

*Kearney, Nebraska
December 13, 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 December 13, 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: Emmett Maul, Brad Isaac, Brad Williams, Bob Reineke, Jim Tacha, George Wiedel, Stuart Hostetler, Rob VanHorn, Dave Ash, Aaron Jameson, Shane Johnston, Dave Krueger, Brandon Laue, Brett Melchert, Lonny Reeder, Nathan Staskal, Terry Broadfoot, Mitch Humphrey, Dick Reiter, Jim Bogner, Matthew Shaner, Jordigan Gonzales, Terry Eirich, Ken Tracy, 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

One Boy Scout 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.

RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT SERVICE AWARDS

Mayor Clouse and Council Members recognized the following volunteer firefighters:

Emmett Maul 35 years, Brad Isaac 20 years, Brad Williams 15 years, Bob Reineke 10 years, Jim Tacha 10 years, George Wiedel 10 years, Gary Davenport 5 years, Stuart Hostetler 5 years, and Rob VanHorn 5 years. Fire Chief Terry Eirich presented each with Service Awards.

RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT FIREFIGHTER COURSE I

Mayor Clouse and Council Members recognized the following volunteer firefighters for completing the Firefighter I Course: Dave Ash, Aaron Jameson, Shane Johnston, Dave Krueger, Brandon Laue, Brett Melchert, Zach Moul, Lonny Reeder, and Nathan Staskal.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT FOR 1705 EAST 1ST STREET SOUTH

Mayor Clouse opened the public hearing on the Application submitted by Broadfoot Sand & Gravel (Applicant) and David and Danette Roseberry (Owner) for a Conditional Use Permit to excavate/expand existing sand pit for unscreened sand and gravel for borrow use for the Cherry Avenue Bypass and improvements to I-80 on property zoned District AG, Agricultural District and described as a tract of land being part of Lot 3 in the Northwest Quarter of Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1705 East 1st Street South) and to consider Ordinance No. 7691. Planning Commission recommended approval subject to compliance with conditions 1 through 10 listed in the ordinance.

The applicant is requesting a Conditional Use Permit (CUP) for removal of construction aggregate from an existing gravel pit on the Roseberry property south of the interstate to supply material for the Cherry Avenue Interchange and Bypass project. The site is zoned agricultural; therefore, a CUP is required for resource extraction.

Staff has addressed three components for this batch plant proposal:

1. Duration
2. Wellhead Protection Overlay District
3. Circulation

The duration of the permit will be six (6) months past the completion of Phase I of the Cherry Avenue Bypass project. At the request of the applicant, the application may be renewable at the end of Phase I if he is awarded any project bids for Phase II. Staff supports granting this request.

This site is in the Wellhead Protection Overlay District, a restricted area intended to protect the water quality for the City of Kearney Wellfield. If an excavation project were allowed on a limited basis, the presence of heavy equipment and diesel fuel may cause concern for the Nebraska Department of Environmental Quality or the City due to the Wellhead Protection Area. The applicant is aware of the location of the site near the City's Wellfield and has indicated his willingness to abide by the Unified Land Development Ordinance, Section 45-104 Wellhead Protection Overlay Zone 1. Those regulations will be part of the conditions placed on this CUP.

The Utilities Department has contacted the Department of Environmental Quality on previous CUP applications regarding requirements that surround the issuance of storm water and other permits. In addition to the requirements of the City Code, State and Federal Agency regulations would also apply to the terms of the CUP.

The applicant has indicated that the primary purpose of the extraction operation is to provide material for the interchange to the east.

Therefore, the applicant will be hauling material east along East 1st Street South. The applicant will not be making regular trips across the narrow overpass that crosses the interstate. City staff will monitor the road during the project for compliance with the road maintenance specifications included in the conditions of this permit. The applicant will also be limited on hours of operation in order to accommodate for the local use nature of the roads and nearby residences.

In order to address the duration, wellhead protection, and circulation issues associated with this project, staff recommended that the following conditions be incorporated into the CUP and Planning Commission concurred:

1. This CUP shall be limited to a time limit of six months after the completion of Phase I of the Cherry Avenue Bypass project, but may be renewable at the end of the project if the applicant is awarded additional work for Phase II and a renewal is authorized by the Planning Commission and City Council.
2. 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.
3. All equipment must be removed from the site by the time the CUP expires.
4. This operation shall meet all federal or state agency requirements and standards.
5. The applicant shall apply for an Industrial Storm Water Permit, and a discharge permit, if necessary, from the Nebraska Department of Environmental Quality. If said permit is issued, the applicant will provide the City of Kearney with a copy of the permit and abide by the conditions of the permit during the term of the Conditional Use Permit.
6. Portable toilet facilities shall be utilized, properly maintained and protected from damage.
7. Fuel storage areas, if located on-site, shall be lined with a 60 mil high density polyethylene liner and bermed to contain the entire contents of the fuel storage container. The liner should extend over the berms and be anchored on the outside of the containment area.
8. The applicant must adhere to the regulations set forth in Section 45-104 of the City of Kearney Wellhead Protection Zone 1:

a) Septic systems and leach fields are prohibited. All development must be directly connected to City sewer services, if available.

b) Any development must be connected to City water services if such services are available within five hundred (500) feet of the site. If a connection is impossible, all new wells shall be installed in accordance with Title 178 of the Nebraska Administrative Code. Well installation further requires the approval of both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.

c) Storage of petroleum and agricultural chemicals for resale shall be prohibited. Storage of over five hundred (500) gallons of petroleum and/or agricultural chemicals for personal use shall require approval by both the City's Director of Utilities and the appropriate State of Nebraska regulatory agencies.

d) Surface water run-off shall be contained within the boundaries of any proposed development.

e) All development requires the written approval of the City's Director of Utilities and the appropriate State of Nebraska Department of Health.

9. The following procedures shall be performed by the applicant to insure proper maintenance of the gravel sections of the roads utilized for this project and CUP:

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 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. Staff recommends that the road be watered and bladed every four hours when trucks are operating.

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

10. Hours of operation for excavation shall be limited to Monday through Saturday, 7:00 am to 6:00 pm.

Terry Broadfoot, 6560 2nd Avenue, presented this matter to the Council. This is an existing pit which they want to enlarge for the quantities they need. Mayor Clouse stated this Conditional Use Permit is similar to what has been done on other properties for the same project. Council member Lammers noted there is a restriction on the number of gallons (500) above ground storage that they can have. Mr. Broadfoot stated that they will not be storing any fuel on the site except for the trailers that will bring fuel up which will have about 200 gallons at a time.

There was no one present in opposition to this hearing.

Moved by Kearney to close the public hearing and introduced Ordinance No. 7691 on the Application submitted by Broadfoot Sand & Gravel (Applicant) and David and Danette Roseberry (Owner) for a Conditional Use Permit to excavate/expand existing sand pit for unscreened sand and gravel for borrow use for the Cherry Avenue Bypass and improvements to I-80 on property zoned District AG, Agricultural District and described as a tract of land being part of Lot 3 in the Northwest Quarter of Section 18, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (1705 East 1st Street South) 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. 7691. 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. 7691 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. 7691 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. 7691 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.

PROGRESS REPORT ON CDBG 11-DTR-003

Mayor Clouse opened the public hearing on the progress of Community Development Block Grant 11-DTR-003; the comprehensive downtown revitalization plan and to consider Resolution No. 2011-165.

Assistant City Manager Suzanne Brodine presented this matter to the Council. This is the second public hearing for the Downtown Revitalization Plan and Grant. As part of the CDGB grant, they are required to have two of these hearings for every grant that the City receives. This planning grant was a \$30,000 grant from the State of Nebraska and it is phase I of a two phase process. They are required to do this downtown plan first and take the results and filter them. At that point, they will work with the state to apply for a project that will be eligible for the \$350,000 grant which is phase II of the process. Assistant Development Director and staff have worked very hard to set up numerous public listening sessions and groups to hear from the public about what they wanted to see downtown. They have received a tremendous response. The consultant for this project, RDG, took some of those larger concepts and came up with some specific suggestions of how that might be implemented.

Some of the priority areas were: visual connections to other areas within the City from the downtown to UNK, the downtown to old town, downtown to the Merryman Center, etc., enhancements to the parking lots including some reconfigurations to provide more spaces, promotion of some new private developments, additional civic and green space for gatherings in the downtown area. After this public hearing, there will be time for staff to do some very preliminary engineering and talk with the state staff to see what kind of project they would like to see Kearney put forward. Before the application for phase II is presented, it will be brought back to City Council with another public hearing to describe the project that they would like to put the money towards.

This public hearing is the opportunity for the Council to hear the comments from the public about how they believed the process went, how they felt about some of the concepts that RDG developed out of the conversations that they had with the public. This is a high level review of what has been going on, but not asking for any approval for any specific projects. Staff has a lot more detailed work to do.

Council member Buschkoetter asked for a more detailed outline of what is to follow. Assistant City Manager stated that prior to this Council meeting, they had another open house to talk a little more with the public; where they had an opportunity to see what RDG has proposed and submit additional comments. This is an ongoing process and suggestions can be submitted and will be considered in the process. They have had discussions with the two main organizations, the Downtown Improvement Board and Main Street Kearney to work on this project. They believe this proposal has covered two of the major items: green space and parking improvements. The bottom line is determining what is possible to do with the funds available, what will work long term for downtown and what the state wants to see in the City's application. There will be ongoing discussions with the advisory boards and citizens. The public hearing before the Council will probably be scheduled in February with the final proposal. Negotiations with the state will be a conversation. In the meetings she has had with them, they stated that even after the City submits its application if there are things they would like to see changed or they want us to justify a little better, we will have the opportunity to do that. This is an ongoing dialog with them to an extent to make sure that we get funded for what we want.

Jordigan Gonzales, UNK Student Body President, 1403 14th Avenue, stated on November 15, 2011 approximately 30 members of UNK Student Government participated in a strategizing forum held in the Council Chambers to develop ideas, suggestions and a general input from a college student perspective. As a representative of the student body, he expressed their appreciation to be incorporated in this process. He is a firm believer that establishing partnerships with diverse populations of individuals, institutions and sectors of commerce is vital to gathering support from the community for a project of this magnitude. As a student, this venture is evidence that Kearney and its leadership is moving forward in addressing the needs of the younger population which is community centered with younger adults in mind. This is essential in remaining competitive with their peer municipalities in attracting new and innovative talent and markets.

As student body president, he personally attested to the passion and excitement that the student body at the University at Nebraska Kearney has for this community project. The very idea of improving downtown with the park and other enhancements has caught the imagination of their student leadership because Kearney as a college town has the downtown amenities that are important in attracting and keeping students at UNK. An attractive park with scheduled performance venues would draw students, especially with more restaurants, coffee shops and ice cream parlors, etc. At the present time, downtown does not have a lot for students who are under 21 to do on the weekends. Additionally, hours of operation in the evening are important because that is usually when students have free time. A safe and scenic area to hang out in would be attractive for younger adults. This concept has the potential to revitalize and strengthen

the proud downtown area, along with its businesses and service providers.

In his point of view, the foundational purpose and vision of this project will unify the Kearney community, establishing a connection of lifelong residents, new career professionals, aspiring college and high school students and this community's children. He further believes that the economic and social opportunities will abound from this plan. Be it directly or indirectly, this project will generate renewed interest in the downtown area, providing the prospect for new businesses, entrepreneurs, jobs and consumer markets. More importantly, this proposal captures the essential elements to foster a strong sense of community on all levels. It will provide a gathering space for grandparents and parents to sit, talk, relax and be with other people. The recreational green space will provide a place for adults and children to engage in wholesome and physical activity. It will also accommodate potential local and regional performers to provide a venue of weekday and weekend entertainment. Finally, the possibility of incorporating a park or playground structure of some degree should attract children, and young families to stay and raise their family in this community.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and approve the finalization and close-out of Community Development Block Grant 11-DTR-003; the comprehensive downtown revitalization plan. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 8 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held November 22, 2011 and Minutes of Special Meeting held November 29, 2011.

2. Approve the following Claims:

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

Aflac \$2,839.20 ps; AIM Institute \$2,000.00 smcs; Alfred Benesch & Co \$39,384.29 smcs; Ally B Designs \$500.00 smcs; Amer First Aid \$357.52 smcs; Amer Red Cross \$323.00 smcs; AWWA \$1,615.00 smcs; Analytical Services \$1,125.00 smcs; Andersen,G \$770.00 smcs; Anderson,B \$222.00 smcs; Antelope Newspaper \$140.00 smcs; Arrow Striping \$1,610.00 smcs; Ask Supply \$62.50 smcs; Asphalt & Concrete \$4,002.65 smcs; Audio Go \$307.88 smcs; Aurora Coop \$1,430.24 smcs; Baker & Taylor \$6,020.56 smcs; Blessing \$162,125.37 co; BlueCross BlueShield \$88,598.53 smcs; Boedeker,J \$53.83 smcs; Bosselman \$7,763.80 smcs; Bradenburger,C \$9.39 smcs; Broadfoot's \$975.00 smcs; Brodine,S \$148.00 smcs; Brungardt Engineering

\$700.00 smcs; Buffalo Co Reg of Deeds \$30.50 smcs; Buffalo Co Comm Partners \$40.00 smcs; Buffalo Co Treasurer \$23,545.00 smcs; Builders Warehouse \$4,282.42 smcs, co; Canterbury,J \$6.98 smcs; Cash-Wa \$346.35 smcs; Center Point Large Print \$194.17 smcs; Central Fire & Safety \$100.25 smcs; Central Hydraulic \$5,409.52 co; Charter \$428.46 smcs; Chase,B \$122.00 smcs; City Glass \$176.80 smcs; City of Ky \$289,770.21 smcs,co,ps; Clatterback,A \$19.50 smcs; CMC Corp \$99.90 smcs; CNA Surety \$40.00 smcs; Copycat Printing \$372.78 smcs; Crane Sales & Service \$3,107.76 smcs; Credit Acceptance \$417.78 ps; Crossroads Ford \$116.74 smcs; Crystal Clean Carpet Care \$388.00 smcs; Cullen,M \$37.45 smcs; Cummins Central Power \$976.60 smcs; Curb-It \$6,438.00 co; Dandee Concrete \$14,602.00 co; Danko Emergency Equip \$679.25 smcs; Dawson Co PPD \$20,423.28 smcs; Dell Marketing \$23,242.08 co; Depository Trust \$29,538.75 ds; DHHS, Licensure Unit \$115.00 smcs; Dimmitt,B \$58.61 smcs; Dish Network \$122.52 smcs; Dmilaco \$971.90 smcs; Dominion Construction \$61,369.38 co; Don's Appliance Pros \$150.00 smcs; DPC Industries \$6,244.46 smcs; Dutton-Lainson \$135.13 smcs; Eakes Office \$1,217.58 smcs,co; Eirich,T \$50.00 smcs; Engels Glass Design \$54.00 smcs; Ensley Electrical Services \$2,228.05 smcs; Entenmann-Rovin \$263.73 smcs; Eustis Body Shop \$75.00 smcs; Farmers Union Coop \$370.00 smcs; FedEx \$98.79 smcs; Fiddelke \$902.25 smcs; Fireguard \$387.20 smcs; Frontier \$191.35 smcs; Gale \$2,106.43 smcs; Galls \$636.77 smcs; Garrett Tires & Treads \$2,968.99 smcs; Gough,P \$90.00 smcs; Great Plains Safety \$160.00 smcs; Haack,S \$206.46 smcs; Hansen,G \$93.13 smcs; HD Supply \$6,007.08 smcs; Hickman,N \$50.97 smcs; High Plains Books \$4,094.50 smcs; Highsmith \$189.80 smcs; Hilltop Pet Clinic \$1,571.89 smcs; Hinirichs,S \$9.08 smcs; Hi-Tech \$450.00 smcs; Hometown Leasing \$444.91 co; Hotsy Equipment \$557.75 smcs; Huerta's Upholstery \$45.00 smcs; IACP \$1,100.00 smcs; ICMA RC \$3,796.65 ps; IRS \$117,371.86 ps; Investment Prop Exchange \$1,500.00 co; Jack Lederman \$1,426.88 smcs; Ky Area COC \$150.00 smcs; Ky Area Comm Found \$8,258.00 smcs; Ky Glass \$25.00 smcs; Ky Hub \$2,053.14 smcs; Ky Towing & Repair \$75.00 smcs; Ky United Way \$561.24 ps; Kirkham Michael \$1,426.00 smcs; Kohl,J \$3.93 smcs; Konica Minolta \$2,003.74 smcs; Krull Ins \$1,950.00 smcs; LCL Truck Equipment \$1,963.00 smcs; Leach,C \$70.60 smcs; Lied Center \$2,188.00 smcs; Lips \$406.00 smcs; Magic Cleaning \$4,660.00 smcs; Malleck,J \$62.75 smcs; Masonic Temple Assn \$450.00 smcs; Matheson Tri-Gas \$218.41 smcs; McAfee \$2,063.04 smcs; Metlife \$7,317.89 ps; Michael's Monument \$500.00 co; Midlands Contracting \$20,061.59 smcs; Mid-State Units \$160.00 smcs; Midwest Pump \$2,434.74 smcs; Midwest Radar & Equip \$840.00 co; MILCO Environment \$1,640.60 smcs; Miller & Associates \$13,684.80 smcs; Moonlight Embroidery \$1,128.00 smcs; Moore Wallace \$468.09 smcs; Municipal Supply \$1,365.02 smcs; NCS Equipment \$315.00 smcs; NDHHS-Public Health \$45.00 smcs; NE Aids Project \$100.00 smcs; NE Child Support \$2,403.30 ps; NE Dept of Env Quality \$573,924.54 smcs, ds; NE Dept of Revenue \$81,393.43 smcs,ps; NE Public Health Environ \$325.00 smcs; NE Safety & Fire Equip \$445.00 smcs; NE State Fire Marshal \$120.00 smcs; NE State Library \$130.80 smcs; Neopost \$6,000.00 smcs; New World Systems \$68,838.00 smcs; Newman Traffic Signs \$1,360.00 smcs; NMC Exchange \$63.49 smcs; Noller Electric \$155.07 smcs; Northwestern Energy \$10,357.84 smcs; Norton,B \$122.00 smcs; NOVA Fitness \$464.50 ps; O'Connor \$122.00 smcs; O'Keefe Elevator \$353.82 smcs; Panowicz,K \$120.00 ps; Paramount Linen \$99.34 smcs; Pat's Plumbing \$988.50 smcs; Paulsen \$228,093.29 co; Payflex Systems \$527.00 ps; Penworthy \$2,146.25 smcs; Pep Co \$51.10 smcs; Platte Valley Comm \$8,380.45 co, smcs; Platte Valley Labs \$501.00 smcs; Police Officer's Assn \$560.00 smcs; Presto-X

\$445.40 smcs; Pullium,R \$40.00 smcs; Putnam,R \$1,890.00 co; Random House \$470.32 smcs; RDG Planning & Design \$17,685.00 smcs,co; Recorded Books \$2,971.52 smcs; Recreonics \$6,271.33 co; Research Technology \$189.95 smcs; Resource Management \$2,064.96 smcs; Robbins,H \$80.00 smcs; Sapp Brothers \$56,845.01 smcs; Schlinder Elevator \$969.26 smcs; SetCom \$233.49 smcs; Showcases \$449.06 smcs; Sirchie Finger Print Lab \$354.90 smcs; Smith,C \$6.73 smcs; Snap-On Tools \$5,263.95 smcs; SOS Portable Toilets \$31.25 smcs; State of NE/AS Central \$3,216.25 smcs,co; Steinbrink's Landscaping \$24.99 smcs; Strategic Materials \$337.95 smcs; Sun Life Financial \$42,738.23 smcs; SunGard \$195.00 smcs; Thomson West \$197.52 smcs; Transit Works \$99.00 smcs; Trenton Snow \$50.00 smcs; Tye & Rademacher \$10,771.18 smcs; Upstart \$230.91 smcs; Verizon \$1,075.33 smcs; Village Uniform \$647.91 smcs; Wall,R \$115.00 smcs; Walsh,C \$203.68 smcs; Watchguard Video \$224.25 co; Wiegand Security Service \$85.00 smcs; Wooden,T \$270.00 co; World Book \$799.00 smcs; Zimmerman Printers \$1,665.99 smcs; Payroll Ending 11-19-2011 -- \$343,425.19; Longevity Pay 12-2-2011 -- \$49,056.06; and Payroll Ending 12-3-2011 - \$354,707.55. 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. Adopt **Resolution No. 2011-165** approving Change Order No. 2 showing a decrease in the amount of \$7,290.00 submitted by Blessing LLC and approved by Alfred Benesch & Company for the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23).

RESOLUTION NO. 2011-165

WHEREAS, Blessing LLC of Kearney, Nebraska has performed services in connection with the Kearney Regional Airport Terminal Parking Rehabilitation Project (AIP Project No. 3-31-0045-23), and the City's engineer, Alfred Benesch & Company, have filed with the City Clerk Change Order No. 2 showing a decrease to the contract sum in the amount of \$7,290.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$696,717.50
Change Order No. 1 (9-13-2011)	+ 4,332.91
Change Order No. 2 (12-13-2011)	- <u>7,290.00</u>
Contract Sum to Date	\$693,760.41

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

PASSED AND APPROVED THIS 13TH DAY OF DECEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt **Resolution No. 2011-166** approving the Lease between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation

Center for above-ground fuel storage tank at the Kearney Regional Airport.

RESOLUTION NO. 2011-166

WHEREAS, Premier Aviation Training and Management, LLC, dba Kearney Aviation Center desires to place a 12,000 gallon above-ground storage tank at the Kearney Regional Airport to purchase fuel in larger quantities.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Lease between the City of Kearney and Premier Aviation Training and Management, LLC, dba Kearney Aviation Center for above-ground fuel storage tank at the Kearney Regional Airport. The Lease, marked as Exhibit A, is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF DECEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Reject the bids received for the Brigham Lofts CDBG NSP3 Project.
6. Accept the bids received for the 2011 Part 7 Improvements; 5th Avenue from North Railroad Street to 25th Street and adopt **Resolution No. 2011-167** awarding the bid to Dan Roeder Concrete in the amount of \$854,474.00.

RESOLUTION NO. 2011-167

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on December 6, 2011 at 2:00 p.m. for the 2011 Part 7 Improvements; 5th Avenue from North Railroad Street to 25th Street; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$1,186,228.00 for the said project; and

WHEREAS, Miller & Associates and City staff have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$854,474.00 be accepted as the lowest responsible bid for 2011 Part 7 Improvements; 5th Avenue from North Railroad Street to 25th 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 7 Improvements; 5th Avenue from North Railroad Street to 25th 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 in the sum of \$854,474.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$1,186,228.00 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 13TH DAY OF DECEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Reject the bids received for the 2011 Part 13 Improvements; TechOne Carrier Hotel.

8. Adopt **Resolution No. 2011-168** approving the following Agricultural Leases at the Kearney Regional Airport from January 1, 2012 until December 31, 2012: B & B Bendfeldt Farms, L.L.C. and Brenda Bendfeldt (229 irrigated acres); David R. Fleming (383 non-irrigated acres); David R. Fleming (272 irrigated acres); Gary Henderson (34 irrigated acres); Don Hendrickson (188 irrigated acres); Ron Hendrickson (75 dryland hay acres); Tom Larsen and Ted Larsen (127 under pivot irrigated acres and 9 non-irrigated acres); and Lee Potter (62 irrigated acres).

RESOLUTION NO. 2011-168

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed on behalf of the City of Kearney, Nebraska to execute the following Agriculture Lease Agreements on property located at the Kearney Regional Airport from January 1, 2012 until December 31, 2012:

- B & B Bendfeldt Farms, L.L.C. and Brenda Bendfeldt (229 irrigated acres) – annual cash rent is \$48,209;
- David R. Fleming (383 non-irrigated acres) – annual cash rent is \$36,002;
- David R. Fleming (272 irrigated acres) – annual cash rent is \$53,584;
- Gary Henderson (34 irrigated acres) – annual cash rent is \$6,698;
- Don Hendrickson (188 irrigated acres) – annual cash rent is \$37,036;
- Ron Hendrickson, dba “Agrident, Inc.” (75 acres dry land hay) – annual cash rent is \$4,275;
- Tom Larsen and Ted Larsen (127 under pivot irrigated acres and 9 non-irrigated acres) – annual cash rent is \$28,913;
- Lee Potter (62 irrigated acres) – annual cash rent is \$12,214;

A copy of the Agreements, marked Exhibits “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8” are attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF DECEMBER, 2011.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7689 – AMEND SECTIONS PERTAINING TO SCHOOL ZONES OF CHAPTER 8 OF CITY CODE

Current school zones are consistently marked using the same signs and schemes. The new chartreuse signs are in place in all school zones and all zones have beginning and ending of the school zone signage in place.

Due to the changes made by Kearney Public Schools to the location of schools and the hours that the students arrive and depart the schools, we have changed or are proposing to change a number of our school zones to reflect the changes.

The zones are in areas that abut the school properties and do not extend significantly past the property borders. All speed zones will be marked as 20 mile per hour zones between the hours of 7:30 – 8:30 a.m. and 3:00-4:00 p.m.

We have presented the proposed school zone changes to the School Safety Committee and numerous School Administrators to get their input on changing the school zone hours from the existing 7:00 a.m. – 4:00 p.m., to 7:30 – 8:30 a.m. and 3:00 - 4:00 p.m. During those meetings it was determined that the proposed changes to the school zones will cover the hours that students are typically present in the marked school zones.

This matter was on the November 22 meeting and the ordinance was placed on first reading.

Council Member Clouse introduced Ordinance No. 7689, being Subsection 1 of Agenda Item V amending the following sections of Article 8 “Speed Limitations” of Chapter 8 “Police” of the City Code: Section 8-805 “School Zones” designating the schools zones and establishing the time limits to be 7:30 a.m. to 8:30 a.m. and 3:00 p.m. to 4:00 p.m., Monday through Friday inclusive, through the school year, including year round school; and renaming Section 8-807 “School Crossings – Yellow Flashing Lights” designating the schools crossings with yellow flashing lights at Avenue N at 34th Street, 11th Street at Avenue C, and 17th Avenue at 41st Street and establishing the speed limit to be 25 miles per hour when flashing, 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 second reading and then upon its final passage. Council Member Kearney 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. 7689 by number. Roll call of those in favor of the passage of said ordinance on the second reading resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Kearney seconded by Lammers that Ordinance No. 7689 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. 7689 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. 7692 VACATING 100-FOOT BUILDING SETBACK AT 5305 33RD AVENUE

Mayor Clouse opened for discussion the ordinance vacating the 100-foot building setback line on the west side of Lot 11, as it is shown and dedicated on the plat of Western Hills Subdivision, Buffalo County, Nebraska which is located at 5305 33rd Avenue. Planning Commission recommended approval.

The applicant is requesting vacation of the 100-foot platted setback for the west portion of Lot 11 in Western Hills Subdivision. This project has been underway for several years. A brief history below will provide insight into this vacation request.

The applicant purchased Lot 11, Western Hills Subdivision in 2009, and then filed a minor subdivision to split the lot into two separate legal parcels. This action was completed in order to build a new house on the west half of the property. A 100-foot platted setback exists on the property that was established when Western Hills was first platted, which matched the requirements of the City zoning ordinance at the time of platting. When the City Council amended the 50-foot side and rear yard requirement for accessory buildings in rural districts, the front yard requirement was also reduced from 100 foot to 50 foot. The applicant was advised that City staff would support a variance to the 100-foot platted setback and he agreed to proceed with requesting the variance. The variance also provided the possibility for him to save some nice trees in an existing shelterbelt that would otherwise need to be removed.

In June 2009 the applicant went before the Board of Adjustment and was granted the variance from 100 to 50 feet. At that time, the applicant was also advised that the setback was recorded on the final plat and that the recorded setback would need to be vacated to complete this process. The new setback would then match the 50-foot line established by the Board of Appeals as the "default" setback in the current Code. Staff was of the opinion that the setback must be vacated to gain clear title for the lending institution. In other words, the variance awarded by the Board of Adjustment may not meet the title requirements of the lender and the setback will likely need to be vacated as well.

The applicant subsequently applied for a building permit which depicted the proposed structure placed at the 50-foot setback. Since that time the applicant has been working on the house and the building permit is still open. Apparently, it is now time for a title search and the applicant is following through with the vacation of the platted setback. Once the setback vacation is approved by Planning Commission and City Council, the new setback will be 50 feet.

Mitch Humphrey, Buffalo Surveying presented this matter to the Council. Brett and

Suezan King were granted a variance through the Board of Adjustments to place the house they are building closer to the street than would ordinarily be allowed. The setback line is platted with 100 feet and their house sits more towards the 50 foot variance line that they were granted. The title company would like them to clean up the records and formally vacate the 100-foot building setback line.

Council Member Lammers introduced Ordinance No. 7692, being Subsection 1 of Agenda Item VI vacating the 100-foot building setback line on the west side of Lot 11, as it is shown and dedicated on the plat of Western Hills Subdivision, Buffalo County, Nebraska (5305 33rd 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 Lear 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. 7692 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 Lear seconded by Buschkoetter that Ordinance No. 7692 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. 7692 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.

MANAGER APPLICATION FOR MATTHEW SHANER; KEARNEY COUNTRY CLUB

Mayor Clouse opened for discussion the application for manager for Matthew Shaner submitted by Kearney Country Club located at 2800 19th Avenue in connection with their Class C-09051 liquor license.

Matthew Shaner, 2911 Avenue L, #7, presented this matter to the Council. He is the new manager and director of golf at the Kearney Country Club. Since Pat O'Hara the previous manager left, Mr. Shaner has made sure that all the current employees have had their TIPS training and documentation is in their file. His policy is to card on a regular basis because he was aware that prior to him coming there, they had some violations in the past. He will be doing more training with his staff and food and beverage department to make sure that alcohol is handled properly.

Mayor Clouse stated that the last violation they had at the Country Club was five years ago. He believed that the Country Club had taken some steps to correct any problems

with serving.

Moved by Buschkoetter seconded by Clouse recommending approval to the Nebraska Liquor Control Commission the application for manager for Matthew Shaner submitted by Kearney Country Club located at 2800 19th Avenue in connection with their Class C-09051 liquor license. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

MANAGER APPLICATION FOR VALERY McCART; KNIGHTS OF COLUMBUS

Mayor Clouse opened for discussion the application for manager for Valery McCart submitted by CMO, Inc., dba Knights of Columbus 1728 located at 1900 Central Avenue in connection with their Class I-27979 liquor license.

James L Bogner, 804 East 36th Street, presented this matter to the Council. Valery could not attend this meeting. He read a statement that she prepared. "I apologize for not being able to represent myself in person as a family emergency has arisen. I have made an application to the Nebraska Liquor Control Commission for a Nebraska Liquor License for the Knights of Columbus #1728 as active manager. It is my hope that the City Council approves this application. My staff and I have taken the Responsible Beverage Service training class offered on line and have received our certificates of certification. They have also participated in the TIPS class and have received their TIPS card. They have zero tolerance when it comes to serving alcohol to minors and take this matter very seriously." Mr. Bogner stated that he represents the Knights of Columbus and was the one who hired Ms. McCart as their new manager and is very happy with her.

Moved by Clouse seconded by Kearney recommending approval to the Nebraska Liquor Control Commission the application for manager for Valery McCart submitted by CMO, Inc., dba Knights of Columbus 1728 located at 1900 Central Avenue in connection with their Class I-27979 liquor license. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

MANAGER APPLICATION FOR KILEY KOSSMAN; VETERANS FW #759

Mayor Clouse the application for manager for Kiley Kossman submitted by Veterans FW #759 located at 2215 1st Avenue in connection with their Class C-09025 liquor license will need to be postponed since Ms. Kossman could not attend the meeting.

Moved by Kearney seconded by Lammers postponing until December 27, 2011 the application for manager for Kiley Kossman submitted by Veterans FW #759 located at 2215 1st Avenue in connection with their Class C-09025 liquor license. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$101,965.22, PLATTE VALLEY STATE BANK - \$52,584.65, SCHOOL DISTRICT #7 - \$18,850.40

Moved by Lammers seconded by Buschkoetter that Open Account Claims in the

amount of \$52,584.65 payable to Platte Valley State Bank, and in the amount of \$101,965.22 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lammers, Kearney. Nay: None. Clouse and Lear abstained. Motion carried.

Moved by Lear seconded by Clouse that the Open Account Claim in the amount of \$18,850.40 payable to School District #7 be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Kearney. Nay: None. Buschkoetter and Lammers abstained. Motion carried.

VII. REPORTS

None.

VIII. ADJOURN

Moved by Kearney seconded by Lammers that Council adjourn at 7:35 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Kearney. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**