

*Kearney, Nebraska
January 28, 2014
5:30 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 5:30 p.m. on January 28, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. 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; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Scott Schlatter, Jamie Frank, Bob Wilson, Mindy Oman, Mary Kalb, Jessica Dailey, Pat McLaughlin, Steve Altmaier from KGFW Radio, Mike Konz 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/MOMENT OF SILENCE

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

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

HY-VEE GAS #1323 LIQUOR LICENSE

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application for a Class D-105991 liquor license submitted by Hy-Vee, Inc., dba Hy-Vee Gas #1323 located at 5204 2nd Avenue, consider the manager application for Scott Schlatter, and to consider Resolution No. 2014-19.

These are a new applications submitted by Hy-Vee Inc., dba Hy-Vee Gas #1323, Hy-Vee Restaurant #1323 and Hy-Vee #1323 for licenses to sell alcohol at its facilities located at 5204 2nd Avenue and 5212 3rd Avenue as well as Scott Schlatter being the manager. Not only these new Hy-Vee facilities, Scott Schlatter also manages 37 locations in Nebraska. In checking the Liquor Commission's web site for the last couple of years of these locations, it appears there was a liquor violation in Grand Island in March of 2013 for selling to a minor.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicant. There was nothing found in the background that would indicate a problem with compliance with Council policy nor is there any recent history of any issues with any of the other locations in Nebraska. None of the principal employees have any record indicating they would not be suitable for this business. The applicant has knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, on March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. Mr. Schlatter has submitted his Certificate of Training and the Liquor License Training Compliance form indicating all his employees will receive the required training and will file the Certificates of Training with the City Clerk's office.

Scott Schlatter presented this matter to the Council. He stated there are three separate licenses, one is for the store, one is for the gas store and one is for the restaurant. The different classifications are based on how they are sold. The restaurant is licensed as an I and K which will be for on-site consumption and also K for the catering license if they do something off-site with the kitchen. The gas store is basically off premise only license and it is licensed for all three categories but their intent is to start out with just beer and wine in there. The store license is a standard store license with the exemption for tasting. They do have a tasting room in there and that is also a requirement for the lottery to sell lottery tickets.

Mayor Clouse asked if they use the same type of controls on all of the facilities. Mr. Schlatter confirmed stating their registration system will allow that the date has to be put in to sell the items in the liquor store and will be closed off at night and actually locked with gates.

Council Member Nikkila asked how they facilitate training on liquor with their employees. Mr. Schlatter stated once they get the people they will start training on-line right away and do the Responsible Beverage Training. This is what they are doing through all the sites through the State. They have 60 days from the issuance of a license and assumed training would start immediately. He expected in April that all training would be completed before they opened.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2014-19** recommending approval to the Nebraska Liquor Control Commission the application for a Class D-105991 liquor license submitted by Hy-Vee, Inc., dba Hy-Vee Gas #1323 located at 5204 2nd Avenue and approve the manager application for Scott Schlatter. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-19

WHEREAS, Hy-Vee, Inc., dba Hy-Vee Gas #1323 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Class D-105991 Liquor License to do business at 5204 2nd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, a hearing was held relating to said application on January 28, 2014 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance form indicating all employees have or will complete a state approved alcohol server/seller training program.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of Class D-105991 Liquor License to Hy-Vee, Inc., dba Hy-Vee Gas #1323 located at 5204 2nd Avenue, Kearney, Nebraska.

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

HY-VEE RESTAURANT #1323 LIQUOR LICENSE

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application for a Class IK-105992 liquor license submitted by Hy-Vee, Inc., dba Hy-Vee Restaurant #1323 located at 5212 3rd Avenue, consider the manager application for Scott Schlatter, and to consider Resolution No. 2014-20.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2014-20** recommending approval to the Nebraska Liquor Control Commission the application for a Class IK-105992 liquor license submitted by Hy-Vee, Inc., dba Hy-Vee Restaurant #1323 located at 5212 3rd Avenue and approve the manager application for Scott Schlatter. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-20

WHEREAS, Hy-Vee, Inc., dba Hy-Vee Restaurant #1323 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class IK-105992 Liquor License to do business at 5212 3rd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Hy-Vee, Inc., dba Hy-Vee Restaurant #1323 also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Scott Schlatter; and

WHEREAS, a hearing was held relating to said application on January 28, 2014 and the cost of the published notice was \$11.29.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class IK-105992 Liquor License to Hy-Vee, Inc., dba Hy-Vee Restaurant #1323 located at 5212 3rd Avenue, Kearney, Nebraska, and to approve the application for Manager of Scott Schlatter.

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

HY-VEE #1323 LIQUOR LICENSE

Public Hearings 1, 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the application for a Class C-105993 liquor license (restricted to promotional tastings) submitted by Hy-Vee, Inc., dba Hy-Vee #1323 located at 5212 3rd Avenue, consider the manager application for Scott Schlatter, and to consider Resolution No. 2014-21.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2014-21** recommending approval to the Nebraska Liquor Control Commission the application for a Class C-105993 liquor license (restricted to promotional tastings) submitted by Hy-Vee, Inc., dba Hy-Vee #1323 located at 5212 3rd Avenue and approve the manager application for Scott Schlatter. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2014-21

WHEREAS, Hy-Vee, Inc., dba Hy-Vee #1323 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-105993 Liquor License (restricted to promotional tastings) to do business at 5212 3rd Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Hy-Vee, Inc., dba Hy-Vee #1323 also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Scott Schlatter; and

WHEREAS, a hearing was held relating to said application on January 28, 2014 and the cost of the published notice was \$11.78.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class C-105993 Liquor License (restricted to promotional tastings) to Hy-Vee, Inc., dba Hy-Vee #1323 located at 5212 3rd Avenue, Kearney, Nebraska, and to approve the application for Manager of Scott Schlatter.

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 15 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held January 14, 2014.

2. Approve the following Claims:

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

AT&T \$84.43 smcs; A-1 Refrigeration \$461.41 smcs; Ace Irrigation \$260.00 smcs; Advance Building Serv \$503.00 smcs; Advanced Auto Parts \$44.56 smcs; Agrium Advanced \$2,602.95 smcs; Alamar Uniforms \$440.37 ps; Alertshirt \$821.78 smcs; Alfred Benesch \$7,064.83 co; Al-Jon Mfg \$380.70 smcs; All Amer Sewer \$350.00 smcs; All Makes Auto \$191.82 smcs; Alley Rose \$61.95 smcs; Ally B Designs \$65.00 smcs; Amazon \$1,639.17 smcs,co; American \$909.78 smcs; Amer Fence \$7,755.00 co; Amer First Aid \$343.57 smcs; Amer Legion \$73.69 smcs; Apex Superstores \$79.86 co; Apple Market \$34.52 smcs; ARC \$672.61 smcs; Arctic Refrigeration \$198.60 smcs; ASCAP \$330.00 smcs; Ask Supply \$465.56 smcs; Aurora Coop \$8,207.03 smcs; Baird Supporting Systems \$178.99 co; Baker & Taylor \$3,155.89 smcs; Bamford \$900.00 smcs; Barco Municipal Products \$1,687.66 smcs; Best Buy \$492.07 smcs,co; Big Rack Shack \$512.00 smcs; Bluecross Blueshield \$248,501.75 smcs; Boogaarts \$12.32 smcs; Bosselman \$14,471.40 smcs; Broadfoot's \$420.00 co; Buffalo Outdoor Power \$9.18 smcs; Buggy Bath \$9.00 smcs; Builders \$9,144.36 smcs,co; Buzz's Marine \$109.74 smcs; Cabela's \$499.95 smcs; CANDO \$3,000.00 smcs; Carquest Auto \$1,432.98 smcs; Cash Wa \$727.41 smcs; CDW Govt \$957.70 co; Center Point Large Print \$72.06 smcs; Central District Health \$2,883.00 smcs; Central Hydraulic \$2,181.17 smcs; Central NE Bobcat \$242.33 smcs; Central Valley Irrigation \$1,417.37 smcs; Charter \$6.33 smcs; Chicken Coop \$40.00 smcs; Chilis \$30.00 smcs; Christmas Box Angel \$12,000.00 smcs; Churchill,C \$364.07 smcs; City of Ky \$11,123.16 smcs,ps; CMC Rescue \$290.98 smcs; Comp and Save Ink \$72.41 smcs; Compasscom \$50.00 smcs; Complete Music \$355.00 smcs; Computer Warehouse \$76.00 co; Consolidated Management \$157.50 smcs; Construction Rental \$43.38 smcs; Copycat Printing \$224.64 smcs; Crabgrass Band \$350.00 smcs; Crossroads Ford \$64.46 smcs; Culligan \$163.00 smcs; Cummins \$2,993.86 smcs; Daily,D \$85.00 smcs; Dan Roeder Concrete \$108,120.55 co; Danko Emergency \$222.91 smcs; Dawson PPD \$14,910.76 smcs; Dell \$740.41 co; Demco \$104.16 smcs; DHHS Online Licensing \$230.00 smcs; Diamond Vogel Paint \$31.84 smcs; Dish \$77.02 smcs; Dmilaco \$366.40 smcs; Dogpoopbagscom \$132.22 smcs; Don's Hobby Guns \$40.00 smcs; Eakes \$7,167.21 smcs,co; Eileen's Cookies \$23.45 smcs; Elliott Equipment \$460.37 smcs; EMC Ins \$6,448.76 smcs; Fairbanks \$1,931.97 smcs; Fastenal \$561.45 smcs; Fedex \$123.83 smcs; Fireguard \$45,732.38 smcs,co; Fleetpride \$1,235.60 smcs; Freshwater Efilter \$207.69 smcs; Gale \$477.61 smcs; Galls \$39.20 ps; Garrett Tires \$569.90 smcs; Gear for Sport \$3,967.11 smcs; General Traffic Controls \$2,389.70 smcs; Graham Tire \$503.28 smcs; Grainger \$614.79 smcs,co; Hallmarkcom \$459.58 smcs; HD Supply \$2,911.23 smcs; Hearing Access Solutions \$6,715.00 co; Heiman Fire Equipment \$89.35 smcs; Hobby-Lobby \$154.24 smcs; Holmes Plbg \$47.05 smcs; Hothus,D \$19.69 smcs; ICMA RC \$4,091.09 ps; ID Card Group \$445.00 co; ID Securityonlinecom \$105.50 co; Inland Truck Parts \$159.44 smcs; IRS \$129,961.11 ps; Investment Property \$1,500.00 smcs; Jack Lederman \$377.91 smcs; Jelinek,A \$356.48 smcs; Johnstone Supply \$225.25 smcs; K&K Parts \$53.76 smcs; Ka Tom Restaurant Supply \$471.00 smcs; Kart-Mart \$999.96 smcs; Ky Ampride \$20.00 smcs; Ky Comm. Foundation \$10,660.00 smcs; Ky Concrete \$487.52 smcs; Ky Hub \$463.06 smcs; Ky Humane Society \$6,825.00 smcs; Ky Power Sports \$587.90 smcs; Ky Towing \$100.00 smcs; Ky Warehouse \$711.80 smcs; Ky Winlectric \$32.94 smcs,co; Ky Winnelson \$200.09 smcs; Kelly Supply \$238.63 smcs; Killion Motors \$765.02 smcs; Kimsey,J \$35.00 smcs; Konica Minolta \$2,935.84 smcs; Kovar,M \$154.56 smcs; Kusmaul Electronics \$347.32 smcs; Landmark Implement \$1,511.85 smcs; Larue Distributing \$148.08 smcs; Lawson Products \$67.35 smcs; Lewandoswki,A \$59.00 smcs; Lincoln Winwater Works \$460.10 smcs; Linda's Upholstery \$176.75 smcs; Lips Printing \$43.92 ps; Lockmobile \$101.00 smcs; Lynn

Card Co \$148.05 smcs; Mail Express \$155.41 smcs; Marlatt Machine Shop \$389.65 smcs; Marshall,K \$18.30 smcs; Matheson \$106.81 smcs; Mead Lumber \$103.35 smcs; Menards \$4,013.74 smcs,co; Midlands Contracting \$42,460.00 smcs; Midway Chevrolet \$106.43 smcs; Midwest Labs \$2,215.00 smcs; Midwest Radar \$1,120.00 co; Midwest Turf \$1,018.98 smcs; Miller & Associates \$66,616.85 smcs,co; Miller Signs \$56.00 smcs; Mindmixercom \$750.00 smcs; Mobile Pro Shop \$2,697.81 smcs; MOCIC \$250.00 smcs; Moonlight Embroidery \$1,326.12 smcs; Morris Press \$1,194.00 smcs; Motion Industries \$48.88 smcs; Municipal Supply \$422.66 smcs; Murphy Tractor \$1,663.33 smcs; Mycreativeshopcom \$19.95 smcs; Nat'l Fire Protection \$165.00 smcs; NCS Equipment \$96.03 smcs; NE Arborists Assn \$65.00 smcs; NE Board of Engineers \$80.00 smcs; NE Child Support \$2,284.66 ps; NE Dept of Environmental \$150.00 smcs; NE Dept of Revenue \$64,729.32 smcs; NE Law Enforcement \$50.00 smcs; NE Library Assn \$361.25 smcs; NE Machinery \$1,889.53 smcs; NE Sec of State \$30.00 smcs; NE St Historical \$45.00 smcs; NE Truck Center \$1,051.46 smcs; NE Turfgrass \$520.00 smcs; Northern Safety \$442.82 smcs; Northern Tool \$266.22 smcs; Northwestern Energy \$8,543.07 smcs; NRPA/Americas Backyard \$187.28 smcs; OCLC \$699.24 smcs; Office Max \$977.07 smcs,co; Officenet \$396.26 smcs; O'Hara Lindsay & Assoc \$2,200.00 smcs; Olsson Associates \$8,027.00 co; Omaha World Herald \$21.35 smcs; O'Reilly Auto \$20.92 smcs; Oriental Trading \$58.84 smcs; Orscheln \$378.86 smcs; Ourdesignscom \$27.90 ps; Paramount Linen \$175.35 smcs; Parts Town \$292.25 smcs; Paypal \$95.97 co; Physio Control \$464.00 smcs; Platte Valley Comm \$638.41 smcs; Postage Refill \$750.00 smcs; Precision Small Engine \$113.41 smcs; Prestige Group \$169.00 smcs; Presto-X \$175.23 smcs; Priority Management \$98.00 smcs; Provantage \$1,139.56 smcs; Quill \$89.53 smcs; R&R Products \$976.31 smcs; Random House \$247.50 smcs; RDJ Specialties \$116.63 smcs; Recorded Books \$366.96 smcs; Redman's Shoes \$500.00 smcs; Resource Management \$356.16 smcs; Riverside Mfg \$412.70 ps; Roesler,A \$60.00 smcs; Run-N-Iron Customizing \$942.00 smcs; Safeworkercom \$109.83 smcs; Sahling Kenworth \$719.25 smcs; Sampson Construction \$392,604.82 co; Sanitation Products \$276.13 smcs; Sapp Bros \$34,806.68 smcs; Sears \$276.88 smcs; Sherwin Williams \$28.00 smcs; Shoutbomb \$360.00 smcs; Sirchie Finger Print \$276.88 smcs; Smokey Bear Gifts \$21.90 ps; SOS Portable Toilets \$117.00 smcs; Stampscom \$4.99 smcs; Staples Direct \$345.97 smcs; Steinbrink Landscaping \$100.00 smcs; Strategic Materials \$388.52 smcs; Streakwave Wireless \$195.66 co; Super Shine Auto Care \$29.50 smcs; Swalter Packaging \$188.03 smcs; Target \$283.89 smcs; TFL Lighting \$40.00 smcs; Thompson Co \$58.77 smcs; Thompson,K \$189.35 smcs; TM Sporting Goods \$89.98 smcs; Tractor-Supply \$129.28 smcs; Trans Iowa Equipment \$221.18 smcs; Turner Body Shop \$152.00 smcs; Uline \$468.98 smcs; Under Armour Direct \$214.93 smcs; Uniforms and Accessories \$35.31 smcs; Union Bank & Trust \$63,521.99 ps; UNK-Finance Office \$3,000.00 smcs; UNL Agron \$60.00 smcs; UPS Store \$383.45 smcs,co; USPS \$185.83 smcs; Van Diest Supply \$61.55 smcs; Van Wall Equipment \$208.61 smcs; Verizon \$20.14 smcs; Walgreens \$25.34 smcs; Wal-mart \$1,309.22 smcs,ps; Watchguard Video \$419.00 co; West Villa Animal \$2,165.19 smcs; Whelen Engineering \$335.60 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$551.21 smcs,co; Wingate Inn \$166.00 smcs; Work Boots USA \$84.87 smcs; WPCI \$185.50 ps; Payroll Ending 1-11-2014 -- \$362,285.20. 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 February 11, 2014 at 5:30 p.m. as date and time for hearing on those applications where applicable.
4. Approve the application for a Special Designated License submitted by Gary Wach, dba Three Brothers Vineyard & Winery in connection with their Class YK-079473 liquor license to dispense wine in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on February 19, 2014 from 2:00 p.m. until 11:00 p.m. for a sampling/tasting event.
5. Approve the application for a Special Designated License submitted by Ryan Puls, dba The Speakeasy in connection with their Class IB-102074 liquor license to dispense beer, wine and distilled spirits in the Extension Building located at the Buffalo County Fairgrounds, 1400 East 34th Street, on March 1, 2014 from 4:00 p.m. until 12:30 a.m. for a fund raiser.
6. Adopt **Resolution No. 2014-22** approving the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Robert Cinatl, Matthew Foster, Shaun Mewes, and Jonathan Schroeder.

RESOLUTION NO. 2014-22

WHEREAS, Terry Eirich, Chief of the Kearney Volunteer Fire Department, has forwarded several names of individuals desiring to serve as volunteers in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Eirich, the City Council of the City of Kearney, Nebraska hereby finds and determines that said persons listed are fully capable and qualified to serve a membership in the Kearney Volunteer Fire Department; and

WHEREAS, in order to be qualified for benefits in accordance with Sections 48-115, et seq. of the Nebraska Revised Statutes, said volunteer firefighters acting outside the corporate limits of the City must be officially directed to do so in order to be eligible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that those persons recommended by the Chief of the Kearney Volunteer Fire Department for membership in the Kearney Volunteer Fire Department as set forth on the attached letter of recommendation, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby confirmed as members of the Kearney Volunteer Fire Department for the purposes of and in accordance with Section 48-115 of the Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

BE IT FURTHER RESOLVED that all of said volunteer firefighters named on Exhibit "A" are hereby specifically authorized and directed to serve outside the corporate limits of the municipality under the direction, orders and authority of the Chief of the Kearney Volunteer Fire Department in accordance with Section 4-204 of the Kearney City Code.

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Appointment of Randy Buschkoetter to serve on the Kearney Visitors Bureau, the appointment of Stanley Clouse and Bruce Lear to serve on the Buffalo County Economic Development Council, and the appointment of Jonathan Nikkila, Bob Lammers and Ron Hendrickson to serve on the Joint Airport Zoning Board.
8. Approve the Plans and Specifications for the construction of the 2014 Part I Improvements consisting of Sanitary Sewer District No. 2014-510 beginning at the southeast corner of Remington Heights Second Addition, northwesterly in an easement along the south side of Block Three, Remington Heights Second to the west line of Remington Heights Second, then northerly along the west line of Remington Heights Second to the north line of Remington Heights Second, then westerly and following the north line of the Southeast Quarter of Section 24, Township 9 North, Range 16 West to the northwest corner of the Southeast Quarter of Section 24 and set the bid opening date for February 18, 2014 at 2:00 p.m.
9. Approve the Plans and Specifications for the Meadowlark Hills Maintenance Building Repair and set the bid opening date for February 18, 2014 at 2:00 p.m.
10. Adopt **Resolution No. 2014-23** approving Application and Certificate for Payment No. 3 in the amount of \$178,283.46 submitted by Midlands Contracting and approved by Miller & Associates for the 2013 Part 1 – Bid A Improvements consisting of Water District No. 2013-570 and Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition.

RESOLUTION NO. 2014-23

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2013 Part 1 Improvements – Bid A consisting of Water District No. 2013-570 and Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th

Avenue as platted in Fountain Hills Second Addition, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3 in the amount of \$178,283.46, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$1,141,528.00</u>
Contract Sum To Date	1,141,582.00
Gross Amount Due	355,139.77
Retainage (10%)	35,513.98
Amount Due to Date	319,625.79
Less Previous Certificates for Payment	<u>141,342.33</u>
Current Payment Due	\$ 178,283.46

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve and Plans and Specifications for the 2014 Part 3 Improvements; 16th Street and 5th Avenue and set the bid opening date for February 19, 2014 at 2:00 p.m.

12. Adopt **Resolution No. 2014-24** appointing Ed Berglund to fulfill the term vacated on the Planning Commission.

RESOLUTION NO. 2014-24

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 Planning Commission.

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 vacated term as indicated:

PLANNING COMMISSION

Ed Berglund appointed to fulfill the term vacated by Andrew Williams to July 31, 2015.

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt Resolution No. 2014-25 on the appointment of the following to serve as members on the Archway Advisory Committee: Tami Hellman, Jason Everett, Art Hansen, Stephen England, Jinny Turman.

RESOLUTION NO. 2014-25

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, on December 10, 2013 the Council passed and approved Ordinance No. 7861 creating the Archway Advisory Committee; and

WHEREAS, the City advertised and accepted Expression of Interest forms for persons interested in serving on said Board.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following be and are hereby appointed to serve on the Senior Services Advisory Board:

- Stephen England appointed to July 31, 2017
- Jason Everett appointed to July 31, 2016
- Arthur Hansen appointed to July 31, 2017
- Tami Hellman appointed to July 31, 2016
- Jinny Turman appointed to July 31, 2017

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

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

14. Accept the bids received for the purchase of an automated side load refuse compactor truck for the Utilities Department and award the bid to Elliott Equipment in the amount of \$236,500.

15. Adopt Resolution No. 2014-26 approving T-Hangar A-6 Lease Agreement between the City of Kearney and Justin Dix for storage purposes at the Kearney Regional Airport.

RESOLUTION NO. 2014-26

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-6 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Justin Dix, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 28TH DAY OF JANUARY, 2014.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7867 – CREATE SANITARY SEWER DISTRICT NO. 2014-510

In this year's budget the Utilities Department included funds for the construction of an extension of the Northeast Trunk Sanitary Sewer Main. The Northeast Trunk Sanitary Sewer Main must be extended to serve the recently annexed Remington Heights Second Addition and for the incremental growth of the City.

Sanitary Sewer District No. 2014-510 will create a district for the extension of the Northeast Trunk Sanitary Sewer Main. The district begins at the Southeast corner of Remington Heights Second Addition and proceeds northwesterly in an easement along the south side of Block Three, Remington Heights Second to the west line of Remington Heights Second, then turns northerly along the west line of Remington Heights Second to the north line of Remington Heights Second, then turns westerly and follows the north line of the Southeast Quarter of Section 24, Township 9 North, Range 16 West to the northwest corner of the Southeast Quarter of Section 24, which would be Avenue E if extended northward.

The City intends to finance the construction of the Northeast Trunk Sanitary Sewer Main with a State Revolving Fund (SRF) loan. On December 10, 2013 the City Council conducted a public hearing on the project in order to qualify for the State Revolving Fund (SRF) loan.

Council Member Clouse introduced Ordinance No. 7867, being Subsection 1 of Agenda Item V creating Sanitary Sewer District No. 2014-510 beginning at the southeast corner of Remington Heights Second Addition, northwesterly in an easement along the south side of Block Three, Remington Heights Second to the west line of Remington Heights Second, then northerly along the west line of Remington Heights Second to the north line of Remington Heights Second, then westerly and following the north line of the Southeast Quarter of Section 24, Township 9 North, Range 16 West to the northwest corner of the Southeast Quarter of Section 24, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. 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. 7867 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7867 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, 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. 7867 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. 7855A – AMEND ORDINANCE NO. 7855

On November 12, 2013 the Council approved Ordinance No. 7855 granting a Conditional Use Permit (CUP) to colocate telecommunications equipment on the existing tower at 1711 East 39th Street on property that is part of the fairgrounds. The Application was made by Commnet Wireless as Applicant and U.S. Cellular as Owner. Therefore, when the Ordinance was prepared it was granted to Commnet Wireless and U.S. Cellular. Council approved the CUP subject to the City receiving the signed Acknowledgment.

Over the last couple of months, the City Attorney has been working with the two companies on resolving some of the wording issues. The matter has been resolved and Ordinance No. 7855A is amending the language that is acceptable to all entities.

Council Member Clouse introduced Ordinance No. 7855A, being Subsection 2 of Agenda Item V amending Ordinance No. 7855 granting a Conditional Use Permit to colocate telecommunications equipment for wireless communications on property zoned District Ag, Agricultural District and described as part of the Northwest Quarter of the Northwest Quarter and the north five acres of the Southwest Quarter of the Northwest Quarter all located in Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska lying west of the railroad tracks (1711 East 39th 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 Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. 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. 7855A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7855A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, 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. 7855A 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. 7868 – ISSUING \$1,200,000 CO,BINED UTILITIES REVENUE BONDS FOR THE NORTHEAST TRUNK SANITARY SEWER MAIN

On December 10, 2013, the City Council conducted a public hearing for the purpose of meeting the requirements necessary to obtain a State Revolving Fund Loan to finance the Northeast Trunk Sanitary Sewer Main. This project is eligible for financing by a Wastewater Treatment Facilities Construction Loan Fund loan through the State of Nebraska Department of Environmental Quality. The following loan terms will apply to the loan:

- The amount of the loan will be for \$1,200,000.
- The term of the loan will be for 20 years.
- The interest rate on the loan will be 1.5% with an additional 1% administrative fee.
- The semi-annual payment on the loan will be \$34,836.19 plus 1% of the outstanding balance for the administration fee.

Council Member Clouse introduced Ordinance No. 7868, being Subsection 3 of Agenda Item V authorizing the issuance of Combined Utilities Revenue Bonds of the City of Kearney, Nebraska in the principal amount of up to \$1,200,000 for the purpose of paying the costs of improvements to the City's sanitary sewer system; authorizing the issuance of said bond in the form of a promissory note to evidence a loan from the Nebraska Department of Environmental Quality; approving the execution and delivery of a loan contract with the Nebraska Department of Environmental Quality; approving related documents with respect to said loan; prescribing the form, terms and details of said bond; pledging and hypothecating the revenue and earnings of the waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system of said City for the payment of said bond and interest thereon; providing for the collection, segregation and application of the revenues of the City's waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system; approving execution of related documents; entering into a contract on behalf of the City with the holder of said bond; and determining that interest on said bond shall not be excludable from gross income for purposes of federal income taxation, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lammers seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. 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. 7868 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7868 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, 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. 7868 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

2012-2013 ANNUAL AUDIT

Mayor Clouse opened for discussion the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller.

Mindy Oman presented this matter to the Council. They have audited the City of Kearney's Financial Statement as of September 30, 2013 and have issued a clean opinion of those. The net position of the whole City increased by \$11.8 million to \$195 million this is how much the assets exceeded the liabilities for the year. This was an overall increase of six percent; \$29 million of that net position number is unrestricted and can be used to meet the City's ongoing obligations. The total debt of the City decreased by \$893,285 which is a 2.3 percent decrease in the debt. \$161 million of the City's net position is in capital assets that are the infrastructure including streets and improvements of the whole City. The general operating fund of the City has a fund balance of \$10.2 million, \$5.5 million of that is unrestricted. The general fund balance increased by \$1.49 million during the year. In the business type funds the golf, sanitary sewer, water and airport showed positive increases in the net position while sanitation and solid waste disposal facility showed decreases in net position but those were not significant decreases.

Some of the major projects completed in the year were the Library Addition, the paving improvements, water and sanitary sewer improvements and the seal coat of the general aviation apron at the Airport.

Council Member Lammers asked if there were any areas of deficiency where the City would make some improvement or do some things a little better. Ms. Oman stated the City does a very good job with the size of staff and separating duties as best as the City can. It would not be beneficial to hire more staff to cover everything.

Council Member Nikkila stated in the report there was one deficiency in the internal controls because there is not a large enough staff the City would not want to hire staff if it did not need it. Ms. Oman stated you would have to have one person that opens the mail, one person that makes the deposit, one person that writes the check, one person that puts it into the computer, no one else could have access to make any adjustments to change that into the computer; it would be a significant number of people.

Moved by Nikkila seconded by Lear to accept the City of Kearney Annual Financial Report prepared by the accounting firm of McDermott & Miller. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM

Moved by Lear seconded by Buschkoetter that the Open Account Claim in the amount of \$10,625.41 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

VETERAN'S HOME UPDATE

City Manager Michael Morgan stated the City received preliminary notice that the hearing at the State Legislature regarding the potential proposal in the Veteran Home funding by Senator Gloor will be February 12, 2014 but that could change. They are working to prepare for that opportunity if that is indeed the date.

VIII. ADJOURN

Moved by Buschkoetter seconded by Lammers that Council adjourn at 5:43 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**