

*Kearney, Nebraska  
October 11, 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 October 11, 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; Shawna Erbsen, Director of Human Resources; and Lance Lang, City Planner were also present. Some of the citizens present in the audience included: Randy Stones, Cynthia Stones, Darren Robinson, Tim Hughbanks, Elaine Wiseman, Kristi Grint, Mitchel Greenwall, 12 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**

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

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **CITY OF KEARNEY INSURANCE PROGRAM**

Tim Hughbanks from Barney Insurance presented information to the City Council on the City's insurance program. He stated in the insurance renewal proposal they included the coverage breakdown for the past five years which was when they started providing the City's coverage. The package premium is only up about \$3,700 this year. Nearly all of

this amount can be attributed to the property value increases and additional vehicles that were purchased this past year. This represents less than one percent increase over last year's premium even with these changes. There have been changes every year especially on the property side. There have been some major building changes, for example the Harmon Park Activity Center, the Library, as well as taking the Pramac building back under this policy. The majority of the increases have occurred, but it has steadied out over the last couple of years.

The additional lines of coverage they have written for the City outside of what EMC has been able to provide. These are excess and surplus lines coverage items: pollution, storage tank liability, aviation policies and fiduciary liabilities for the employee retirement program. The grand total of all lines of coverage was at \$512,000 last year and is \$516,000 this year.

He noted that these results are directly correlated to the hard work by the City's entire staff. He has continued to attend the safety audits and safety committee meetings conducted by Kristi Grint, Risk Management Coordinator. He always is amazed by the buy in that everybody involved has in their safety awareness. It is truly unique from an insurance company's point of view. Their staff appreciated Ms. Grint's participation in the claim process as this helps mitigate the claims and keep the claims and premiums to a minimum. Staff and public safety is paramount to the City Manager.

Mr. Hughbanks stated he attended the Great Plains Safety Conference where the City received an award for excellence in safety standards by a government entity and is something everyone should be proud of and a well-deserved honor.

He provided a chart showing the comparison of the premiums paid over the last 5 years since they first took over from the Pool. They did not know what the pool was going to be each year. They compared their premium to the price it was for the expiring premium. The savings to the City in the last five years have been over \$1.8 million in premium. Had the pool continue to climb as it had in previous years, it would show the savings to be considerably more.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **RYAN AND BRANDI REDINGER CONDITIONAL USE PERMIT**

Mayor Clouse opened the public hearing on the Application submitted by Ryan and Brandi Redinger (Applicant) and Lindsey Kubicek (Owner) for a Conditional Use Permit to operate a day care center known as Lighthouse Academy Child Development Center on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska (1930 West 40th Street). Planning Commission recommended approval subject to (1) the applicant will provide a copy of the state

license issued by HHS and continue to provide a current copy of the license each time it is renewed to the City of Kearney Development Services Department; (2) the hours of operation will be as follows: Monday-Friday, 5:30 a.m. until 6:00 p.m.; and (3) the center will maintain off-street parking requirements.

The applicant is requesting a Conditional Use Permit (CUP) for a daycare center and preschool in a 5,000 square foot building that formerly housed the KPS Progress School at 1930 West 40th Street. The applicants have applied to the Nebraska State Department of Health and Human Services (HHS) for their State license and will provide the City with a copy once they receive it. Initially, they were unaware that a CUP was required from the City of Kearney. General daycare requires a Conditional Use Permit (CUP) in an R-3/PD zone, which is the zoning category of this property. The Development Review Team (DRT) advised the applicants that if they chose to open the facility before approval of a CUP from City Council, they were doing so at their own risk and that the City of Kearney reserved the right to deny the CUP, regardless of whether or not the daycare was already in operation.

Staff believes that a daycare center is an appropriate use for this site and this building. Therefore, staff does support the approval of a CUP at this site based on the following facts:

- The applicant intends to provide a copy of the state license issued by HHS to City staff, which will be kept on file along with the CUP.
- Proposed hours of operation for the daycare are 5:30 a.m. until 6:00 p.m. Monday through Friday. The preschool will be open Monday, Wednesday, and Friday from 8:30 a.m. to 11:00 a.m.
- Under HHS regulations, the square footage of the building would allow approximately 100 children. The maximum number of children the applicant plans to have at the daycare is 75; however, the total number that can be accommodated is regulated by the off-street parking requirements. Code requirements for parking spaces are: 1 space per 5 person capacity plus 1 space per employee of largest shift which would be 21 parking spaces for 75 children. One handicap parking space is also required. The existing parking lot is tight with room for parking on one side only. Staff has suggested that the employees can possibly parallel park along the north side of the existing lot leaving head-in parking for customers along the south side of the lot. The applicant will have to see if this arrangement is workable. Otherwise, the total number of children may need to be reduced to meet parking requirements.
- There will be approximately six (6) staff members working at the daycare, which also need to be accounted for in the off-street parking calculations.
- The existing circle drive will be used for drop off and pick-up. The Director of Public Works has expressed concern that there may be congestion at 20th Avenue and 40th Street if a northbound drop off concept was used but believed this would allow for a safer drop off zone in the drive thru lane. Staff has decided that the daycare could determine which circulation pattern (inbound north or inbound south) would work the best. Staff will monitor the circulation and will discuss problems with the owner, should they arise. Staff also encouraged directional signs to define circulation pattern. The presence of the alley also helps to provide alternative circulation routes.

- The applicant was advised to contact Steve Hart, City of Kearney Sanitation Supervisor, at 233-3206 to make arrangements for a refuse collection schedule that fits the needs of the daycare.

Ryan Redinger, presented this matter to the Council. He stated the only condition left to be determined is the additional parking. They have had several contractors come out and look at the site to add more stalls, but have not made a decision yet. Mr. Redinger was in agreement with the condition that the occupancy of the day care facility is limited to a certain number until that parking issue is resolved. The traffic flow from north to south will be marked by entrance and exit signs. The Planning Commission did not have a recommendation about which direction to enter from the street. They will try it out to see which direction works better. If they have issues, they will change it around. The only time they anticipate any problems is about a 15-minute window in the mornings because Windy Hills School is up the street.

City Clerk reminded Mr. Redinger that the Acknowledgment must be received and approval would be subject to the City receiving it.

There was no one present in opposition to this hearing.

Moved by Kearney to close the public hearing and introduced Ordinance No. 7677 on the Application submitted by Ryan and Brandi Redinger (Applicant) and Lindsey Kubicek (Owner) for a Conditional Use Permit to operate a day care center known as Lighthouse Academy Child Development Center on property zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District and described as Lot 1, Colonial Estates 5th Addition, a replat of Block 2, Colonial Estates 4th Addition to the City of Kearney, Buffalo County, Nebraska (1930 West 40th Street) subject to compliance of the conditions listed in the ordinance 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 close the hearing and suspend the rules for Ordinance No. 7677. 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. 7677 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 Lammers seconded by Lear that Ordinance No. 7677 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. 7677 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.

### **WERNER CONSTRUCTION CONDITIONAL USE PERMIT**

Mayor Clouse opened the public hearing Application submitted by Werner Construction, Inc. (Applicant) and Kappas Enterprises, LLC (Owner) for a Conditional Use Permit to operate a construction batch plant on property zoned District AG, Agricultural District and described as Government Lots 1, 2, 3 and 4 in Section 9, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east side of Cherry Avenue, north of Wastewater Treatment Plant). Planning Commission recommended approval subject to (1) the CUP shall be limited to 6 months past the length of the project, but may be renewable at the end of the project if Werner is awarded the bid for Phase II; (2) all equipment shall be removed from the site by the time said permit expires; (3) hours of operation shall not be limited; (4) this operation shall meet all Federal or State agency requirements and standards; the State will require Werner Construction to get an Air and Stormwater Permit; and (5) the following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections public roadways used during the hauling operation: (a) 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; (b) River gravel or river rock is not acceptable for rebuilding subgrade; (c) Applicant shall maintain a minimum two-inch (2") average depth of gravel or rock surfacing on top of the road bed at all times; (d) 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 during times that the site is active; and (e) the road be watered and bladed every four hours when trucks are operating.

Richard Ray, P.O. Box 1087, Hastings, Nebraska, presented this matter to the Council. He stated they are in agreement with the conditions set forth in the Conditional Use Permit.

Mr. Ray did present his signed Acknowledgment but the City still has not received the signed Acknowledgment from Kappas Enterprises.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing and introduced Ordinance No. 7678 on the Application submitted by Werner Construction, Inc. (Applicant) and Kappas Enterprises, LLC (Owner) for a Conditional Use Permit to operate a construction batch plant on property zoned District AG, Agricultural District and described as Government Lots 1, 2, 3 and 4 in Section 9, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east side of Cherry Avenue, north of Wastewater Treatment Plant) subject to compliance of the conditions listed in the ordinance 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 close the hearing and suspend the rules for Ordinance No. 7678. President of the Council asked for discussion or if anyone in

the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7678 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7678 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7678 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.

### **RANDALL STONES REZONING; 404 EAST 56TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Randall, Allen and Brian Stones (Applicant) for Randall and Cynthia Stones (Owner) to rezone from District AG, Agricultural District to District C-2/PD, Community Commercial/Planned Development Overlay District property described as a tract of land located in the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street). Planning Commission recommended approval.

City Attorney Michael Tye presented this matter to the Council. In July, Dr. and Mrs. Randall Stones applied for a Conditional Use Permit (CUP) in order to continue operating their veterinary clinic located at 404 East 56th Street. Dr. Stones had previously operated under a CUP which expired in March of this year.

Although the Planning Commission voted in favor of renewing the CUP, staff continued to work with Dr. and Mrs. Stones in the interim and the request for a CUP was ultimately withdrawn from the City Council agenda. Rezoning of the property to a commercial classification was determined to be the best course of action.

Mr. and Mrs. Stones have now agreed to apply for a rezone to Community Commercial/Planned Development (C-2/PD) and will also not protest annexation. City staff will not require Mr. and Mrs. Stones to plat their property nor dedicate any property to Avenue E. The property is being rezoned from Agricultural (AG) to commercial therefore effectively halting the deferment of the assessments for the paving of 56th Street. Dr. Stones has agreed to begin paying those assessments.

Dr. Stones has legally operated his business at this location for 25 years; therefore, the only improvements he will be required to make to his site are the installation of a public sidewalk and paving the minimum requirement for handicap accessible parking stalls. Those improvements must be completed within one year. Mr. Stones has also indicated that he may choose to make minor improvements to his property; he has been assured

that those improvements will not require him to final plat his property and therefore he will not be required to dedicate any of his property to Avenue E right-of-way. Dr. Stones also understands he must apply for all appropriate permits from the City of Kearney Building Official. These conditions are annotated within the annexation agreement that the Stones have signed.

The annexation agreement was presented to the City Council on August 23 for review. Planning Commission made recommendation that the Council pass a resolution indicating that the intent is to move forward with the annexation of the specified property and to schedule the matter for a public hearing. The City is moving forward with the annexation process as Regular Agenda Item No. 1 on this agenda is for the Council to approve the Resolution of Intent to annex. The public hearing date is proposed for October 25, 2011.

If the property is rezoned to commercial, Mr. Stones will be responsible for his cost of 56th Street and would be required to make one payment per year for the next ten (10) years. The property is also connected to city utilities; therefore, no public improvements are required as a result of these items.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing and introduced Ordinance No. 7679 on the Application submitted by Randall, Allen and Brian Stones (Applicant) for Randall and Cynthia Stones (Owner) to rezone from District AG, Agricultural District to District C-2/PD, Community Commercial/ Planned Development Overlay District property described as a tract of land located in the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street) 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 Kearney seconded the motion to close the hearing and suspend the rules for Ordinance No. 7679. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7679 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7679 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7679 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.

**BOARD OF EQUALIZATION FOR PAVING, WATER AND SEWER DISTRICTS**

Mayor Clouse opened the public hearing for the Council to meet as a Board of Equalization to assess costs in connection with Paving Improvement District Nos. 2010-938, 2010-939, 2010-940, 2010-941; Water District Nos. 2010-559, 2010-560; Sanitary Sewer District Nos. 2010-499, 2010-500 and to consider Resolution No. 2011-134.

On February 9, 2010 the City created the following districts:

- Paving Improvement District No. 2010-938 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition.
- Paving Improvement District No. 2010-939 for 16th Avenue from 8th Street to 11th Street.
- Paving Improvement District No. 2010-940 for 15th Avenue from 8th Street to 11th Street.
- Water District No. 2010-559 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street.
- Sewer District No. 2010-499 for 8th Street from 16th Avenue east to the east line of Block One of Park View Estates Fifth Addition; and for 15th Avenue from 8th Street to 11th Street; and for 16th Avenue from 8th Street to 11th Street.

On April 13, 2010 the City created the following districts:

- Paving Improvement District No. 2010-941 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east to the east lot line of Lot B, Interstate Subdivision.
- Water District No. 2010-560 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east a distance of 118.52± feet.
- Sewer District No. 2010-500 for Talmadge Street from the west lot line of Lot 1, Interstate Fifth Addition east to a point that is 14.13± feet west of the northeast corner of said Lot 1, Interstate Fifth Addition.

After completion of the construction projects, the City hired a title company to complete property abstracts so that assessments could be levied. These districts have been completed and, in order to satisfy state law, when paving, water and sanitary sewer districts are completed, the City Council must act as a Board of Equalization to levy assessments on properties so benefited. Property owners will then be required to pay the first installment within 50 days (November 30, 2011) or will be able to pay the entire assessment without any interest prior to this date.

The costs of the improvements shall be assessed against the property in said districts on a basis of special benefit to the property, if any, as provided by law. With regard to the Kearney Public School's property and in accordance with the Subdivision Agreement, the assessments for paving will be assessed over 20 years and the assessments for water and sewer will be assessed over 10 years.

The costs for improving Talmadge Street will be paid to the City over a ten-year period from property taxes rebated to the Fairfield Inn & Suites in the form of Tax Increment Financing as approved by the CRA on June 18, 2010 and the City Council on June 22, 2010.

Moved by Lammers seconded by Lear to close the hearing for the Council meeting as the Board of Equalization and adopt **Resolution No. 2011-134** assessing costs for Paving Improvement District Nos. 2010-938, 2010-939, 2010-940, 2010-941; Water District Nos. 2010-559, 2010-560; Sanitary Sewer District Nos. 2010-499, 2010-500 Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2011-134**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the streets in Paving Improvement District Nos. 2010-938, 2010-939, 2010-940, and 2010-941 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. The President and Council find and determine that the water main heretofore ordered installed in Water District Nos. 2010-559 and 2010-560 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. The President and Council find and determine that the sanitary sewer main heretofore ordered installed in Sanitary Sewer District Nos. 2010-499 and 2010-500 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sanitary sewer main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2010-938, 2010-939, 2010-940, and 2010-941 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 6. That there be and there is hereby levied against Lot 1, Block 2, Park View Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska in connection with Paving Improvement District No. 2010-938, 2010-939, and 2010-240 as shown in Exhibit "A" the amount set for said lot and/or parcel of ground. Said assessments for Paving Improvement District Nos. 2010-938, 2010-939, and 2010-940 for said lot shall become delinquent as follows:

- 1/20th fifty days after date of this Resolution
- 1/20th one year after date of this Resolution
- 1/20th two years after date of this Resolution
- 1/20th three years after date of this Resolution
- 1/20th four years after date of this Resolution
- 1/20th five years after date of this Resolution
- 1/20th six years after date of this Resolution
- 1/20th seven years after date of this Resolution
- 1/20th eight years after date of this Resolution
- 1/20th nine years after date of this Resolution
- 1/20th ten years after date of this Resolution
- 1/20th eleven years after date of this Resolution
- 1/20th twelve years after date of this Resolution
- 1/20th thirteen years after date of this Resolution
- 1/20th fourteen years after date of this Resolution
- 1/20th fifteen years after date of this Resolution
- 1/20th sixteen years after date of this Resolution
- 1/20th seventeen years after date of this Resolution
- 1/20th eighteen years after date of this Resolution
- 1/20th nineteen years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground.

Said assessments for Water District Nos. 2010-559 and 2010-560 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 8. That there be and there is hereby levied against Lot 1, Block 2, Park View Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska in connection with Water District No. 2010-559 as shown in Exhibit "A" the amount set for said lot and/or parcel of ground. Said assessments for Water District No. 2010-559 for said lot shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 9. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sanitary Sewer District Nos. 2010-499 and 2010-500 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 10. That there be and there is hereby levied against Lot 1, Block 2, Park View Estates Fifth, an addition to the City of Kearney, Buffalo County, Nebraska in connection with Sanitary Sewer District No. 2010-499 as shown in Exhibit "A" the amount set for said lot and/or parcel of ground. Said assessments for Sanitary Sewer District No. 2010-499 for said lot shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution

- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution
- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of seven per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

#### IV. CONSENT AGENDA

Mayor Clouse stated the Agenda was amended on Monday to include Subsections 11, 12, 13 and 14 to the Consent Agenda. However, after reviewing the bid documents today for the Brigham Lofts CDBG NSP3 Project, staff has decided to remove Item 14 from the agenda at this time.

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

1. Approve Minutes of Regular Meeting held September 27, 2011.

2. Approve the following Claims:

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

Aflac \$2,815.56 ps; Agri Coop \$1,458.93 smcs; Alfred Benesch \$31,045.72 co; All Makes Auto Supply \$1,618.76 smcs; Amer First Aid \$146.29 smcs; Analytical Services \$750.00 smcs; Anderson Bros \$231.79 smcs; Arrow Seed Co \$534.00 smcs; Ask Supply \$175.22 smcs; Aurora Cooperative \$2,312.40 smcs; Big Apple Fun Center \$1,144.40 smcs; Blessing \$1,887.93 co; Bluecross Blueshield \$194,130.24 smcs; Bosselman \$2,080.30 smcs; Brodine,S \$215.00 smcs; Bruha,S \$180.00 smcs; Buffalo Co Reg Deeds \$168.00 smcs; Buffalo Co Sheriff \$131,438.25 smcs; Buffalo Co Courthouse \$526.00 smcs; Buffalo Co Historical \$2,659.76 smcs; Carquest \$1,339.26 smcs; Cash-Wa \$8,230.84 smcs; CDW Govt \$7,560.00 smcs; Central Fire \$5,458.20 smcs; Charter \$89.24 smcs; City of Ky \$420,870.30 smcs,co,ps; Civic Plus \$5,835.60 smcs; CNA Surety \$40.00 smcs; Comcate \$4,500.00 smcs; Comfy Bowl \$75.00 smcs; Construction Rental \$293.00 smcs,co; Copycat Printing \$993.65 smcs; Credit Acceptance Corp \$407.35 ps; Crushers \$20,260.03 co; Cunningham,S \$61.00 smcs; D&M Security \$64.50 smcs; Dan Roeder Concrete \$121,924.21 co; Danko Emergency

\$44.61 smcs; Eakes \$2,373.58 smcs; Eirich,T \$50.00 smcs; Erbsen,S \$204.60 smcs; Expression Wear \$144.00 ps; Footjoy \$1,323.08 smcs; Frontier \$28.54 smcs; G.W. Brown Co \$1,295.00 co; Gangwish Turf \$97.35 smcs,co; Gear for Sports \$1,128.14 smcs; General Excavating \$78,332.76 co; GIS Workshop \$9,015.00 co; Gough,P \$105.00 smcs; HD Supply \$5,886.25 smcs; Hill,M \$71.00 smcs; HOA Solutions \$3,681.95 smcs,co; Hometown Leasing \$207.71 smcs; HSBC Bank Nevada \$325.44 ps; ICMA RC \$3,799.50 ps; Infinisource \$2,488.80 smcs; IRS \$105,220.38 ps; iPROMOTEu \$57.54 smcs; Jack Lederman \$144.46 smcs; James,D \$60.00 smcs; Johnsen Corrosion \$2,070.00 smcs; Ky Children's Museum \$2,600.00 smcs; Ky Clinic \$277.00 ps; Ky Concrete \$10,500.59 smcs,co; Ky Crete & Block \$2,702.20 smcs,co; Ky Hub \$1,897.75 smcs; Ky United Way \$901.86 ps; Kehl Tree Service \$988.00 smcs; Konica Minolta \$1,019.92 smcs; Krueger,L \$64.00 smcs; Krull Ins \$1,950.00 smcs; Lang,L \$169.80 smcs; LaserTec \$95.00 smcs; LCL Truck Equipment \$1,580.00 smcs; Leach,C \$21.40 smcs; League of NE Municipalities \$32,657.00 smcs; Magic Cleaning \$300.00 smcs; Matheson Tri-Gas \$77.95 smcs; McNeilus Truck \$2,069.86 smcs; Metlife \$9,854.84 ps; Mid-NE Aggregate \$638.15 smcs; Midway Chevrolet \$44.80 smcs; Miller & Associates \$17,115.55 co; Morgan,M \$446.09 smcs; Morris Press \$315.17 smcs; Museum of NE Art \$2,500.00 smcs; NE Child Support \$2,651.61 ps; NE Dept of Revenue \$105,501.19 smcs,ps; NE Firefighters Foundation \$50,000.00 co; NE Public Health \$1,639.00 smcs; NE Safety & Fire \$125.00 smcs; Neopost \$6,000.00 smcs; NeRPA \$130.00 smcs; New World Systems \$107,230.00 co; Northwestern Energy \$1,774.07 smcs; Northwest Electric \$994.07 smcs; Officenet \$11,284.90 smcs,co; O'Keefe Elevator \$353.82 smcs; On Site Mobile Sharpening \$43.00 smcs; O'Neill Wood Resources \$9,225.00 smcs; Paramount Linen \$358.38 smcs; Paulsen \$362,513.92 co; Payflex Systems \$531.25 ps; Platte Valley Comm \$220.00 smcs; Platte Valley Labs \$404.00 smcs; Pramac \$446.79 smcs; Presto-X \$86.00 smcs; Pulliam,R \$40.00 smcs; R.W. Sorensen \$8,588.20 co; RDG Planning & Design \$3,144.00 co; Ready Mixed Concrete \$13,222.81 co; Rick's Sod Farm \$2,640.00 co; Riverside Mfg \$64.13 ps; Rutt's Heating \$370.55 smcs; Sign Center \$420.00 smcs; Snow,T \$50.00 smcs; Solid Rock \$135.00 smcs; Sport Supply Group \$275.12 smcs; St Fire Marshal Training \$130.00 smcs; St of NE/AS Central \$3,948.98 smcs,co; Sun Life Financial \$43,010.16 smcs; Taylor Made \$424.28 smcs; Thompson Co \$235.68 smcs; Titleist \$1,895.21 smcs; Tool Doctor \$124.45 smcs; TruGreen ChemLawn \$159.60 smcs; Tye & Rademacher \$10,542.72 smcs; UNK \$3,000.00 smcs; Verizon \$612.28 smcs,co; Village Uniform \$547.74 smcs; Walsh,C \$197.58 smcs; Walters Electric \$2,039.71 smcs; Wessels,W \$152.07 smcs; West Payment Center \$492.16 smcs; Wiegand Security \$85.00 smcs; Wilkins Hinrichs Stober \$4,013.12 co; Yanda's Music \$1,917.00 co; Payroll Ending 9-25-2011 -- \$345,598.48. 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 bid received from Windy Prairie Systems in the amount of \$42,100 for the purchase and installation of a kiosk at the Kearney Cemetery.
4. Approve the Agreement between the City of Kearney and the Nebraska Department of Roads for Project STP-URB-10-2(119) – 2nd Avenue from 25th Street to 31st Street to relocate City utilities and adopt **Resolution No. 2011-135**.

### RESOLUTION NO. 2011-135

WHEREAS, City of Kearney, Nebraska and Nebraska Department of Roads (NDOR) has entered into an Agreement for State Project No. STP-URB-10-2(119) for the improvement on 2nd Avenue from 25th Street to 31st Street; and

WHEREAS, because of the widened right-of-way, it is necessary for the City to relocate some, if not all, of its utilities along this project.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Stanley A. Clouse, Mayor of the City of Kearney, Nebraska is hereby authorized and directed to execute the attached Agreement between City of Kearney, Nebraska and the NDOR for Project No. STP-URB-10-2(119) for the relocation of the City's utilities located on 2nd Avenue between 25th Street and 31st Street.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Approve the request submitted by C.L.A.S.S. Act and the Kearney Public Schools Foundation to temporarily block off eight parking stalls in the northwest corner of the MONA parking lot along 25th Street from 5:30 p.m. until 9:30 p.m. on November 29, 30, December 1, 6, 7, 8, 12, 13, 14, 15, 2011 for the *Polar Express* fundraiser.

6. Approve the Memorial Field Infield Agreement between the City of Kearney and the University of Nebraska Foundation for the installation of new artificial turf and adopt **Resolution No. 2011-136.**

**RESOLUTION NO. 2011-136**

WHEREAS, the University of Nebraska Foundation has received gifts of money with reference to the installation of new artificial turf for the infield for Memorial Field which is a facility owned and operated by the City of Kearney; and

WHEREAS, the City of Kearney has agreed to contribute a portion of the cost of this project; and

WHEREAS, the City of Kearney and the University of Nebraska Foundation desire to enter into an agreement to more specifically define and determine the responsibilities inherent in planning, development, and construction of the new turf infield for Memorial Field.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City Manager is hereby authorized and directed to execute the attached Agreement between City of Kearney, Nebraska and the University of Nebraska Foundation for the installation of new infield turf for Memorial Field. A copy of said Agreement, marked as Exhibit A, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Accept the bids received for the 2011 Part 5 Improvements; City Truck Washout Facility and award the bid to Midlands Contracting in the amount of \$150,967.35.
8. Approve the application for a Special Designated License submitted by Kearney Investment Corp., dba Holiday Inn in connection with their Class CK-17964 catering liquor license to dispense beer, wine and distilled spirits in the Training Room located at the Platte Valley State Bank, 2223 1st Avenue on October 27, 2011 from 5:00 p.m. until 8:00 p.m. for a reception.
9. Approve the application for a Special Designated License submitted by Kearney BBQ Co., dba Skeeter Barnes in connection with their Class IK-55865 liquor license to dispense beer and wine at Cabela's, 3600 East Highway 30, on November 20, 2011 from 5:30 p.m. until 10:00 p.m. for a customer event.
10. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic in connection with their IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 5, 2011 from 6:00 p.m. until 1:00 a.m. for a dance (alternate date is November 19, 2011 from 6:00 p.m. until 1:00 a.m. in the Exhibit Building).
11. Approve T-Hangar A-1 Lease Agreement between the City of Kearney and Little Note Enterprises for storage at the Kearney Regional Airport and adopt **Resolution No. 2011-140.**

**RESOLUTION NO. 2011-140**

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 A-1 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Bill Musick on behalf of Little Note Enterprises, LLC, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

12. Approve the VOR Agreement between the City of Kearney and the Nebraska Department of Aeronautics to provide continued radio coverages for the areas to be served by air navigation facilities located at the Kearney Regional Airport and adopt **Resolution No. 2011-141.**

**RESOLUTION NO. 2011-141**

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 VOR (very high frequency omni-directional ranges) Agreement, on behalf of the City of

Kearney, Nebraska, with the State of Nebraska Department of Aeronautics, a copy of the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Approve the application for a Special Designated License submitted by the UNK Alumni Association to dispense beer and wine in the Ponderosa Room at the Nebraskan Student Union located on the University of Nebraska at Kearney campus on October 24, 2011 from 5:00 p.m. until 7:00 p.m. for Business After Hours.

## **V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **RESOLUTION OF INTENT TO ANNEX 404 EAST 56TH STREET**

Mayor Clouse opened for discussion Resolution No. 2011-137 on the intent to annex into the City limits a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street) and to set the public hearing date for October 25, 2011 at 7:00 p.m.

City Attorney Michael Tye presented this matter to the Council. The City of Kearney received an agreement from Randall and Cynthia Stones favoring the annexation of their property located at 404 East 56th Street. This property should be annexed into the Kearney City limits as it is adjacent and contiguous to Kearney City limits and will be served by City services. This is the reason the Council accepted the agreement on August 23, 2011.

Section 16-117 of the Nebraska Revised Statutes provides for the process of annexation. These matters were first considered at a public hearing before the Planning Commission at their meeting held on September 16, 2011 and was recommended for approval. The second action in the process is for the City Council to consider passing a resolution stating its intent to annex, approve an annexation plan, and to set a public hearing for comment on the proposed annexation before the City Council. The area in question will be served by City utilities. Accordingly, additional utility improvements will not be required.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2011-137** on the intent to annex into the City limits a tract of land being part of the Southwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (404 East 56th Street) and to set the public hearing date for October 25, 2011 at 7:00 p.m. Roll call resulted as follows: Aye: Clouse, Lear,

Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2011-137**

WHEREAS, the City of Kearney, Nebraska in accordance with Section 16-117 of the Nebraska Revised Statutes is considering the annexation of contiguous or adjacent lands, lots, tracts, streets or highway as are urban or suburban in character and a plan for extending city services to the following described tract of land located in the Southeast Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southeast Corner of said Southwest Quarter, thence Westerly on and along the South line of the Southwest Quarter a distance of 466.7 feet; thence Northerly parallel with the East line of said Southwest Quarter a distance of 466.7 feet; thence Easterly parallel with the South line of said Southwest Quarter a distance of 466.7 feet to a point on the East line of said Southwest Quarter; thence Southerly on said East line a distance of 466.7 feet to the place of beginning; excepting however the South 50.0 feet thereof, all in Buffalo County, Nebraska (404 East 56th Street); and

WHEREAS, the City Council will conduct a public hearing on October 25, 2011 at 7:00 p.m. or as soon thereafter as the matter may be heard to receive testimony from all interested parties and/or individuals; and

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

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

BE IT FURTHER RESOLVED that a public hearing on the proposed annexation shall be held at 7:00 p.m. on October 25, 2011, or as soon thereafter as the matter may be heard, in the City Council Chambers located at City Hall, 18 East 22nd Street, Kearney, Nebraska to receive testimony from all interested parties and/or individuals.

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

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

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**KEARNEY HOUSING AGENCY ANNUAL REPORT**

Mayor Clouse opened for discussion the Kearney Housing Agency Annual Report submitted by Executive Director Elaine Wiseman.

Executive Director Elaine Wiseman, 1003 Linden Drive, presented this matter to the Council. She stated a copy of the annual report was submitted for the Council's review. They received a grant to demolish three houses and they now have grass instead of houses which is a positive thing for their neighborhood. They also received a grant from Buffalo Community Partners to purchase a Wii for their Kearney Manor resident and they have 4-5 bowling teams that are very competitive. This provides some socialization and exercise for their residents.

They have implemented a couple of things this year to be a little more efficient and cost effective. One of the things was they got rid of the old radios that were purchased in the mid-90's. Messages can now be sent to maintenance and to make other communications faster and more confidential. They purchased droids with all the new technology. They have been using droids and laptops in their offsite facilities. Her staff had requested internet, but she could never justify it for the cost, but the staff can now connect the droids and laptops back to their offices at the Kearney office. It is a great asset in assisting tenants with questions about their file and with interviews. Tenants sometimes need access to social security or health and human services and having that access off site has been a great help for those who are not computer literate.

All their applications are now on line (paperless). This has saved staff's time in putting them into the computer and deciphering people's handwriting. If people need help, they can come into their office and they will assist them in completing an application. They can also find out where they are on the waiting list on line or by calling a phone number. Previously that information could only be provided in writing to the applicant so there were no misunderstandings. They also implemented direct deposit by landlords which has eliminated the stop payments, generating another check, lost checks and has facilitated easy reconciliation of bank statements. They are now working for vendors to bill them on line.

The other thing was that in October 2010, Kearney was awarded 30 additional vouches which are for non-elderly/disabled. These vouches are called (NED) or target vouches and can only be used by people who are not 62 and have disabilities.

Council member Lammers, who is on the Buffalo County Housing Commission, asked if there is a need for more affordable housing in Kearney. Ms. Wiseman stated they have found that the rental market is really tight right now in Kearney. People who have vouchers are having difficulty in finding suitable residence. They have wait lists on all of their programs for both seniors, persons with disabilities and families with children. Housing studies sometimes spur developers looking at building more low income housing. In the past they would have realtors contact them with apartments that would

be coming available and they would have a list on hand for voucher holders. They are not getting that list right now. She did not see more being built by private builders but by tax credit money.

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

**NORTHWESTERN ENERGY FUNDS – THE ANDERSONS, INC.**

Mayor Clouse opened for discussion the use of NorthWestern Energy funds for The Andersons, Inc. to assist in relocation of their local office and to consider Resolution No. 2011-138.

Because of a possible conflict of interest, Council member Kearney vacated his chair and abstained from discussion and voting on this matter.

On September 22, the Economic Development Council of Buffalo County approved the use of NorthWestern Energy funds for The Andersons, Inc. to assist in relocation of their local office. In return, The Andersons, Inc. are required to meet certain objectives including but not limited to job creation, internships and maintenance of existing positions for a specified term.

The Economic Development Council of Buffalo County recommends approval to proceed with the use of NorthWestern Energy economic development funds for the project. The funding request for the project is \$90,000.00 payable to The Andersons, Inc. The Andersons, Inc. will enter into a development agreement committing to specific economic development objectives including job creation with penalty repayment provisions if objectives are not met. City of Kearney will commit \$90,000 of NorthWestern Energy funds towards the project.

Darren Robinson, Economic Development Director, presented this matter to the Council. He stated the Andersons, Inc. bought out B-4 Grain in Kearney. They are a very sizable company, publicly traded and are very diverse in their industries. They have a 300 million gallon capacity for ethanol plants, 107 million bushel storage for corn and a rail group that manages 24,000 railcars and produce over two million tons of nutrients. They have a turf and specialty group, golf course management and own the "Scotts" brand name for golf courses. They also do a lot of home retail stores, like Orscheln.

The Economic Development Council met with them ten months ago and showed them what Kearney has to offer. At the time, they were leaning towards Lincoln if they were going to increase their workforce staff. They wanted to be near UNL for their Ag research. They were taken to UNK and introduced to Dean Burkink. Mr. Robinson believed that got them over the hurdle when they found the flexibility of the University to be a sizable asset. In the past 15 months, they have expanded to nine locations in Nebraska. They just announced \$15-20 million grain aggregation facility in Custer County.

The concern for Nebraska Department of Economic Development (NDED) is with that acquisition they will relocate somewhere else next time they want to find a new office. They have acquired all the local employees here and kept them on board and actually increased their benefits. In their original meeting with Andersons, it was stated we wanted to make sure Kearney had the opportunity to secure the location as the Andersons' regional headquarters. That would be a very sizable commitment for this company. They came back with a request for about 2,000 square feet to expand and NDED has been on a trek to find some locations for them. NDED requested that if they were to support them in finding a location that they take on one with even more space than they requested. The thought behind doing this is if they have additional space that is where they are going to put their employees. Andersons have already made some additional commitments where they foresee going with Custer County.

The Buffalo County Economic Development Council Board has recommended covering their cost of relocation of \$90,000 with the Northwestern Energy Funds. In return, the company will make a commitment that Kearney is the Nebraska regional headquarters for Andersons, Inc. There are still some details to be hammered out. They will create either three full-time skilled labor jobs or two internships or be required to create the new Regional Manager position here. This hinges on the approval from the Council which would give the Economic Development Council a chance to negotiate a little more. The Economic Development Executive Committee of which Mayor Clouse is a member will have an opportunity to review the development agreement. City Manager Michael Morgan will have the ability to stamp on that agreement. Approval will give the ability to finalize the negotiations and to quickly move this along.

Mr. Robinson stated his concern is that other communities are going to get wise to this sizable operation and they also will want to be a good community partner. He added that the B-4 employees are crammed in the back of the grain elevator weigh station. This will also be an opportunity for our local citizens that worked for B-4 to have a much nicer facility for them to work in. Part of the agreement is that Andersons will have to provide a current count of employees and will have to maintain that existing employment.

Moved by Lammers seconded by Lear to approve the use of NorthWestern Energy funds for The Andersons, Inc. to assist in relocation of their local office and adopt **Resolution No. 2011-138**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Kearney abstained. Motion carried.

### **RESOLUTION NO. 2011-138**

WHEREAS, the Buffalo County Economic Development Council has recommended to the City Council that \$90,000.00 of the NorthWestern Energy Funds be used for The Andersons, Inc. to meet certain objectives including but not limited to job creation, internships and maintenance of existing positions for a specified term; and

WHEREAS, the City Council has deemed it to be in the best interests of the City of Kearney to commit \$90,000.00 of the NorthWestern Energy Funds as requested.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve \$90,000.00 of the NorthWestern Energy Funds for The

Andersons, Inc. to meet certain objectives including but not limited to job creation, internships and maintenance of existing positions for a specified term.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute all grant related documents.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 2011.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**CDBG ED REUSE FUNDS FOR INTELICOM, INC.**

Mayor Clouse opened for discussion the use of available City of Kearney CDBG ED funds to be combined with Buffalo County CDBG ED funds to be used for job creation with Intellicom, Inc. and to consider Resolution No. 2011-139.

On September 22, 2011 the Economic Development Council of Buffalo County (EDCBC) approved the use of the available City of Kearney CDBG ED funds to be combined with Buffalo County CDBG ED funds not to exceed \$105,000: \$100,000 shall be used for job creation and \$5,000 reserved for grant administration in accordance with HUD guidelines. EDCBC has developed a job creation plan with Intellicom, Inc to benefit Low- to Moderate-income individuals. Intellicom will be required to create positions and maintain existing positions for a period of no less than two years.

The EDCBC Board recognizes the need to grow or acquire technology professionals to add additional diversity in this subset of the workforce and recommends approval of the funds. The business shall be required to enter into a loan agreement and meet certain conditions as determined by the EDCBC Executive Committee. City of Kearney will commit \$52,700 of local CDBG Reuse funds towards the project. The remaining \$52,300 will be from Buffalo County local CDBG Reuse funds.

Darren Robinson, Economic Development Director presented this matter to the Council. The Nebraska Department of Economic Development (NDED) claims 80 percent of our business growth should come from within. This is what this project is. This is a local company that they are helping to expand. The Council has asked Intellicom to fast track pairing of IT professionals. If there is a common complaint from the Buckle or Xpanxion, is that they do not have enough IT professionals being groomed to continue and the pool is getting saturated. The funds being proposed are to incent Intellicom to train new people. There are low to moderate income funds available and at least 51 percent of the employee commitment of the five jobs will require at least three to be low to moderate income. This will provide opportunity to folks who really need it.

Intellicom has been one of Kearney's best resources for taking students and training them with technical capabilities. A number of their engineers make pretty sizable wages and they came in through an internship program with very limited knowledge. Intellicom has taken them under their wing and helped groom them. The Economic Development Council believes that it is important that we can prove that we have a local resource that can also groom IT professionals as they try to attract a Data Center to Kearney. Kearney has a very diverse set of industries with the hospital, manufacturing, education

with the university, and a big agricultural industry. The focus is to continue to grow our IT resource which is where this project comes from. If any of the employees leave that Intellicom has in the process, they have to replace that position. There is no guarantee that they will retain that person after the fact since they are in high demand. Intellicom runs the risk of having to start over with a new employee. They have to maintain existing employment for 24 months and then hire the five employees within 24 months.

The CDGB funds are federally restricted and require environmental and other major reporting requirements. Mr. Robinson stated that Intellicom is one of those companies that he felt comfortable with to receive good reports and be able to comply with all the requirements. The CDGB funding is not that easy to work with. This funding method was originally granted in 1994 and has been used for seven different projects. His recommendation was to use these CDGB funds and close them out.

He came to the Council last year on a project for Xpanxion and reorganized to be an NDO. The benefit of using NDO for new CDBG projects is when they are paid back those funds go to a fund category that is not CDBG restricted so we do not have a lot of rigmarole using them. Frankly, there is no reason to use CDBG funds unless there is a certain amount in there to be used. That is where the figure of the job commitment comes from which is actually less than what the Nebraska Department of Economic Development has been putting towards recent jobs in Hastings and Grand Island. This will be about \$20,000 per job opposed to \$30,000 that the Nebraska Department of Economic Development has been doing. The funds have to be lent out in the next 6-8 months or be returned to the Nebraska Department of Economic Development. He requested that the funds be forgivable to wipe out the funds and the new funds will go into the NDO when they apply for new CDBG projects. County Supervisors approved the matching of this at their meeting and that was an affirmable component as well.

Moved by Lear seconded by Buschkoetter to approve the use of available City of Kearney CDBG ED funds to be combined with Buffalo County CDBG ED funds to be used for job creation with Intellicom, Inc. and adopt **Resolution No. 2011-139**. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

### **RESOLUTION NO. 2011-139**

WHEREAS, the Buffalo County Economic Development Council has recommended to the City Council that \$52,700.00 of the Community Development Block Grant (CDBG) Reuse Funds be used for Intellicom, Inc. to create positions and maintain existing positions for a period of not less than two years; and

WHEREAS, the City Council has deemed it to be in the best interests of the City of Kearney to use \$52,700.00 of the CDBG Reuse Funds as requested.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve using \$52,700.00 of the Community Development Block Grant Reuse Funds for Intellicom, Inc. to create positions and maintain existing positions for a period of not less than two years.

internships and maintenance of existing positions for a specified term.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute all loan related documents.

PASSED AND APPROVED THIS 11TH DAY OF OCTOBER, 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 - \$50,745.47, SCHOOL DISTRICT #7 - \$5,539.30**

Moved by Buschkoetter seconded by Clouse that Open Account Claim in the amount of \$50,745.47 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 Clouse seconded by Kearney that Open Account Claim in the amount of \$5,539.30 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 7:47 p.m. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. 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