

*Kearney, Nebraska
October 23, 2012
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 23, 2012 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/Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Shawna Erbsen, Administrative Services Director; Dan Lynch, Chief of Police; AND Shelly Dennis, Risk Management Coordinator were also present. Some of the citizens present in the audience included: Tim Hughbanks, Elaine Wiseman, Myron Riddle, Jonathan Nikkila, Brett Jacobitz, 5 UNK students, Steve Altmaier from KGFW Radio, Mary Jane Skala from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION

Pastor John Gosswein from Family of Christ Lutheran Church provided the Invocation.

PLEDGE OF ALLEGIANCE

Five 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 on the wall of the Council Chambers.

ORAL COMMUNICATIONS – GOLDEN K KIWANIS CLUB

Myron Riddle, the outgoing president from the Golden K Kiwanis Club, stated there are approximately 80 members in the Kearney Kiwanis Club and they recently lost one of their members, Carol Cope. From October 1, 2011 to September 30, 2012, these members accumulated about 5,588 volunteer hours doing community service. In addition, the Golden K has initiated and supported financially many endeavors

throughout the community, including Good Samaritan Hospital, MONA, the Archway, Red Cross, the Kearney Police Department, the Key Clubs for Kearney Catholic and Kearney Public Schools and brought upgrades (BUGS) at Brian Elementary School. Valuing their time at \$10 per hour, they donated about \$55,880 to projects and endeavors which hopefully offsets the cost of what these institutions within our community would have to pay without volunteers. They are very service oriented and are glad to be part of the larger whole of this Kearney community.

CITY OF KEARNEY INSURANCE PROGRAM

Tim Hughbanks from Barney Insurance presented information to the City Council on the City's insurance program. The Council previously received a packet which includes the information about the renewal of the policy for the coming year. They were extremely pleased to see that the City of Kearney has maintained a very stable premium from one year to the next since they placed the coverage with Employers Mutual. The premium is slightly up this year at \$516,079 which calculates to about 2 ½ percent. The increase is due to changes in the City's actual exposure more than rates because of additional buildings and larger pieces of equipment that have been replaced.

Part of the reason, EMC has been able to keep these rates the same from one year to the next is based on what the City does. He and Shelley Dennis, the new Risk Management Coordinator were in the Employer Mutual office last week and visited with claims and the underwriters. They are truly amazed each year at the job the City of Kearney does in regard to safety control and claims mediation. They have a lot of experience with many other communities and will be the first to tell you none compare to Kearney and Kearney does stand out from the others.

Mr. Hughbanks stated that the City does a monthly safety inspection and he attends those with City staff as they inspect different buildings throughout the community and look at what each of these departments are doing to help prepare for safety. From the first day, he noticed that these sites were extremely well organized. Each year as they go back to some of those buildings, he is amazed to see how much better they get from one year to the next. He noticed that primarily in the Workers' Compensation. The work comp claims have dropped significantly over the last 5-10 years. The effect to the City is that the Experience Modification Factor that has to be charged to the City's premium continues to drop as well. This is a factor that Workers' Compensation companies use to determine the stability and the effectiveness of how a company's safety programs work. The mod factor is a figure that gets applied towards the premium. The City is receiving about a 30 percent reduction over the standard comp rate because of their good experience. It is very unusual to see one that low in any type of business, but when you consider the diversity of the departments throughout the City and the potential for exposure to accident and injury, it is unheard of to see a mod factor this low. There are always opportunities for loss, but it is how those losses are managed and the number that makes the big difference.

The ancillary line of business is not part of the EMC package, but is different coverage that is required from one year to the next. The only significant change is the storage tank liability. The reason for that change is because the company they originally had coverage with has changed and they had to go to different company.

Mr. Hughbanks stated since EMC began coverage, the net result is a little over \$2.1 million in premium savings. Anticipating that the previous insurance company would have continued to increase their premium, the savings could actually be much higher.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

None.

IV. CONSENT AGENDA

Moved by Kearney seconded by Lammers that Subsections 1 through 10 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held October 9, 2012.
2. Approve the following Claims:

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

3595 American \$859.42 smcs,co; AT&T \$145.44 smcs; Ace Eaton Metals \$165.10 smcs; Ace Hardware \$1,038.02 smcs,co; Action Training \$795.00 smcs; Adams,D \$475.00 smcs; Advance Auto Parts \$99.12 smcs; Agrium Advanced \$396.20 smcs; Alamar Uniforms \$279.40 smcs; Alfred Benesch \$7,417.85 co; All Makes Auto Supply \$1,410.92 smcs; Allied Electronics \$83.24 smcs; Ally B Designs \$60.00 smcs; Amazon \$1,620.53 smcs,co; Amer First Aid \$80.01 smcs; APWA \$828.00 smcs; Amer Red Cross \$131.80 smcs; Amsan \$928.59 smcs; Analytical Services \$2,625.00 smcs; Another Look Co \$192.60 smcs; Apex Supercenter \$58.75 smcs; APWA \$480.00 smcs; Aqua Supercenter \$355.20 smcs; Arbor Day Foundation \$35.00 smcs; Architectural Resource \$5,044.73 smcs; Army Navy Superstore \$72.97 smcs; Ask Supply \$491.75 smcs; Aurora Coop \$269.50 smcs; Awards Plus \$313.80 smcs; Baird Supporting Systems \$1,599.38 co; Baker & Taylor \$12,972.11 smcs; Baltic Networks \$789.87 co; Bamford \$1,459.67 smcs; Barco Municipal Products \$3,552.50 smcs; Barnes & Noble \$249.66 smcs; Barney Ins \$10,341.00 smcs; Beehive Industries \$7,697.00 smcs; Bells Construction \$400.00 co; Berntsen Intl \$262.33 smcs; Big Apple \$746.00 smcs; Blessing \$30,174.38 co; Bluecross Blueshield \$134,925.12 smcs; Bobs Super Store \$13.96 smcs; Borer,K \$100.00 smcs; Bosselman \$10,045.28 smcs; Boys Town Press \$309.98 smcs; Broadfoot's \$1,020.00 smcs; Browns Shoe Fit \$159.99 smcs; Buffalo Co Reg Deeds \$40.50 smcs; Buffalo Co Treasurer \$20.00 co; Buffalo Outdoor Power \$69.17 smcs; Builders Warehouse \$2,654.93 smcs,co; Buzzard Gulch \$24.88 smcs;

Capital Business Systems \$147.07 smcs; Carquest \$1,713.70 smcs; Cascade Fire Equipment \$47.76 smcs; Cash Wa \$1,500.14 smcs; Cat5ecableguycom \$156.98 co; CDW Government \$188.13 smcs; Center Point Large Print \$101.64 smcs; Centering Corp \$24.60 smcs; Central Community College \$800.00 smcs; Central District Health Dept \$5,017.00 smcs; Central Hydraulic Systems \$162.31 smcs; Central NE Bobcat \$406.12 smcs; Charter \$405.60 smcs; Chavez,K \$43.49 smcs; Chemsearch \$145.92 smcs; Chesterman \$1,278.81 smcs; Chicken Coop \$40.00 smcs; Child's World \$1,107.20 smcs; Circle D Boot Saddle \$6.00 smcs; City of Ky \$38,052.54 smcs,ps; Civic Plus \$6,010.80 smcs; Cold Spring Granite \$360.00 smcs; Comcate \$4,725.00 smcs; Cometsupplycom \$68.24 smcs; Comm.Action Partnership \$5,617.35 smcs,co; Compliancesignscom \$43.00 co; Conseco Life Ins \$19.00 ps; Construction Rental \$1,798.47 smcs,co; Cook,K \$100.00 smcs; Cool Tech \$94.40 smcs; Copycat Printing \$653.14 smcs; CPS \$2,189.65 smcs; Crow,I \$95.00 smcs; Crucialcom \$81.30 co; Culligan \$110.00 smcs; Cummins Central Power \$614.68 smcs; CVI Kearney \$387.50 smcs; Cymax Stores \$242.79 smcs; Dave Waggoner Plumbing \$65.00 smcs; Dawson PPD \$37,406.44 smcs; Daylight Donuts \$49.65 smcs; Demco \$401.54 co; Depository Trust \$50,613.75 ds; Deterdings \$626.60 smcs; Diamond Vogel Paint \$140.16 smcs; Dish \$64.36 smcs; Dmilaco Sports Fashion \$285.60 smcs; Dostals Construction \$52,524.00 co; Draeger Safety Canada \$220.00 smcs; Dutton-Lainson \$96.96 smcs; Eakes \$1,915.65 smcs,co; Ecolab \$37.04 smcs; Education Specialty \$831.02 smcs; Eggen,M \$846.50 smcs,co; EMC Ins \$3,975.44 smcs; Engineered Systems \$459.24 smcs; Fairbanks \$48.66 smcs; Farrow,M \$24.08 smcs; Fastenal \$2,128.74 smcs; Fearnley,M \$48.15 smcs; Fiddelke Heating \$225.50 smcs; Fireguard \$1,758.11 smcs; Fleetpride \$1,084.76 smcs; Fort Bend Services \$1,653.00 smcs; Frontier \$9,167.66 smcs; Gale \$5,706.42 smcs; Gangwish Turf \$28.80 smcs; Gannon Travel \$1,820.00 smcs; Garrett Tires & Treads \$12,538.79 smcs; GD Concrete Construction \$119,812.00 co; GE Money Bank \$5,681.56 smcs; Gear for Sports \$2,198.64 smcs; Geiser,S \$43.00 smcs; Gempler \$60.60 smcs; General Traffic Controls \$156.64 smcs; Glock \$210.00 smcs; Graham Tire \$367.52 smcs; Grainger \$7,608.61 smcs,co; Gray, Catrina \$224.25 smcs; Great Plains One Call \$399.95 smcs; Great Plains Safety \$447.00 smcs; Grimes,S \$31.00 smcs; H&H Distributing \$620.20 smcs; Hach \$611.43 smcs; Hali-Brite \$353.79 smcs; Haupt,J \$100.00 smcs; HD Supply \$1,221.73 smcs; Hobby-Lobby \$57.76 smcs; Holmes Plumbing \$532.06 smcs,co; Hometown Leasing \$249.06 co; Hopkins,A \$25.96 smcs; Hornady Mfg \$938.00 smcs; ICMA RC \$3,796.38 ps; Inland Truck Parts \$196.70 smcs; IRS \$118,708.55 ps; Intl Association \$279.00 smcs; Intl Code Council \$180.00 smcs; Jack Lederman \$1,843.30 smcs; Jerry's Sport Center \$387.12 smcs; John Deere Landscapes \$460.43 smcs,co; Johnstone Supply \$39.97 smcs; Jones,P \$125.00 smcs; JR's Western \$278.91 smcs; K&K Parts \$919.49 smcs; Kastler,S \$83.29 smcs; Ky Centre Vac \$499.00 smcs; Ky Concrete \$14,887.95 smcs,co; Ky Crete & Block \$6,270.45 smcs,co; Ky Glass \$19.70 smcs; Ky Hub \$522.00 smcs; Ky Implement \$1,695.36 smcs; KVFD \$3,000.00 smcs; Ky Warehouse \$723.66 smcs; Ky Winlectric \$1,470.22 smcs; Kehl Tree Service \$1,500.00 co; Kelly Supply \$37.68 smcs; Kerr,W \$25.00 smcs; Kimball Midwest \$162.70 smcs; Klingelhoef, H \$45.42 smcs; Konica Minolta \$2,064.14 smcs; Kotschwar,T \$69.75 smcs; Krueger,L \$120.00 smcs; Larue Distributing \$87.34 smcs; Laser Technology \$40.00 co; Laserlinkgo \$852.49 smcs; Lawson Products \$701.26 smcs; LCL Truck Equipment \$462.00 smcs; League of NE Municipalities \$775.00 smcs; Lerner Publishing \$738.04 smcs; Lewandowski,J \$45.18 smcs; Lincoln Truck Center \$1,616.85 smcs; Lincoln Winwater Works \$1,386.77 smcs,co; Mac Tools \$224.39 smcs; Machines and Media

\$137.00 smcs; Magic Cleaning \$7,910.00 smcs; Mail Express \$2,091.81 smcs,co; Marlatt Machine Shop \$1,305.46 smcs; Marlin,M \$34.56 smcs; Masonry Construction \$51,563.00 co; Matheson Tri-Gas \$422.75 smcs; Maxi-Sweep \$447.50 smcs; Menards \$4,815.14 smcs; Microtronics \$19.46 smcs; Mid American Signal \$11,592.00 co; Mid NE Land Developers \$4,821.90 co; Midwest Breathing \$167.74 smcs; Midwest Mailing \$1,819.00 smcs; Midwest Pump \$2,385.06 smcs; Milco Environmental \$2,944.50 smcs; Miller & Associates \$11,782.60 co; Mirror Image \$18.00 smcs; Moonlight Embroidery \$442.25 smcs; MPP Tools \$16.00 smcs; Municipal Supply \$4,184.33 smcs; Murphy Tractor \$268.43 smcs; NAFI \$45.00 smcs; Napa All Makes Auto \$572.34 smcs; NCL of Wisconsin \$525.93 smcs; NCS Equipment \$12.49 smcs; NE Child Support \$2,470.66 ps; NE Dept of Environmental \$14,381.56 smcs; NE Dept of Revenue \$83,014.82 smcs; NE Library Commission \$3,078.70 smcs; NE Municipal Clerks \$35.00 smcs; NE Professional Licensing \$47.87 smcs; NE Public Health \$1,171.00 smcs; NE Safety \$1,731.00 smcs; NE Statewide Arboretum \$130.00 smcs; NE Truck Center \$131,206.36 smcs,co; NEland Distributors \$659.51 smcs; Neopost \$6,000.00 smcs; Newegg \$135.71 smcs; Newman Signs \$333.37 smcs; Newsbank \$962.00 smcs; NMC \$18,227.98 smcs; Norm's Plumbing \$76.75 smcs; Northern Safety \$263.00 smcs; Northwest Electric \$270.54 smcs; Northwestern Energy \$632.67 smcs; NWEA \$80.00 smcs; OCLC \$650.70 smcs; Officemax \$808.07 smcs; Officenet \$1,686.90 smcs; Olive Software \$85.43 smcs; O'Reilly Auto \$1,365.86 smcs; Orscheln \$708.98 smcs; Out of Print \$80.00 smcs; Overhead Door \$911.05 smcs; Paramount \$16.66 smcs; Party America \$83.59 smcs; Paypal \$601.19 smcs,co; Payton,D \$432.50 smcs; PBD Ala-Graph Editions \$525.00 smcs; PC Mall Gov \$2,000.00 co; PCS Mobile \$794.85 smcs,co; Platte Valley Comm \$117.50 smcs; Police Officers Assn \$560.00 smcs; Positive Promotions \$270.95 smcs; Potter,B \$100.00 smcs; Presto-X \$115.08 smcs; Promotions Now \$491.00 smcs; Pro-Tint \$460.00 smcs; Provantage \$1,287.85 smcs,co; Public Agency Training \$425.00 smcs; Qualifiedhardwarecom \$48.00 smcs; Quill \$812.10 smcs; Random House \$348.92 smcs; Randy Griffiths Const \$5,063.00 co; Ready Mixed Concrete \$14,640.29 smcs,co; Reams \$1,004.69 co; Recorded Books \$952.46 smcs; Redman's Shoes \$200.00 smcs; Restaurant Equippers \$219.99 smcs; Rouse,H \$100.00 smcs; Russell's Appliance \$305.88 smcs; SA Foster Lumber \$25.71 smcs; Safelite Auto Glass \$859.84 smcs; Sahling Kenworth \$809.09 smcs; Sanchez,G \$17.57 smcs; Sanitation Products \$833.26 smcs; Sapp Brothers \$62,225.53 smcs; Schriener,S \$100.00 smcs; Sears \$856.92 smcs; Sherwin Industries \$378.38 smcs; Sherwin Williams \$140.14 smcs; Siemens Industry \$916.64 smcs; Sign Center \$1,280.00 smcs,co; Sirchie \$510.11 smcs; Sirsi Dynix \$20,359.10 smcs; Smarhome \$87.25 co; Snap On Tools \$233.00 smcs; SOS Portable Toilets \$105.00 smcs; Spectorsoft \$189.99 co; Standard Printing \$268.40 smcs; Stanley Security Solutions \$8.44 smcs; St of NE Dept of Labor \$348.00 ps; Steinbrink Landscaping \$2,896.30 smcs; Subway \$216.00 smcs; Sunmart \$35.92 smcs; Super Shine Auto Care \$18.00 smcs; Supermediastorecom \$200.91 smcs; Target \$721.61 smcs; Terri's Shrub Design \$590.00 smcs; Texoma Golf \$115.98 smcs; Theis,G \$45.20 smcs; Theis,J \$60.00 smcs; Thompson,K \$435.50 smcs; Titleist \$5,145.93 smcs; Todd Feed Supply \$73.54 smcs; Toyne \$2,704.96 smcs; Tractor-Supply \$732.51 smcs; Trans Iowa Equipment \$2,077.23 smcs; Tri City Outdoor Power \$959.99 smcs; Tri Co Equipment \$442,000.00 co; Tri State Carports \$724.50 co; Trimble Navigation \$545.86 smcs; TruGreen ChemLawn \$161.00 smcs; Turfwerks \$33.93 smcs; Union Bank & Trust \$57,606.73 ps; Unique Management Serv \$223.75 smcs; UNK & Board of Regents \$334.09 ps; UNK Finance Office \$3,000.00 smcs; UPS Store \$67.11 smcs; US Tennis Assn \$35.00 smcs;

USA Blue Book \$165.06 smcs; USPS \$196.15 smcs; Van Deist Supply \$4,773.33 smcs; Van Wall Equipment \$136.74 smcs; Vasquez,R \$36.00 smcs; Verizon Wireless \$50.23 smcs; Village Uniforms \$161.70 smcs; Walgreens \$16.56 smcs; Walmart \$767.87 smcs; Ward Labs \$13.00 smcs; Weis Fire & Safety \$130.00 smcs; Whelen Engineering \$390.50 smcs; Wick's Sterling Trucks \$46.92 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$876.67 smcs,co; Windows Secrets \$20.00 co; World Herald \$212.96 smcs; Yant Equipment \$2,276.13 smcs; Payroll Ending 10-6-2012 -- \$374,843.32. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set November 13, 2012 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2012-190** approving the T-Hangar B-10 Lease Agreement between the City of Kearney and JD Air for storage purposes at the Kearney Regional Airport.

RESOLUTION NO. 2012-190

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar B-10 Lease Agreement, on behalf of the City of Kearney, Nebraska with JD Air, LLC, the Lease Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Approve the application submitted by Tom McCoy for Post 52 American Legion to conduct the Veterans Day Parade on November 10, 2012 beginning at 10:00 a.m. with the parade starting at Railroad Street, north on Central Avenue and ending at the parking lot located north of the Museum of Nebraska Art. The staging area will include the temporary closing of the following streets beginning at 6:00 a.m.: Railroad Street from the west side of Avenue B to the east side of 5th Avenue, 1st Avenue, 3rd Avenue and 4th Avenue from Railroad Street north to 21st Street.

6. Adopt **Resolution No. 2012-191** approving Change Order No. 1 showing a decrease in the amount of \$10,086.00, Application and Certificate for Payment No. 3-Final in the amount of \$186,037.70, and accept the Certificate of Substantial Completion submitted by Paulsen, Inc. and approved by Miller & Associates for the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac.

RESOLUTION NO. 2012-191

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the 2011 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2011-946 for Country Club Lane from the south lot line of Lot 1 of Block Two, Aspen Meadows Second north to the north lot line of Lot 1 of Block One, Aspen Meadows Second; 37th Street from the west line of Country Club Lane to the west line of Lot 2 of Block Four, Meadowlark Estates Addition; and 25th Avenue Place from the north line of 37th Street to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing a decrease in the amount of \$10,086.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$186,037.70, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$407,796.50
Change Order No. 1 (10-23-2012)	<u>- 10,086.00</u>
Contract Sum To Date	397,710.50
Gross Amount Due	397,710.50
Retainage	.00
Amount Due to Date	397,710.50
Less Previous Certificates for Payment	<u>211,672.80</u>
Current Payment Due	\$186,037.70

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of October 2, 2012, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 1, as shown on Exhibit "A", Application and Certificate for Payment No. 3-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt Resolution No. 2012-192 approving Application and Certificate for Payment No. 2 in the amount of \$44,441.53 submitted by Midlands Contracting, Inc. and approved by Miller & Associates for the 2012 Part 1 Improvements – Bid A consisting of Water District No. 2012-563 and Sanitary Sewer District No. 2012-503 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac; Water District No. 2012-564 and Sanitary Sewer District No. 2012-504 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac.

RESOLUTION NO. 2012-192

WHEREAS, Midlands Contracting, Inc. of Kearney, Nebraska has performed services in connection with the 2012 Part 1 Improvements – Bid A consisting of Water District No. 2012-563 and Sanitary Sewer District No. 2012-503 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac; Water District No. 2012-564 and Sanitary Sewer District No. 2012-504 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$44,441.53, as shown on Exhibit “A” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$84,827.64
Contract Sum To Date	84,827.64
Gross Amount Due	76,724.50
Retainage	3,836.23
Amount Due to Date	72,888.28
Less Previous Certificates for Payment	<u>28,446.75</u>
Current Payment Due	\$44,441.53

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 2, as shown on Exhibit “A”, be and is hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2012.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

8. Adopt Resolution No. 2012-193 approving the Developer Constructed Infrastructure Agreement for Prairie View Apartments between the City of Kearney and Franssen Properties Inc. for the construction of a water main.

RESOLUTION NO. 2012-193

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled “Developer Constructed Infrastructure Agreement for Prairie View Apartments” between the City of Kearney and Franssen Properties Inc. to construct an 8-inch diameter ductile iron pipe water main from the existing water main located on the north side of 8th Street southward approximately 400 feet crossing 8th Street and in an easement to its terminus at a fire hydrant be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Ted Franssen on behalf of Franssen Properties Inc. to construct said water main as stated above.

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

PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2012-194** appointing Pam Pearson to fulfill the term of Michelle Carlson on the Golf Advisory Board.

RESOLUTION NO. 2012-194

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, a vacancy currently exists on the Golf Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following person, as proposed by the Mayor of the City of Kearney, Nebraska, is hereby appointed to fulfill the term of Michelle Carlson for the term indicated:

GOLF ADVISORY BOARD

Pam Pearson appointed to fulfill the term vacated by Michelle Carlson to July 31, 2014

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 23RD DAY OF OCTOBER, 2012.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Reject the bid received for the 2012 Part 8 Improvements; Ted Baldwin Park Shelter.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7753 AMENDING SECTIONS 10-207 AND 10-317 OF THE CITY CODE

Council Member Lammers introduced Ordinance No. 7753, being Subsection 1 of Agenda Item V amending Section 10-207 "Sewer Use Charges" of Article 2 "Sewers" of Chapter 10 "Utilities" of the Code of the City of Kearney to eliminate the reference to the rates and use changes for property served directly or indirectly by the sanitary sewerage system for the years 2006, 2007, 2008, 2009, 2010 and to adjust the fees as set forth in the City of Kearney Comprehensive Fee Schedule; and Section 10-317 "Rates and Charges" of Article 3 "Water" of Chapter 10 "Utilities" of the Code of the City of Kearney to adjust the fees as set forth in the City of Kearney Comprehensive Fee Schedule, 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. 7753 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. 7753 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. 7753 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.

ORDINANCE NO. 7754 AMENDING SECTION 5-212 OF THE CITY CODE

Council Member Lammers introduced Ordinance No. 7754, being Subsection 2 of Agenda Item V amending Section 5-212 "Collection Regulations; Rates and Charges" of Article 2 "Garbage and Trash" of Chapter 5 "Health and Sanitation" of the Code of the City of Kearney to eliminate the schedule of charges for collection of refuse and garbage for each property served for the years 2006, 2007, 2008, 2009, and 2010 and to adjust the fees as set forth in the City of Kearney Comprehensive Fee Schedule, 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. 7754 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. 7754 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. 7754 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

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 presented this matter to the Council. She stated that it has been a pretty status quo year and everything is going well with the managed and the owned properties. The one notable thing that happened this year is that both Minden and Gibbon did not receive any operating subsidy. The HUD allocation for subsidy was reduced. Instead of applying those subsidies evenly, HUD came up with a formula based on the number of units and based on the number of months of operating reserve each had to determine if there would be a reduction in that operating subsidy to those particular PHAs or would receive no subsidy at all. Gibbon and Minden both had ample operating reserve numbers and that really impacted small housing authorities across the nation. The money went to the larger housing authorities. This has made a lot of unhappy people in the country and there is presently a law suit saying that HUD violated the Annual Contributions contract.

One of the other downside things that happened this year is that they broke their record because for the first time in five years they had an audit finding which was at Shelton. According to GSB Statement 42, they should have expensed \$118,000 that was used for mold remediation, but instead it was improperly capitalized. As a result, they have paid their dues and have now cleared it off the record. Most of this year was focused on Shelton. They had a \$1.3 million renovation going on for their mold and moisture issues. In 2013, they are having a re-grand opening at 2:00 p.m. with remarks, ribbon cutting and tour of the finished units. It is a very nice project for this community.

Senator Johanns of Nebraska and Senator Tester of Montana are sponsoring a bill called "SHARP" Small Housing Authority Reform Proposal which will designate that a small housing authority is 550 or less. In looking at it, 80 percent of the housing authorities across the nation have 20 percent of the units using ten percent of the HUD funding. Right now the big housing authorities get the money. At the present time, they are heavily regulated. Due to the budget cuts, they are hoping to do some de-regulation for small housing authorities which would still not put the funding at a risk. Minden is a small housing authority and even Kearney is only about 305 units with vouchers and public housing units, but is still required to make those same reports and abide by the same regulations as the large housing authorities must do. This is a budget neutral item that Johanns and Tester are putting forth (No. 3538). Out of the 129 housing authorities in Nebraska, approximately only five would exceed the 550 units so this would impact most of them.

Ms. Wiseman said after 21+ years, this was the last time she will come to the Council as the Executive Director of the Kearney Housing Agency because she will be retiring in January 2013. She expressed her appreciation to the present Council and past Councils and all the City staff for their cooperation and help.

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

EL MAGUEY MEXICAN RESTAURANT MANAGER APPLICATION

Mayor Clouse opened for discussion the manager application for Marcella Lemuz submitted by Four Cactuses, LLC, dba El Maguey Mexican Restaurant in connection with their Class I-098485 liquor license located at 1104 2nd Avenue.

Marcella Lemuz presented this matter to the Council. She had nine years of experience in Michigan where she was an assistant manager. This is a new experience in training for the liquor area of the restaurant. This is her first liquor application in Nebraska. She is taking the server training on line. Chief Lynch stated the application came through when she was doing her training. Based on her successfully completing that course, his recommendation is to approve the application. She stated they have made sure the staff has been trained on the rules for serving alcohol and understands the consequences of serving to minors.

Moved by Buschkoetter seconded by Clouse to approve or recommend approval to the Nebraska Liquor Control Commission the manager application for Marcella Lemuz submitted by Four Cactuses, LLC, dba El Maguey Mexican Restaurant in connection with their Class I-098485 liquor license located at 1104 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Kearney, Buschkoetter, Lear. Nay: None. Motion carried.

REVISE ½ CENT SALES TAX CAPITAL IMPROVEMENT PLAN

Mayor Clouse opened for discussion revising the ½ Cent Sales Tax Capital Improvement Plan.

City Manager Michael Morgan presented this matter to the Council. There are a lot of factors that influence the sales tax fund. Citizen input is very important and he will be bringing a report to the Council on November 13 showing where Kearney has been and where it is going. It will include the sales tax plan and other initiatives. Other factors that influence the sales tax plan are the changing revenues from time to time, such as the cost of projects, the matching funds the City has received for many projects and the grant funding which has allowed them to leverage a lot of projects. Leveraging was a priority of the Council when it was established, plus interest costs play an important role when borrowing money. The Council has established the goal of no more than 35 percent in-debt service. They had to make a few revisions to make sure they stay under that 35 percent. He believed the overriding themes they received from the citizens were streets, sidewalks and signals. The big building projects were also proposed such as Harmon Park Activity Center, the Senior Center, the Library expansion. The Council and staff have accomplished a lot of projects and in the coming year there will be park improvements, some big street improvements, funds will be leveraged for downtown, CRA funds, the inclusive playground is being finished, Ted Baldwin Park Shelter, Tennis Court lights, Fountain Hills Park bike trail. At the end, they project a debt ratio of 26 percent. They anticipate a balance in excess of the surplus (not the total balance) in excess of the ten percent contingency that they try to maintain. The only project in the

coming fiscal year they do not have funded yet is the paving of 56th Street and they are going to look at partnering with the County to do some widening at the entrance into the Airport.

2013 looks a little different as they move into large street projects. The typical repairs are listed. Some of these projects were slated early but due to the 2nd Avenue project they did not want two north/south roads under construction at the same time. 2014 street projects are Central Avenue from 12th Street to 16th Street and 25th Street and 9th Avenue which is the \$3.5 million project with the State of Nebraska Safety Funds of which the City only has to contribute ten percent. 2015 to 2016 will have less projects and more street.

City Manager stated there is still some flexibility remaining in 2014-2015 because there is still a balance of over \$1 million and the debt ratio is at 32 percent. He and the Finance Director have tried to find some projects that they could pay off with the larger fund balances as they move forward. Possibly in 2015-2016 or 2016-2017, there are deregulated federal funds from \$800,000-\$900,000 that will come directly to the City for the first time in the STP funds which will have the flexibility to be spent on any street project.

All citizens can go the City of Kearney website and view this spreadsheet and look at a list of the entire projects that have been funded since day one. Counting this year, the City will have spent over \$4.75 million on Park & Recreation related projects mostly because of Harmon Park Activity Center. As Kearney moves forward, the street projects will be increased and there will be less of these types of projects. The City has funded groups like the Raceway Park, Children's Museum and the Firefighters Museum in the initial years of the sales tax, but moving forward funds will be committed to street projects. He stated that about 70 percent of the projects are completed that were suggested by citizens after their input. The ½ cent sales tax has done what was anticipated from the beginning. Smaller projects can be added based on the year but due to the debt ratio larger projects will be more difficult to add.

Moved by Kearney seconded by Lammers to approve revising the ½ Cent Sales Tax Capital Improvement Plan as presented. Roll call resulted as follows: Aye: Clouse, Kearney, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIMS: NPPD - \$102,901.32

Moved by Lammers seconded by Lear that Open Account Claims in the amount of \$102,901.32 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Lammers, Kearney. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

City Manager commended the Kearney Housing Agency and the work that Elaine Wiseman has done over the years. He stated from working in other communities, he has never experienced such an outstanding Housing Authority that Elaine Wiseman headed up here. Ms. Wiseman's job will be a difficult position to fill with someone of her

skill level.

City Manager updated the Council on the inclusive playground at Harmon Park. He stated the playground is not open and the workers are trying to finish it up. It is very much a quality facility and so encouraged citizens to go and check it out in the meantime.

Council member Kearney thanked the voters of Kearney for passing the ½ cent sales tax issue five years ago. The Council has tried to use it wisely and accommodate the wishes of the citizens.

VIII. ADJOURN

Moved by Buschkoetter seconded by Clouse that Council adjourn at 7:39 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Kearney, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**