTION NO. 2011-60**

WHEREAS, Central Contracting of Kearney, Nebraska has performed services in connection with the construction of the Kearney Regional Airport Terminal Addition and Renovation Project, and the City's engineer, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 6 showing an increase to the contract sum in the amount of \$4,750.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$694,450.00
Change Order No. 1 (9-28-2010)	+ 13,102.00
Change Order No. 2 (10-12-2010)	+ 6,621.00
Change Order No. 3 (11-9-2010)	+ 22,803.00
Change Order No. 4 (12-28-2010)	+ 8,628.00
Change Order No. 5 (2-8-2011)	+ 1,661.00

Change Order No. 6 (6-14-2011)	+ 4,750.00
Contract Sum to Date	<u>\$752,015.00</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of May 10, 2011, as shown by Exhibit "B" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 6, as shown on Exhibit "A" and the Certificate of Substantial Completion as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Approve the Peterson Senior Activity Center Annual Nutrition Service Contract between the City of Kearney and Community Action Partnership of Mid-Nebraska to serve as the meal service provider and adopt **Resolution No. 2011-61**.

#### **RESOLUTION NO. 2011-61**

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

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Adopt **Resolution No. 2011-62** approving the Cruise Nite parade scheduled for July 16, 2011 at 5:00 p.m. beginning at Railroad Street and Central Avenue, north on Central Avenue and dispersing at the intersection of 28th Street and Central Avenue.

#### **RESOLUTION NO. 2011-62**

WHEREAS, the City of Kearney has received and approved an application to conduct a parade on July 16, 2011 beginning at 5:00 p.m. and ending at 6:30 p.m.; and

WHEREAS, the route for the parade will begin at Central Avenue and Railroad Street, go north on Railroad Street and dispersing at the intersection of 28th Street and Central Avenue; and

WHEREAS, with the passage of LB 589, the City of Kearney accepts the duties of protecting the public from damage, injury, or death on July 16, 2011 beginning at 5:00 p.m. and ending at 6:30 p.m.; and

WHEREAS, the City of Kearney will assume control of the state highway property, more specifically the intersection of Central Avenue and 25th Street (Highway 30) on

July 16, 2011 from 5:00 p.m. until 6:30 p.m. and relinquish control of such state highway property to the state; and

WHEREAS, the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said parade; and

WHEREAS, the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said parade.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve the parade scheduled for July 16, 2011 beginning at 5:00 p.m. and ending at 6:30 p.m. and that the City accepts the duties of protecting the public from damage, injury, or death associated with said parade.

BE IT FURTHER RESOLVED that the City of Kearney will assume control of the state highway property, more specifically the intersection of Central Avenue and 25th Street (Highway 30), on July 16, 2011 from 5:00 p.m. until 6:30 p.m. and that after such time the City will relinquish control of such state highway property to the state.

BE IT FURTHER RESOLVED that the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said parade.

BE IT FURTHER RESOLVED that the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said parade.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

8. Approve the request submitted by Kearney Police Department to temporarily block off 21st Street from Avenue A to Avenue B for parking of additional law enforcement from outside agencies to help with Cruise Nite.

9. Approve the Plans and Specifications for the Terminal Apron Sealcoat, Runway 13/31 Repairs and Airfield Marking Project at the Kearney Regional Airport and set the bid opening date for June 29, 2011 at 2:00 p.m.

10. Accept the bids received for the 2011 Part 2 Improvements consisting of Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue; and Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th Street and adopt **Resolution No. 2011-63** awarding the bid to Dan Roeder Concrete in the amount of \$238,775.00.

**RESOLUTION NO. 2011-63**

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on May 17, 2011 at 2:00 p.m. for the 2011 Part 2 Improvements consisting of Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue; and Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$232,229.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$238,775.00 be accepted as the lowest responsible bid for 2011 Part 2 Improvements consisting of Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue; and Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th Street.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete of Kearney, Nebraska be and is the lowest responsible bidder for the 2011 Part 2 Improvements consisting of Paving Improvement District No. 2010-942 for 18th Street from 8th Avenue to 9th Avenue; and Paving Improvement District No. 2010-943 for 7th Avenue from 18th Street to 19th Street to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete of Kearney, Nebraska in the sum of \$238,775.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$232,229.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**11.** Approve the request submitted by Buffalo County to vacate a portion of the old Airport Road, specifically the vacation will not extend beyond 807 feet to the north from the intersection of old Airport Road and 39th Street and adopt **Resolution No. 2011-64**.

#### **RESOLUTION NO. 2011-64**

WHEREAS, Buffalo County has received a petition requesting to vacate a part of old Airport Road running north of 39th Street to its intersection with the new Airport Road located in Sections 28 and 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and

WHEREAS, Airport Road as it was previously laid out has been relocated; and

WHEREAS, Section 39-1725 of the Nebraska Revised Statutes requires approval of the governing body of a city of the first class when a public road is to be vacated and is within the area of the zoning jurisdiction of such city; and

WHEREAS, the City of Kearney has determined to be in the best interests of the City to vacate only a portion of the old Airport Road, specifically the vacation will not extend beyond 807 feet to the north from the intersection of old Airport Road and 39th Street; and

WHEREAS, there is an access road that presently extends from the new Airport Road to the west and connects that roadway to the Reinke Plumbing location and

another parcel owned by ACE Irrigation. Old Airport Road shall not be vacated in that area so that there continues to be access to those parcels.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska hereby grants permission to Buffalo County to vacate only a portion of the old Airport Road, specifically the vacation will not extend beyond 807 feet to the north from the intersection of old Airport Road and 39th Street located in Sections 28 and 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska.

BE IT RESOLVED that there is an access road that presently extends from the new Airport Road to the west and connects that roadway to the Reinke Plumbing location and another parcel owned by ACE Irrigation. Old Airport Road shall not be vacated in that area so that there continues to be access to those parcels.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**12.** Approve the Development Agreement between the City of Kearney and ACE Irrigation establishing the terms and conditions to be complied with as a part of the vacation of a portion of old Airport Road and adopt **Resolution No. 2011-65.**

**RESOLUTION NO. 2011-65**

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Development Agreement between the City of Kearney and ACE Irrigation establishing the terms and conditions to be complied with as a part of the vacation of a portion of old Airport Road, a copy of the Development Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Approve Application and Certificate for Payment No. 4 in the amount of \$298,044.63 submitted by General Excavating and approved by Miller & Associates for the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard and adopt **Resolution No. 2011-66.**

**RESOLUTION NO. 2011-66**

WHEREAS, General Excavating of Lincoln, Nebraska has performed services in connection with the 2010 Part 5 Improvements – Bid A consisting of Water District No. 2010-561 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard; and Sanitary Sewer District No. 2010-501 commencing at the south line of 56th Street thence northerly to the north line of Spruce Hollow Boulevard in and including all 11th Avenue, 57th Street Place, 59th Street, 61st Street, 61st Street Place, 62nd Street Place and Spruce Hollow Boulevard, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 4 in the amount of \$298,044.63, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,816,395.00
Contract Sum To Date	1,816,395.00
Gross Amount Due	1,093,999.80
Retainage	109,399.98
Amount Due to Date	984,599.82
Less Previous Certificates for Payment	<u>686,555.19</u>
Current Payment Due	\$ 298,044.63

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 4, as shown on Exhibit "A" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Approve the recommendation from the Development Services Division on the annual renewal of the manufactured home court license for L&M Mobile Home Park, 1122 Central Avenue until May 31, 2012.

**15.** Approve T-Hangar B-3 Lease Agreement between the City of Kearney and Phil Jossi/Premier Aviation Training & Management for storage purposes at the Kearney Regional Airport and adopt **Resolution No. 2011-67**.

**RESOLUTION NO. 2011-67**

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-3 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Phil Jossi/Premier Aviation Training & Management, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**16.** Reject the bids received for the 2011 Part 3 Improvements for improvements to the 2nd Avenue medians between Talmadge Street and Interstate 80.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7652 – REPEAL ORDINANCE NO. 7651**

The City received a letter from two property owners requesting paving of the alley located between 26th Street and 27th Street from 4th Avenue to 5th Avenue. At the last Council meeting, May 24 the City Council passed and approved Ordinance No. 7651 creating Paving Improvement District No. 2011-947 for said alley.

Administration received written objections from the majority property owners within the proposed district. It appears there is approximately 600 feet of assessable footage with 475 feet in objection to the creation of the district which represents 79 percent. Since the objection for the district does represent **more than fifty percent**, the district will need to be repealed. Attached is an ordinance repealing the paving district.

Council Member Kearney introduced Ordinance No. 7651, being Subsection 1 of Agenda Item V repealing Ordinance No. 7651 creating Paving Improvement District No. 2011-947 for the alley lying between 26th Street and 27th Street from 4th Avenue to 5th Avenue, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7652 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7652 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7652 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

## **VI. REGULAR AGENDA**

### **ORDINANCE NO. 7653 – GRANT CONDITIONAL USE PERMIT TO BLESSING AND COAL CHUTE PARK (PERTAINS TO PUBLIC HEARING 1)**

Council Member Lear introduced Ordinance No. 7653, being Subsection 1 of Agenda Item VI granting a Conditional Use Permit to Ron Blessing (Applicant) and Coal Chute Park, L.L.C. (Owner) to locate a portable concrete batch plant in the future on property zoned District AG, Agricultural District and described as the East Half of the Northeast Quarter of the Northeast Quarter (a.k.a. the east 20 acres of Government Lot 8) in Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3985 Coal Chute Road), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7653 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7653 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7653 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

### **ANNEXATION AGREEMENT WITH O & O FARMS; AVENUE M AND THE NORTH CHANNEL OF THE PLATTE RIVER**

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion the Annexation Agreement submitted by O & O Farms, Inc. with regard to annexing part of Government Lot 3 in Section 7, Township 8 North, Range 15 West of the 6th P.M., containing 2.15 acres, more or less, Buffalo County, Nebraska (Avenue M and the North Channel of the Platte River) and to consider Resolution No. 2011-68.

City Attorney Michael Tye presented this matter to the Council. He has been working with O & O Farms who owns property adjacent to the Kearney city limits and located at Avenue M and the North Channel of the Platte River. He also has been working with

Craig and Christy Wegner to annex their property located at 1316 West 11th Street in to the City limits. It is the City's desire to annex these properties into the City of Kearney. O & O Farms and the Wegners are in agreement with the City moving forward with annexation and confirm the City's obligations once annexation has been completed. The properties in question are currently served by City services or such services are available to the properties.

The issue of annexation will then be presented to the Planning Commission for its review on July 15. On July 26, 2011 the Council would then pass resolutions of intent indicating that it intends to move forward with the annexation of the specified properties and scheduling the matter for a public hearing. Maps of the areas to be annexed, as well as notice of the public hearings, would be published for the public hearings to occur on August 9.

Moved by Clouse seconded by Kearney to approve the Annexation Agreement submitted by O & O Farms, Inc. with regard to annexing part of Government Lot 3 in Section 7, Township 8 North, Range 15 West of the 6th P.M., containing 2.15 acres, more or less, Buffalo County, Nebraska (Avenue M and the North Channel of the Platte River) and adopt **Resolution No. 2011-68**. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

#### **RESOLUTION NO. 2011-68**

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 O & O Farms for A tract of land located in part of Government Lot 3 in Section 7, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Considering the west line of Government Lot 3 in Section 7 as assumed bearing S 00°55'04" E and with all bearings contained herein are relative thereto: Commencing at the Northwest corner of Government Lot 3 in Section 7; thence S 00°55'04" E on the west line of Government in Section 7 a distance of 799.07 feet to the Actual Point of Beginning, said point also being the southwesterly corner of a tract of land abutting the centerline of Avenue M described as Instrument No. 2011-90 and recorded in the Buffalo County Register of Deeds Office; thence S 00°55'04" E continuing on said west line a distance of 152.04 feet to the northwest corner of a tract of land described on roll 95, pages 3155-3159 and recorded in the Buffalo County Register of Deeds Office; thence N 89°04'56" E on the north line of said tract of land a distance of 275.00 feet to the northeast corner of said tract of land, thence S 00°55'04" E on the east line of said tract of land a distance of 227.65 feet to a point on the centerline of the existing channel of the North channel of the Platte River; thence S 72°11' E downstream and on centerline of said existing north channel a distance of 85.58 feet; thence S 89°31' E downstream and on centerline of said existing north channel a distance of 48.71 feet to a southwesterly corner of said tract of land described as Instrument No. 2011-90 and recorded in the Buffalo County Register of Deeds Office; thence N 00°04'31" W on westerly line of said tract of land a distance of 402.56 feet; thence S 89°55'29" W continuing on the southwesterly line of said tract of land a distance of 410.70 feet to the point of beginning, containing 2.15 acres, more or less, and is subject to all easements and rights-of-way on record, all in Buffalo County, Nebraska (Avenue M and the North Channel of the Platte River) 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 property.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ANNEXATION AGREEMENT WITH CRAIG AND CHRISTY WEGNER, 1316 WEST 11TH STREET**

Regular Agenda Items 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened for discussion the Annexation Agreement submitted by Craig and Christy Wegner with regard to annexing part of the Southwest Quarter of the Southwest Quarter of Section 2 and the Northwest Quarter of the Northwest Quarter of Section 11, all in Township 8 North, Range 16 West of the 6th P.M., containing 0.444 acres, more or less, Buffalo County, Nebraska (1316 West 11th Street) and to consider Resolution No. 2011-69.

Moved by Kearney seconded by Lammers to approve the Annexation Agreement submitted by Craig and Christy Wegner with regard to annexing part of the Southwest Quarter of the Southwest Quarter of Section 2 and the Northwest Quarter of the Northwest Quarter of Section 11, all in Township 8 North, Range 16 West of the 6th P.M., containing 0.444 acres, more or less, Buffalo County, Nebraska (1316 West 11th Street) and adopt **Resolution No. 2011-69**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

**RESOLUTION NO. 2011-69**

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 Craig and Christy Wegner for a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 2 and the Northwest Quarter of the Northwest Quarter of Section 11, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, and more particularly described as follows: Referring to the Northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 11; thence westerly on the North line of said Northwest Quarter a distance of 28.0 feet to the ACTUAL PLACE OF BEGINNING; thence northerly at right angles a distance of 18.72 feet to a point on the South line of 11th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence westerly on the aforesaid South line of 11th Street a distance of 122.02 feet; thence southerly parallel with the East line of said tract a distance of 21.62 feet to a point on the line common to Sections 2 and 11; thence continuing southerly on the afore described course and at right angles from the North line of the Northwest Quarter of the Northwest Quarter of said Section 11 a distance of 138.38 feet; thence easterly parallel with the North line of said Northwest Quarter of the Northwest Quarter a distance of 122.0 feet to a point; thence northerly at right angles from the aforesaid course a distance of 138.38 feet to the place of beginning, containing 0.444 acres, more or less;

together with rights of ingress and egress and parking over and across the following described tract of land: Beginning at the Northeast corner of the Northwest Quarter of the Northwest Quarter of Section 11, Township 8 North, Range 16 West; thence southerly on the East line of said Northwest Quarter of the Northwest Quarter of said Section 11 a distance of 138.4 feet; thence westerly parallel with the North line of the Northwest Quarter of the Northwest Quarter of said Section a distance of 25.27 feet to the Southeast corner of the above described tract of land; thence northerly at right angles from the afore described course a distance of 138.38 feet to a point on the line common to Sections 2 and 11; thence continuing northerly on the afore described course produced a distance of 18.72 feet to a point on the South line of 11th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence easterly on the aforesaid South line a distance of 28.42 feet; thence southerly a distance of 18.06 feet to the place of beginning, all in Buffalo County, Nebraska (1316 West 11th Street) 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 property.

PASSED AND APPROVED THIS 14TH DAY OF JUNE, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIMS: PLATTE VALLEY STATE BANK - \$48,843.34, SCHOOL DISTRICT #7 - \$5,705.85**

Moved by Lammers seconded by Buschkoetter that the Open Account Claim in the amount of \$48,843.34 payable to Platte Valley State Bank be allowed. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter. Nay: None. Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that the Open Account Claim in the amount of \$5,705.85 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**

None.

**VIII. ADJOURN**

Moved by Kearney seconded by Lammers that Council adjourn at 7:26 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

ATTEST:

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STANLEY A. CLOUSE

**PRESIDENT OF THE COUNCIL  
AND EX-OFFICIO MAYOR**

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**MICHAELLE E. TREMBLY  
CITY CLERK**