

***Kearney, Nebraska  
August 26, 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 August 26, 2014, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle 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 Kelly Korgel, Assistant to City Clerk were also present. Some of the citizens present in the audience included: Brad Wagner, Mike Hendrickson, Marc Loescher, Roger Jasnoch, Marian McDermott, Damon Day, Reed Miller, Mitchell Miller, Josh Jelden, Russ Hilliard, Lorin Downing, Marv Reichert, Tom Weides, Tim O'Neill, Troy Janicek, Kate Heelan, Bob Slimiker, Scott Steinburg, UNK students, approximately 70 citizens, Steve Altmaer from KGFV Radio, Ashley White from Kearney Hub, KHAS TV, NTV.

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 minister, 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**

### **LAND USE MAP AMENDMENT FOR 1170 30TH AVENUE**

Mayor Clouse stated the City was notified by the applicant requesting to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture/Open to Mixed Use 2 property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue).

Moved by Lammers seconded by Nikkila to postpone until September 9, 2014 hearing the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Agriculture/Open to Mixed Use 2 property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **REZONE 1170 30TH AVENUE**

Mayor Clouse stated the City was notified by the applicant requesting to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha to rezone from District AG, Agricultural District to District C-3, General Commercial District property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue).

Moved by Lammers seconded by Nikkila to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha to rezone from District AG, Agricultural District to District C-3, General Commercial District property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **FINAL PLAT FOR TACHA ADDITION**

Mayor Clouse stated the City was notified by the applicant requesting to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the Final Plat and Subdivision Agreement for Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property

described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue).

Moved by Lammers seconded by Nikkila to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the Final Plat and Subdivision Agreement for Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **ANNEXATION OF TACHA ADDITION**

Mayor Clouse stated the City was notified by the applicant requesting to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the annexation of Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue).

Moved by Lammers seconded by Nikkila to postpone until September 9, 2014 the public hearing on the Application submitted by Buffalo Surveying for Lynn and Sandra Tacha for the annexation of Tacha Addition, an addition to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the South Half of the Southeast Quarter of Section 4, Township 8 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (1170 30th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **VACATE LOT 12, WESTERN HILLS SUBDIVISION AND REZONE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF 56TH STREET AND 30TH AVENUE**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Applications submitted by Miller & Associates for Tracy and Jacqueline Burns for (1) the vacation of Lot 12, Western Hills Subdivision, Buffalo County, Nebraska; and (2) the rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on the Applications submitted by Miller & Associates for Tracy and Jacqueline Burns for (1) the vacation of Lot 12, Western Hills Subdivision, Buffalo County, Nebraska; and (2) the rezoning from District AG, Agricultural District to District RR-1, Rural Residential District (Rural Standards) property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North,

Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **FINAL PLAT FOR WESTERN HILLS SECOND SUBDIVISION**

Mayor Clouse stated the City received notification from the applicant requesting to postpone until September 23, 2014 the Application submitted by Miller & Associates for Tracy and Jacqueline Burns for the Final Plat for Western Hills Second Subdivision, Buffalo County, Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue).

Moved by Nikkila seconded by Lear to postpone until September 23, 2014 the public hearing on the Application submitted by Miller & Associates for Tracy and Jacqueline Burns for the Final Plat for Western Hills Second Subdivision, Buffalo County, Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northeast Quarter of Section 28, Township 9 North, Range 16 West of 6th P.M., Buffalo County, Nebraska (southwest corner of 56th Street and 30th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RED LOBSTER LIQUOR LICENSE, 112 2ND AVENUE EAST**

Mayor Clouse opened the public hearing on the Application for Class I-109288 liquor license submitted by Red Lobster Hospitality, LLC, dba Red Lobster #0835 located at 112 2nd Avenue East, consider the manager application for Sean Korth, and consider Resolution No. 2014-164.

Red Lobster Hospitality, LLC, dba Red Lobster #0835 is leasing the property located at 112 2nd Avenue East. This is not a new license but a change in ownership. Sean Korth has extensive knowledge of the liquor laws and currently is the corporate manager for five other Nebraska locations.

The Police Department performed a background check and it did not indicate any negative issues with the application nor with Sean Korth, the manager applicant. There was nothing found in the background that would indicate a problem with compliance with Council policy. Mr. Korth has submitted the Liquor License Training Compliance form indicating his staff has received training and the Certificates of Training have been filed with the City.

Attorney Tom O'Neill was present to represent Red Lobster. He stated the only basic change was the Darden Restaurants was sold to Red Lobster Hospitality. Basically, the same people stay the same. There is one manager, Sean Korth, who will oversee the management of the restaurants and he will work very closely with him

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2014-164** recommending approval to the Nebraska Liquor Control Commission the Application for Class I-109288 liquor license submitted by Red Lobster Hospitality, LLC, dba Red Lobster #0835 located at 112 2nd Avenue East, and approve the manager application for Sean Korth. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-164**

WHEREAS, Red Lobster Hospitality, LLC, dba Red Lobster #0835 has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-109288 Liquor License to do business at 112 2nd Avenue East, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Red Lobster Hospitality, LLC, dba Red Lobster #0835 also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Manager of Sean Korth; and

WHEREAS, a hearing was held relating to said application on August 26, 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 a Class I-109288 Liquor License to Red Lobster Hospitality, LLC, dba Red Lobster #0835 located at 112 2nd Avenue East, Kearney, Nebraska, and to approve the application for Manager of Sean Korth.

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 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **RESTAURANT AND DRINKING PLACE OCCUPATION TAX**

Mayor Clouse opened the public hearing consider Resolution No. 2014-165 submitting the following question to the qualified electors of the City of Kearney at the General Election scheduled for November 4, 2014: "Shall the City of Kearney, Nebraska issue general obligations bonds of said City in the principal amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) for the purpose of constructing a youth baseball and softball complex, said bonds dated and bear interest as may be fixed by the City Council, and become due and payable over ten years" AND "Shall the Mayor and City Council of the City of Kearney, Nebraska impose a restaurant and drinking place occupation tax commencing February 1, 2015 and terminating on or before January 31, 2025 in the amount of one percent in said City to pay the interest

and principal of said bonds as the same become due?"

City Manager Michael Morgan stated at the last Council meeting, Mike Koski, on behalf of the Citizen's Committee for Youth Baseball and Youth Softball, addressed the Council concerning the lack of facilities for youth baseball and youth softball in Kearney. To provide the necessary funding to construct an appropriate facility the committee has requested the Council place on the ballot a 1% restaurant and drinking place occupation tax.

The Council is conducting this public hearing to receive input from the citizens and to make a determination regarding this occupation tax. Based on the discussion, the Council can place the matter before the citizens of Kearney at the General Election scheduled for November 4, 2014. It is estimated that this occupation tax will initially generate \$750,000 annually. The proceeds from this occupation tax will be used to construct a youth baseball and softball complex.

Mike Koski stated they have previously demonstrated the growth and need for more fields. The four organizations, Kearney Little League Baseball, USSSA Baseball, Kearney Competitive Girls Softball Association and Kearney Girls Softball Association, provide youth softball and baseball opportunities to a total of 1,102 children in 2014 and show consistent annual growth. They have approached the Kearney Park & Rec with youth league operational needs as well as the City Council for a Youth Ball Field Complex. A Youth Complex provides the much needed field space for Kearney's growing youth programs in an organized and efficient manner.

Deb Straka stated they made a request for a youth complex from city sale tax but there is no future room in the budget for a project this size. They are proposing a one percent restaurant tax that would provide a means of funding that other communities have successfully used for large projects of great need. This is more discretionary completed to an all-city sales tax. It would have a sunset for ten years and would expire if accumulated funds are reached early. And most importantly the Citizens can decide with their vote.

Council members thanked the groups for providing the schedules showing the usage of the fields in Kearney and the need for more room. Those fields are busy from March through June and then they continue to have fall softball leagues practicing and playing.

Council member Lammers asked if they had priorities as to what the \$7.3 million would have; are there things that are needed; are there things that could be scaled back. Are they going for everything or things that they are only need. He understands the needs for fields and some paving but what about shading and stands for people. Mr. Koski stated the number shown does include a paved parking lot which is a big expense which would be advantage to handle the parking as well as all the extra acres left over that if another use would be decided there would be paving. There would be lights. There would be outdoor batting cages for practice either before the game. There would be an announcer's booth and a scoreboard with a few more enhancements such as pitch count. Just the amenities that the user groups could also help provide because it would be a place they can call home and they could spend their money to add those

types of things to the championship field.

Council member Lammers asked about the infields; would they be grass or dirt. Ms. Straka stated that softball would be dirt and some of the baseball would be grass infields. This way it could be played depending on the group.

Council member Lear asked if there would be any adult usage at these facilities. Mr. Koski stated this would be youth dedicated namely because of the 200-foot fence for softball and 225 feet for youth baseball.

Council member Buschkoetter asked about the equipment – the pitching machine, etc. this would not be part of what this money is going towards. Mr. Koski stated it would be up to the user groups.

Council member Nikkila asked if these user groups would continue to use the current fields for games or practices in the future even if they had this complex. Mr. Koski stated the need would still be there because the fields they currently play on; once the regular season starts they are booked with games and they cannot get any practice times because there are no fields. So if they add a new complex they would play the games there but they still need fields for practice. Currently what makes practices so difficult at Harmon and Collins is they are practicing somewhere out in the park for 30 minutes prior to the game then they have to get on the field for an hour. Sometimes they have 12 to 14 teams trying to get practice in prior to a game and they only get one practice during the week and one practice on the weekend.

City Manager Michael Morgan stated the challenge is determining the estimated costs when it has not bid yet. They only have rough estimates and have talked to other communities about field costs and amenities. Council has the discretion to adjust that number up or down and the City still has that outstanding grant opportunity of \$750,000 which they believe strongly will be successful in receiving that next year. So the Council can combine that amount with the bonded amount if they so choose to do that. The City has been very successful with the grass pavers at Yanney where they were done correctly on the overflow. During the week a lot of the uses would not require that large of a parking lot; the tournaments would be the larger demands. So there would be a combination of paving and grass pavers which would reduce the costs as well.

Discussion was held on if the bids came under the \$7.5 million then the City would use that amount and not the total \$7.5 million. City Manager stated the Council could certainly look at those amenities and make a decision and reduce that amount. The City could not spend more than the maximum which is \$7.5 million. City Manager stated there is a great opportunity for the organizations to raising funds for special projects. So there could be future amenities that may be desirable but the funds could be raised by the organizations.

Director of the Kearney Visitors Bureau Roger Jasnoch voiced his support of the restaurant tax and reported on Kearney's hospitality industry. It is based on convention business between Holiday Inn, Ramada Inn and the Younes Center and support 80,000 square feet of exhibit space. They have 1,700 sleeping rooms which allow them to bring

in conventions to the community. Kearney is fourth in terms of county size in Nebraska as defined by lodging tax; just behind Lincoln, Omaha, and Sarpy County. Kearney got there because of groups that come to Kearney for specific things. People come from all over the world to see the Sandhill Cranes; The Archway brings a number of people; Museum of Nebraska Art; the car collection; firefighters museum; Cabelas outdoor adventure, the Viaero Event Center bring hockey and other events; the Merryman Performing Arts have events; the UNK has education and sports; Kearney Raceway Park; and Fort Kearny shooting range. Another specific group is sports because of the venues at UNK, Kearney Public Schools, the Fairgrounds, Viaero Center, and numerous City baseball and softball and soccer fields which Kearney hosts a number of tournaments. The proposed complex will meet and exceed what is needed. Since 1982 the hotels have been collecting the lodging tax to promote Kearney to bring people here for conventions, special meetings, etc. and look forward that the restaurants will become a stronger partner to make sure this sports complex becomes a reality.

President of the Kearney Soccer Club Kate Heelan and Bob Slimiker voiced their full and complete support for the restaurant tax initiative. Ms. Heelan stated they believe any enhancement to youth sports within Kearney is definitely an advancement, whether that be soccer baseball or softball. Anything they can do for the youth is definitely beneficial. They also believe there is the opportunity for growth whether it is baseball, softball or soccer in expansion in the future. They want to support that endeavor and continue to work with these groups as they put forth these initiatives. Mr. Slimiker stated they understand the challenges in providing multiple programs with volunteered administration, coaches serving the young athletes in this community. They look forward to helping the community pass this initiative. As these plans take form, they ask that they also consider the soccer community. They know that this project has potential to benefit a broad range of the community no matter their sport of choice.

Council member Nikkila asked if West LincolnWay would be the one field where there is overlap with soccer and baseball. Are there a lot of scheduling conflicts during the season where the two may overlap. Ms. Heelan stated the Kearney Soccer Club and the baseball program have worked very well over the years but both programs have expanded. They try to finish their Developmental season by May 1 and the baseball group can take over the fields on May 1. Where there is overlap are the competitive teams that are starting before May 1 and they have competitive teams that go past May 1. Their competitive teams are their travel teams and end up losing some space. They have 350 kids in their developmental program they finish before baseball starts and KPR have been wonderful in keeping some fields available.

Council member Nikkila asked if West LincolnWay would be converted to just soccer only in this proposal. Director of Park & Recreation Scott Hayden stated it is difficult to say right now. When West LincolnWay was first grassed, they were intended to be practice fields and they got swallowed up fairly quickly with games and practice and multiple users. There are several programs happening there. The evolution of sports and youth sports has changed a lot over the past 10-15 years. Those fields are mainly for the younger groups (7, 8, 9 for baseball and softball) and largely the new complex would be focusing on 9, 10, 11, 12 year olds.

Council member Lammers asked how many fields are there for soccer and how many kids. Director of Park & Recreation stated there are six field at West LincolnWay, two at Harvey and four at Baldwin. Ms. Heelan stated, including highway, there is close to 1,000 kids involved with soccer. There are 350 in developmental and another 380 playing competitive, and there are 16 travel teams, and then there is both high schools girls and boys playing.

Scott Steinburg, a coach and teacher at Kearney High School, stated that building this complex would have a lasting impact on the Kearney youth. He is a physical education teacher and recognizes the opportunity of giving kids this neat clean safe place to go outside and play. If we can give the youth the opportunity to be a part of these teams, we are teaching them a lot of great lessons. He is in full support of building this complex for baseball and softball. Being involved in soccer, he stated that is a beautiful piece of ground out there that could hold a nice soccer/baseball/softball facility.

Marc Loescher, owner of Tru Café stated he fully supports the project but not the funding avenue. His concern is the direction as to how it will be funded. As an owner of a small café, he believe the tax is targeting a small base or segment of the tax base and to a degree unfairly where if you look at the entire tax base and look at having a lower tax rate over a shorter period of time. One percent is an increase in cost and whenever you increase the cost it is passed on to the consumer. His question is was this looked at in increasing the city sales tax at a smaller percentage over a period of time.

Council member Buschkoetter stated there is a gasoline tax in the state that is used primarily to fund highway improvements and building infrastructure. The City's hotel tax is targeted toward helping the Visitors Bureau in getting events, conferences, etc. to Kearney. A restaurant tax would be a piggy back on to that occupation tax for hotels because the complex is being built to not only help Kearney kids but it will bring in other teams throughout the state. If there was a ½ cent sales tax, the complex would be paid for more quickly and paying less interest on the loan. To him, the restaurant makes more sense because it is bringing in outside people who will eat in Kearney. The restaurant tax would not be as noticeable as it would if it were a sales tax.

Council member Nikkila stated there is something to think about as far as the debt is concerned and the amount it would cost to finance this over a period of time. The City is taking on a debt he is not sure it should. He just wants to be fair with everybody. Also on the November ballot is the minimum wage increase. The restaurant owners may have to deal with the minimum wage issue as well as a restaurant tax.

Council member Lear stated the problem with the general sales tax increase is there are some amount of sales that will be lost especially on larger purchasers. At the end of the day there will be a disadvantage to the businesses in terms of general sales for things that really do not relate to this. He thinks the restaurant tax is the best way to pay for this type of project because he does not believe it will zero impact on them. With this small of a number and what the total adds to the bill it becomes a little less meaningful to the average person whereas you add a ½ percent to your general sales tax then it becomes a real number on big ticket purchase.

Council member Lammers stated our City government has done a good job in keeping tax rates low. Kearney's real estate taxes are one of the lowest in the state. It has a lower sales tax than most places our size. When you look at the communities that have a restaurant tax, each one of these communities is showing anywhere from a 2.7 to 10 percent growth in restaurant sales so it has not negatively impacted any of those communities. He does not favor increasing the sales tax.

Mayor Clouse stated Kearney could not raise property tax enough. Sales tax is a big item and the reason for looking at the restaurant tax is the ability to implement it quickly, meet the needs. His only question is doing it one percent for ten years or two percent for five years and save a lot of money on the interest. This project will be paid off early either way because of the dynamics and economics of this community.

Discussion continued on the amount of the project. A one percent would have a less impact on all people in the community. They discussed lowering the amount of the project. The City will always take the lower bid as long as it meets the basic needs. The \$7.5 million is a maximum amount that cannot be exceeded. The City will take the low bid and will not spend any remaining money on anything extra. The intent is not to spend the maximum amount, just what is needed for the complex. The City will take the best estimate available, ask the community for the authority to borrow up to that amount, and then direct staff, as well as the Council, to be due diligent stewards of this project and keep anything out of it that they determine does not need to be.

City Manager clarified that the original numbers did not take into consideration the possible grant of \$750,000. So there is some flexibility in there for the Council to achieve the amount. The number of \$7.5 million came from other communities, and an estimate from Miller & Associates which he believes was very low, and they had an 8-field rather than a 10-field, and did not consider the premier field.

Council member Nikkila stated he would like to keep the pressure on them to keep the number lower and have high confidence in receiving the \$750,000 grant that it be taken into account for the amount of the debt.

Council member Buschkoetter stated he wants to make sure the project is done correctly the first time rather than retrofitting down the line.

City Manager stated the Council could determine that number and put contingencies in there to direct staff, if it does pass, and if the City receives the grant, to reduce the borrowing immediately to that amount. The ballot issue would remain the same and if the City receives the grant it is on record that City Council will apply the proceeds of the \$750,000 grant to immediately reduce the debt service.

Council member Lear clarified that the grant money for Phase 2 would immediately apply to the debt. City Manager stated the City would either get \$750,000 or zero.

Council member Nikkila stated he is generally skeptical when raising taxes. He heard some people say that this is a repeat of 2011. He wanted to clarify this is not the same as 2011. This initiative has a sunset provision and this has a clear project in mind. This

is more fiscally responsible and is not permanently increasing in size of city government. Other surrounding communities have used up the taxing authority. Kearney has not done that. Ball fields and parks is what a city provides for its youth and they currently are not being provided for adequately. He reiterated that the City's part of peoples taxes are very low compared to other communities and that is a great service this City Council has provided over several years.

Moved by Buschkoetter and seconded by Clouse to close the public hearing and adopt **Resolution No. 2014-165** to submit the following question to the qualified electors of the City of Kearney at the General Election scheduled for November 4, 2014:

"Shall the City of Kearney, Nebraska issue general obligations bonds of said City in the principal amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) for the purpose of constructing a youth baseball and softball complex, said bonds dated and bear interest as may be fixed by the City Council, and become due and payable over ten years" AND

"Shall the Mayor and City Council of the City of Kearney, Nebraska impose a restaurant and drinking place occupation tax commencing February 1, 2015 and terminating on or before January 31, 2025 in the amount of one percent in said City to pay the interest and principal of said bonds as the same become due?"

ALSO to direct the City to reduce directly the amount owed of the bond if the City receives the state grant that is anticipated. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-165**

WHEREAS, citizens of the City of Kearney, Nebraska have expressed their desire to construct a youth baseball and softball complex within the community; and

WHEREAS, the Mayor and City Council wish to place this issue before the voters of the City of Kearney, Nebraska for their decision at the next regularly scheduled general election to be held on November 4, 2014.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following question be submitted to the qualified electors of the City of Kearney at the next regularly scheduled general election to be held within the City on November 4, 2014:

"Shall the City of Kearney, Nebraska issue general obligations bonds of said City in the principal amount not to exceed Seven Million Five Hundred Thousand Dollars (\$7,500,000) for the purpose of constructing a youth baseball and softball complex, said bonds dated and bear interest as may be fixed by the City Council, and become due and payable over ten years" and

"Shall the Mayor and City Council of the City of Kearney, Nebraska impose a restaurant and drinking place occupation tax commencing February 1, 2015 and terminating on or before January 31, 2025 in the

amount of one percent in said City to pay the interest and principal of said bonds as the same become due?"

- FOR said bonds and occupation tax
- AGAINST said bonds and occupation tax

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to certify at least fifty days prior to the election a copy of this resolution to the Buffalo County Election Commissioner by September 1, 2014 who shall conduct the election as provided by law.

BE IT FURTHER RESOLVED that the Election Commissioner of Buffalo County, Nebraska, be and is hereby employed as provided by law and is hereby authorized and directed to conduct the said general election, to appoint election officials, prepare and print ballots containing said question, provide for absentee ballots and do all other things necessary or proper to properly submit the foregoing question to the qualified electors of the City at said general election and to carry out the intent of this Resolution. The City does hereby agree to reimburse said Election Commissioner for the expenses of conducting the election.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

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

Moved by Clouse seconded by Lammers that Subsections 1 through 19 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 12, 2014.

2. Approve the following Claims:

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

Amer Fence \$980.00 co; 1000bulbscom \$56.99 smcs; 4Impront \$1,073.39 smcs; AA Abrasives \$146.95 smcs; AA Rents and Event \$42.80 smcs; Ace Hardware \$451.02 smcs; Agrium Advanced \$3,114.62 smcs; Alamar Uniforms \$7.25 smcs; All Makes Auto \$952.51 smcs; All Points \$1,098.26 co; Ally B Deigns \$600.00 smcs; Amazon \$2,073.61 smcs,co; American \$263.57 smcs; Amer First Aid \$315.78 smcs; Amsan \$2,021.22 smcs; Andersen Wrecking \$50.00 smcs; Anderson Bros \$3,726.16 smcs; Appliance Service Center \$599.95 smcs; ARC Network \$175.00 smcs; Ask Supply \$599.81 smcs; Aurora Coop \$319.53 smcs; B&H Photo-Video \$924.99 co; Baird Holm Attorneys \$1,862.50 smcs; Baird Supporting Systems \$392.61 co; Baker & Taylor \$7,468.95

smcs; Ballast Shop \$138.20 smcs; Baltic Networks \$118.51 co; Baright Public Library \$16.00 smcs; BBW Environmental \$210.00 smcs; Big Apple Fun Center \$20.00 smcs; Big Dally's Deli \$310.37 smcs; Big Rack Shack \$893.87 smcs; Big Red Auto Glass \$217.50 smcs; Blackstone Audio Books \$295.98 smcs; Blessing \$35,889.99 co; BlueCross BlueShield \$188,279.07 smcs; Boardtronics \$314.64 smcs; Boogaarts \$14.52 smcs; Bosselman \$31,020.32 smcs; Broadfoot's \$1,946.25 smcs,co; Bruha,S \$30.00 smcs; Brungardt Engineering \$32,997.50 co; Buffalo Co Weed Control \$476.88 smcs; Buffalo Outdoor Power \$1,153.19 smcs,co; Builders \$1,785.50 smcs,co; Business Mgmt. Daily \$297.00 smcs; Butler,B \$1,350.00 smcs; Cabela's \$137.49 smcs; Cadex Electronics \$46.00 smcs; Capital Business Systems \$351.00 smcs; Carquest \$6,355.29 smcs; Casey's \$84.79 smcs; Cash Wa \$5,092.26 smcs; CDW Government \$1,220.08 co; Center Point Publishing \$24.02 smcs; Central Hydraulic \$191.39 smcs; Central NE Bobcat \$674.00 smcs; Central States Wire \$2,911.63 smcs; Certified Power \$60.41 smcs; Charter \$197.35 smcs; Chase,B \$316.80 smcs; Chesterman \$3,425.50 smcs; Chicken Coop \$40.00 smcs; Cintas \$42.77 smcs; Cisec \$65.00 smcs; City of Ky \$34,138.06 smcs,ps,co; Cleveland,E \$55.00 smcs; Community Action Partner \$52,797.12 smcs,co; Construction Rental \$598.58 smcs; Copycat Printing \$95.27 smcs; CPS \$330.00 smcs; Crossroads Ford \$521.58 smcs; Crown Awards \$398.50 smcs; Culligan \$141.75 smcs; Cummins Central Power \$305.42 smcs; D & S Lighting \$189.68 smcs; Davis Equipment \$2,483.60 smcs; Dawson PPD \$44,612.01 smcs; Daylight Donuts \$35.10 smcs; Deadwood Gluch Resort \$335.00 smcs; Dell \$132.99 co; Deterdings \$406.98 smcs; Diamond Tours \$2,097.00 smcs; Dish Network \$3.93 smcs; Dog Poop Bags \$276.56 smcs; Dollar-General \$31.03 smcs; Dowhy Towing \$700.00 smcs; DPC Industries \$25,648.34 smcs; Drabek,J \$6.60 smcs; Dutton-Lainson \$301.45 smcs; Eakes \$1,539.58 smcs,co; Earl May \$133.94 smcs; Ebsco Publishing \$3,008.00 smcs; Eileen's Cookies \$142.50 smcs; Elliott Equipment \$121.04 smcs; EMC Ins \$9,800.50 smcs; Enterprise \$453.20 smcs; Environmental Express \$50.83 smcs; Envirotech \$14,872.00 smcs; Estes,B \$720.00 smcs; Ewalt,P \$24.40 smcs; Exxon Mobile \$25.01 smcs; Facebook \$4.82 smcs; Fairbanks \$58.25 smcs; Fastenal \$1,851.71 smcs; Fedex \$109.72 smcs; Fiddelke \$112.50 smcs; Fireguard \$93.58 smcs; Firehouse \$1,755.00 smcs; First Lutheran Church \$30.00 smcs; Fleetpride \$1,331.74 smcs; Fraber,C \$42.47 smcs; Frazier,B \$27.20 smcs; Frontier \$28,339.99 smcs; Gale \$129.35 smcs; Galeton Gloves \$66.73 smcs; Gangwish Turf \$3,927.60 co; Garrett Tires \$9,517.49 smcs; Garrett,S \$62.50 smcs; Gear for Sports \$9,866.60 smcs; Glover's Truck Center \$377.03 co; Godaddycom \$30.34 smcs; Golf Buddy \$78.05 smcs; Good Samaritan Hospital \$173.80 smcs; Graham Tire \$645.95 smcs; Grainger \$1,196.39 smcs,co; Gray,C \$18.75 smcs; Grey House Publishing \$689.85 smcs; H&H Distributing \$1,946.21 smcs; Hach \$1,784.51 smcs; Hastings \$62.57 smcs; HD Supply \$13,743.08 smcs; Hightail \$159.99 co; Hillyard \$56.34 smcs; Hilti \$541.20 co; HOA Solutions \$1,003.75 smcs; Hobby-Lobby \$188.46 smcs; Hoehner Turf \$418.45 smcs; Holmes Plbg \$1,132.01 smcs; Hometown Leasing \$265.92 smcs; Hooker Bros \$418.60 smcs; Howe,C \$53.50 smcs; IAEI \$286.00 smcs; ICMA RC \$4,092.82 ps; Integrity Home Inspection \$150.00 smcs; IRS \$137,917.98 ps; Int'l Associates \$259.00 smcs; Jack Lederman \$1,065.38 smcs; James,D \$130.00 smcs; JJ Keller \$1,004.00 smcs; John Deere Landscapes \$827.06 smcs; Johnson Control \$1,425.00 smcs; Johnstone Supply \$75.62 smcs; Jones Automotive \$77.18 co; JRs Western \$104.97 smcs; K&D Motor \$152.50 smcs; K&K Parts \$2,124.84 smcs; Kart-Man \$999.24 smcs; Ky Comm Foundation \$495.00 smcs; Ky Concrete \$19,860.14 smcs,co; Ky Crete & Block \$214.00

smcs,co; Ky Hub \$4,109.07 smcs; Ky Humane Soc \$285.00 smcs; Ky Noon Rotary \$115.00 smcs; Ky Power Sports \$13,848.90 smcs,co; Ky Warehouse \$324.02 smcs; Ky Winlectric \$1,908.88 smcs; Ky Winnelson \$340.00 smcs; Kellogg Comm College \$3,600.00 smcs; Kelly Supply \$264.73 smcs; Killion Motors \$979.66 smcs; Kimball Midwest \$377.35 smcs; Konica Minolta \$446.54 smcs; Krueger,D \$97.60 smcs; Kucera Painting \$8,153.00 co; Kussmaul Electronics \$377.27 smcs; Landmark Implement \$676.47 smcs; Laserlink Golf \$697.19 smcs; Lawson Products \$96.18 smcs; Lindner,S \$275.48 smcs; Little Caesars \$72.00 smcs; Lockmobile \$4.00 co; Lunbery,S \$316.80 smcs; Luther,M \$16.31 smcs; Lynch,D \$1,231.41 smcs; Machines and Media \$138.00 co; Mail Express \$128.52 smcs; Maize Corp \$1,323.59 smcs; Marlatt Machine Shop \$92.66 smcs; Mascoelectr \$173.51 smcs; Mason Motors \$15.00 smcs; Matheson \$549.80 smcs; Maxx Sunglasses \$254.32 smcs; McMaster-Carr \$9.90 smcs; Mead Lumber \$1,395.75 smcs; Menards \$2,580.24 smcs,co; Mid Amer Signal \$169.00 smcs; Midwest Mailing \$1,917.39 smcs; Midwest Turf \$921.33 smcs; Mike's Creative Carvings \$94.00 smcs; Milco Environmental \$2,481.75 smcs; Miller & Associates \$40,814.70 smcs,co; Moonlight Embroidery \$2,766.75 smcs; Morgan,M \$32.20 smcs; Municipal Supply \$3,681.64 smcs,co; Murphy Tractor \$1,112.93 smcs; Mustang Mfg. \$644.91 co; Nat'l ITC \$140.00 smcs; Navigator Motorcoaches \$715.00 smcs; NCL of Wisconsin \$364.60 smcs; NCOA \$145.00 smcs; NCS Equipment \$508.16 smcs,co; NE Army Nat'l Guard \$25.00 smcs; NE Child Support \$2,439.27 ps; NE Crane Service \$1,200.00 smcs; NE Environmental \$250,432.00 co; NE Machinery \$2,247.64 smcs; NE Professional Licensing \$54.59 smcs; NE State Chamber \$190.00 smcs; NE Truck Center \$1,003.08 smcs; NE Turfgrass \$75.00 smcs; NEland Distributors \$2,283.88 smcs; Newman Signs \$256.80 smcs; Noller Electric \$65.00 smcs; Northern Safety \$121.29 smcs; Northwestern \$4,304.77 smcs; NRG Media \$52.00 smcs; OCLC \$607.10 smcs; Office Depot \$467.62 smcs; Office Max \$1,190.98 smcs,co; Officenet \$1,009.11 smcs; O'Hara Lindsay & Assoc. \$4,000.00 smcs; Olive Software \$19,933.70 smcs; One Call Concepts \$561.30 smcs; O'Neill Wood Resources \$14,965.00 smcs; Optics Planet \$151.98 smcs; O'Reilly Auto \$850.74 smcs; Oriental Trading \$544.18 smcs; Orscheln \$1,701.54 smcs; Outdoor Recreation \$671.00 co; Paramount \$361.07 smcs; Party America \$16.36 smcs; Pat's Plbg \$225.00 smcs; Paypal \$647.06 smcs; Pedalboatcom \$68.45 smcs; Peerless Machine \$6,769.00 smcs; Pep Co. \$56.34 smcs; Pet Pick Ups \$364.51 smcs; PGA Member Services \$476.00 smcs; Pitney Bowes \$199.33 smcs; Platte Valley Comm \$857.24 smcs; Platte Valley Lab \$167.50 smcs; Powell,G \$25.00 smcs; Power & Telephone Supply \$513.82 smcs; Presto-X \$607.98 smcs; Pro-Tint \$1,614.51 smcs; Provantage \$50.93 co; Public Agency Training \$35.00 smcs; QA Balance Services \$150.00 smcs; Qisoft \$390.50 smcs; Quill \$1,083.38 smcs; Random House \$286.50 smcs; Ready Mixed Concrete \$34,277.45 smcs,co; Reams \$1,354.43 smcs; Rear View Safety \$462.25 smcs; Recognition Unlimited \$108.14 smcs; Recorded Books \$2,541.65 smcs; Research Technology \$248.75 smcs; Resource Management \$514.56 smcs; Russell's Appliance \$164.50 smcs; S&B Heating & Air \$294.72 smcs; Safelite Autoglass \$236.90 smcs; Sahling Kenworth \$1,594.56 smcs; Sanitation Products \$675.60 smcs; Sapp Bros \$1,053.00 smcs; Schulz,D \$31.00 smcs; Schwan's \$2,279.45 smcs; Sears \$71.97 smcs; Sedcatch LP \$643.31 smcs; See Clear Cleaning \$2,050.00 smcs; Sherwin Inds \$405.20 smcs; Sherwin Williams \$1,660.14 smcs; Shopletcom \$93.66 smcs; Shotkoski Services \$632.93 smcs; Sign Center \$984.26 smcs; Sixel Consulting \$3,150.00 smcs; Sonetics Corp. \$460.00 smcs; SOS Portable Toilets \$105.00 smcs; Squad Fitters \$76.50 smcs; Stampscom \$4.99 smcs;

Staples \$57.46 smcs; Steinbrink Landscaping \$1,569.90 smcs; Strategic Materials \$363.96 smcs; Suburban Fire Protection \$32,933.00 smcs; Subway \$200.09 smcs; Super Seer \$404.80 smcs; Super Shine Auto \$68.00 smcs; Surveymonkeycom \$78.00 smcs; Sustainable Supply \$75.19 smcs; Table Church \$45.00 smcs; Talbott Bros \$1,500.00 smcs; Target \$242.96 smcs; Taylor Security \$291.53 smcs; Tech Soup \$36.00 co; Texoma Golf \$199.52 smcs; Thompson Co \$140.80 smcs; Thurston Heating \$369.50 smcs; Tielke's Sandwiches \$124.68 smcs; Titleist \$295.50 smcs; TM Sporting Goods \$40.64 smcs; Tour Edge \$88.00 smcs; Tractor-Supply \$312.63 smcs; Travres Hotel \$314.20 smcs; Tri-City Sign \$250.00 co; Tri-County Glass \$270.34 smcs; Turfwerks \$79.77 smcs; Turner Body Shop \$1,700.00 smcs; Tye & Rademacher \$183.39 ps; Ullman,M \$97.60 smcs; Under Armour \$174.93 ps; Union Bank & Trust Co \$60,420.97 ps; Unique Management Serv. \$313.25 smcs; US Treasury \$8.05 smcs; University Police \$100.00 smcs; Uphoff,M \$70.00 smcs; UPS \$521.12 smcs; USDA \$85.00 smcs; USPS \$560.82 smcs; Valley Forklift \$241.00 smcs; Van Diest Supply \$2,860.34 smcs; Verizon Wireless \$32.09 smcs; Vulcan Signs \$10,535.36 smcs; Walgreens \$20.31 smcs; Walmart \$2,399.61 smcs,ps; Warrington,D \$589.00 smcs; Watchguard Video \$406.00 co; Water Environment \$62.00 smcs; Water Safety \$255.55 smcs; West Villa \$159.77 smcs; Whelen Engineering \$470.75 smcs; Wiedel,G \$97.60 smcs; Wilke Contracting \$43,477.92 co; Wilke's True Value \$305.88 smcs,co; WPCI \$210.50 ps; Yanda's Music \$8.25 smcs; Z Wireless \$64.18 co; Payroll Ending 8-9-2014 -- \$407,889.68. 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 September 9, 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 Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 6, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.
5. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 13, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.
6. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 13, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.
7. Adopt **Resolution No. 2014-166** approving the final allocation of levy authority in the amount of \$147,900 for the Community Redevelopment Authority of the City of Kearney for fiscal year 2014-2015 and the final allocation of levy authority in the amount

of \$47,003 for Offstreet Parking District No. 1 for fiscal year 2014-2015.

### **RESOLUTION NO. 2014-166**

WHEREAS, Neb. Rev. Stat. Section 77-3443.03, (R.R.S. 1943), as amended, requires Community Redevelopment Authorities and Offstreet Parking Districts to submit a preliminary request for levy allocation, on or before August 1, to the City Council; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney submitted to the City, on July 7, 2014, a preliminary request for levy allocation in the amount of \$147,900.00; and

WHEREAS, the Downtown Improvement Board, on behalf of Offstreet Parking District No. 1, submitted to the City, on July 2, 2014, a preliminary request for levy allocation in the amount of \$47,003.00; and

WHEREAS, Neb. Rev. Stat. Section 77-3443.04, as amended, requires the City Council to adopt, by September 1, a resolution (by a majority vote of members present) which determines a final allocation of levy authority to the Community Redevelopment Authority and Offstreet Parking District No. 1.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), as amended, that a final allocation of levy authority of \$147,900.00 is hereby approved for the Community Redevelopment Authority of the City of Kearney for 2014 and a final allocation of levy authority of \$47,003.00 is hereby approved for Offstreet Parking District No. 1 for 2014.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), that the City Clerk is ordered to forward a copy of this resolution to the chairperson of the Community Redevelopment Authority of the City of Kearney and the chairperson of the Downtown Improvement Board.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect September 1, 2014, and shall be published in pamphlet form.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Adopt **Resolution No. 2014-167** approving Change Order No. 2 showing an increase in the amount of \$5,419.00 and Application and Certificate for Payment No. 5-Final in the amount of \$5,419.00 submitted by Blessing Construction and approved by Brungardt Engineering for the 2013 Part 3 Improvements – Bid B consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south

line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly.

**RESOLUTION NO. 2014-167**

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2013 Part 3 Improvements – Bid B consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly, and the City's engineer, Brungardt Engineering, have filed with the City Clerk Change Order No. 2 showing a increase in the amount of \$5,419.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing Construction and Brungardt Engineering have filed with the City Clerk Application and Certificate for Payment No. 5-Final in the amount of \$537,268.60 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$542,906.65
Change Order No. 1 (8-12-2014)	- 11,057.05
Change Order No. 2 (8-26-2014)	<u>+ 5,419.00</u>
Contract Sum To Date	537,268.60
Gross Amount Due	537,268.60
Retainage (0%)	.00
Amount Due to Date	537,268.60
Less Previous Certificates for Payment	<u>531,849.60</u>
Current Payment Due	\$ 5,419.00

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", and Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**9.** Adopt **Resolution No. 2014-168** approving Change Order No. 1 showing an increase in the amount of \$3,598.00, Application and Certificate of Payment No. 1-Final in the amount of \$215,772.00, and accept the Certificate of Substantial Completion submitted by Dan Roeder Concrete and approved by Olsson Associates for the 2013

Part 11 Improvements; Box Butte Avenue Paving Project.

**RESOLUTION NO. 2014-168**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2013 Part 11 Improvements; Box Butte Avenue Paving Project, and the City's engineer, Olsson Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$3,598.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Dan Roeder Concrete and Olsson Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$215,772.00 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$212,174.00
Change Order No. 1 (8-26-2014)	<u>+ 3,598.00</u>
Contract Sum To Date	215,772.00
Gross Amount Due	215,772.00
Retainage (0%)	.00
Amount Due to Date	215,772.00
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$215,772.00

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of August 6, 2014, 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. 1-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Adopt **Resolution No. 2014-169** approving Change Order No. 4 showing an increase in the amount of \$39,056.20, Application and Certificate for Payment No. 5-Final in the amount of \$124,225.55, and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2013 Part 7 Improvements; Downtown Lighting Improvements.

**RESOLUTION NO. 2014-169**

WHEREAS, Blessing LLC of Kearney, Nebraska has performed services in connection with the 2013 Part 7; Downtown Lighting Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 4

showing an increase in the amount of \$39,056.20, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing LLC and Miller & Associates have filed with the City Clerk (you didn't have this in here) Application and Certificate for Payment No. 5-Final in the amount of \$124,225.55, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,060,005.15
Change Order No. 1 (9-10-2013)	- 451,195.30
Change Order No. 2 (3-25-2014)	+ 3,520.00
Change Order No. 3 (5-27-2014)	+ 4,366.50
Change Order No. 4 (8-26-2014)	+ <u>39,056.20</u>
Contract Sum To Date	\$ 655,752.55
Gross Amount Due	655,752.55
Retainage (0%)	.00
Amount Due to Date	655,752.55
Less Previous Certificates for Payment	<u>531,527.00</u>
Current Payment Due	\$ 124,225.55

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of June 19, 2014, 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. 4 as shown on Exhibit "A", Application and Certificate for Payment No. 5-Final, as shown on Exhibit "B", and the Certificate of Substantial Completion as shown on Exhibit "C" be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**11. Adopt Resolution No. 2014-170** approving Change Order No. 1 showing an increase in the amount of \$2,125.20 submitted by Paulsen, Inc. and approved by Miller & Associates for the 2013 Part 1 Improvements – Bid B consisting of Paving Improvement District No. 2013-962 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.

**RESOLUTION NO. 2014-170**

WHEREAS, Paulsen, Inc. of Cozad, Nebraska has performed services in connection with the 2013 Part 1 Improvements – Bid B consisting of Paving Improvement District No. 2012-962 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, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$2,125.20, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,327,913.75
Change Order No. 1 (8-26-2014)	<u>+ 2,125.20</u>
Contract Sum To Date	\$1,330,038.95

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", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**12.** Adopt **Resolution No. 2014-171** approving Change Order No. 1 showing an increase in the amount of \$17,375.00 and Application and Certificate for Payment No. 2 in the amount of \$260,271.50 submitted by Blessing, LLC and approved by Miller & Associates for the 2014 Part 2 Improvements consisting of Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 150 feet south of 26th Street and 26th Street from Central Avenue to Avenue C.

**RESOLUTION NO. 2014-171**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2014 Part 2 Improvements consisting of Paving Improvement District No. 2014-964 for Central Avenue from 31st Street to a point 150 feet south of 26th Street and 26th Street from Central Avenue to Avenue C, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$17,375.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, Blessing LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$260,271.50 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$2,474,168.95</u>
Change Order No. 1 for +\$17,375.00 (8-26-2014)	
Contract Sum To Date	2,474,168.95
Gross Amount Due	349,347.45
Retainage (10%)	34,934.74
Amount Due to Date	314,412.71
Less Previous Certificates for Payment	<u>54,141.21</u>
Current Payment Due	\$ 260,271.50

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" and Application and Certificate for Payment No. 2, as shown on Exhibit "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**13.** Adopt **Resolution No. 2014-172** approving Change Order No. 1 showing an increase in the amount of \$35,005.00 and Application and Certificate for Payment No. 1 in the amount of \$565,143.95 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2014 Part 3 Improvements; 16th Street and 5th Avenue Project.

**RESOLUTION NO. 2014-172**

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2014 Part 3 Improvements; 16th Street and 5th Avenue Project, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$35,005.00, 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. 1 in the amount of \$565,143.95, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$728,339.25
Change Order No. 1 (8-26-2014)	<u>+ 35,005.00</u>
	\$763,344.25
Contract Sum To Date	763,344.25
Gross Amount Due	627,937.72
Retainage (10%)	62,793.77
Amount Due to Date	565,143.95
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$565,143.95

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. 1, as shown on Exhibit "B", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**14.** Approve the Plans and Specifications for the 2014 Part 7 Improvements consisting of Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue; Sanitary Sewer Connection District No. 2014-1 from Avenue M westward in proposed Landon Street, if extended, then north to 4th Street and west in 4th Street to Central Avenue; the 8th Street Bridge Replacement and paving improvements between 2nd Avenue and 3rd Avenue; 4th Street Sanitary Sewer Rehabilitation in 4th Street from Central Avenue to 6th Avenue; and 4th Street Paving Rehabilitation from Central Avenue to 2nd Avenue and set the bid opening date for September 16, 2014 at 2:00 p.m.

**15.** Approve the Plans and Specifications for the 2014 Part 10 Improvements consisting of Paving Improvement District No. 2014-966, Water District No. 2014-576, and Sanitary Sewer District No. 2014-514 for 17th Street from Avenue M east to the east lot line of Lot 5, Block Two, Marlatt Addition, and water and sanitary sewer extending to the center line of Avenue O, and set the bid opening date for September 16, 2014 at 2:00 p.m.

**16.** Adopt **Resolution No. 2014-173** approving the Professional Construction Engineering Services Agreement between the City of Kearney and Miller & Associates to provide engineering services for NDOR Project No. DPS-STP-10-2(116); Cherry Avenue Utility Relocations.

#### **RESOLUTION NO. 2014-173**

WHEREAS, the City of Kearney is developing a transportation project for which it intends to obtain Federal funds; and

WHEREAS, the City of Kearney as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, the City of Kearney and Miller & Associates Consulting Engineers, P.C. wish to enter into a Professional Construction Engineering Services Agreement to provide construction engineering services for the Federal-aid project.

NOW THEREFORE BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Stanley Clouse, Mayor of the City of Kearney, Nebraska be and is hereby authorized to sign the attached construction engineering services agreement between the City of Kearney, Nebraska and Miller & Associates Consulting Engineers, P.C. (NDOR Project Number: DPS-STP-10-2(116); NDOR Control Number: 42103B; NDOR Project Description: Cherry Avenue Utility Relocations) A copy of the Agreement is attached hereby and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**17.** Adopt **Resolution No. 2014-174** approving Supplemental Agreement No. 1 to the Planning Project Program Agreement between the City of Kearney and the

Nebraska Department of Roads amending the method of payment for the preliminary engineering work and including reporting requirement for the project.

**RESOLUTION NO. 2014-174**

WHEREAS, City of Kearney and Nebraska Department of Roads (NDOR) have previously executed Project Program Agreement BM1219 for a transportation project for which the Local Public Agency (LPA) would like to obtain Federal funds; and

WHEREAS, City of Kearney understands that it must continue to strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, City of Kearney and NDOR wish to enter into Supplemental Project Program Agreement No. 1 setting out modifications and/or additional duties and/or funding responsibilities for the Federal-aid project.

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 sign the attached Project Program Supplemental Agreement No. 1 between the City of Kearney and the NDOR. The City of Kearney is committed to providing local funds for the project as required by the Project Program Agreement and any Supplemental Project Program Agreements. (NDOR Project Number: SPR-PL-1(50); NDOR Control Number: 00880C; Project Location: Kearney Comprehensive Transportation Plan) A copy of the Agreement is attached hereby and made a part hereof by reference.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**18.** Adopt **Resolution No. 2014-175** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and The Evangelical Lutheran Good Samaritan Society for the construction of paving, water and sanitary sewer improvements in Good Samaritan Society Kearney Village.

**RESOLUTION NO. 2014-175**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Good Samaritan Society Kearney Village" between the City of Kearney and The Evangelical Lutheran Good Samaritan Society, for the construction of paving, water and sanitary sewer improvements to serve Good Samaritan Society Kearney Village, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto and made a part hereof.

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 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

19. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 20, 2014 from 3:00 p.m. until 1:00 a.m. for a reception.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7926 CREATING PAVING DISTRICT NO. 2014-968**

The 2014 Part 7 Improvements consists in part Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue; and Sanitary Sewer Connection District No. 2014-1 from Avenue M westward in proposed Landon Street, if extended, then north to 4th Street and west in 4th Street to Central Avenue. The sanitary sewer connection district will eliminate three existing sanitary sewer pumping stations, divert flow from existing sanitary sewer mains and will provide sanitary sewer service to the area of the City located south of 6th Street and between Central Avenue and Avenue M.

Section 16-619 of the Revised Statutes of Nebraska allows the Council, by ordinance, create a paving improvement district. Attached is Ordinance No. 7926 creating the paving improvement district. The cost of the project is being paid by tax increment financing (TIF).

Council Member Lammers introduced Ordinance No. 7926 creating Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th 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 Nikkila 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7926 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7926 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7926 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. 7927 CREATING SANITARY SEWER CONNECTION DISTRICT NO. 2014-1**

The 2014 Part 7 Improvements consists in part Paving Improvement District No. 2014-968 for 4th Street from 3rd Avenue to 6th Avenue; and Sanitary Sewer Connection District No. 2014-1 from Avenue M westward in proposed Landon Street, if extended, then north to 4th Street and west in 4th Street to Central Avenue. The sanitary sewer connection district will eliminate three existing sanitary sewer pumping stations, divert flow from existing sanitary sewer mains and will provide sanitary sewer service to the area of the City located south of 6th Street and between Central Avenue and Avenue M.

Section 16-6,102 of the Revised Statutes of Nebraska allows the City by ordinance passed by not less than a three-fourths vote of all members of the City Council to create water and sanitary sewer connection districts within or one mile beyond the corporate limits. Attached is Ordinance No. 7927 creating a sanitary sewer connection district. Connection districts are not a lien on abutting property, annual payments are not required and interest does not accrue. When the abutting property owners connect to the sewer main they pay a connection fee that will be levied by the City Council and certified to the County.

Council Member Lammers introduced Ordinance No. 7927 creating Sanitary Sewer Connection District No. 2014-1 from Avenue M westward in proposed Landon Street, if extended, then north to 4th Street and west in 4th Street to Central 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 Nikkila 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7927 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7927 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7927 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. 7928 SELLING PARCEL OF AIRPORT LAND TO BOSSELMAN ENERGY**

Bosselman Energy, Inc. currently rents property from the City of Kearney at the Kearney Regional Airport. On July 22 the City Council approved the Purchase Agreement in the amount of \$183,750. In accordance with Section 16-202 of the Nebraska Revised Statutes, the power to sell real estate owned by the City shall be exercised by ordinance. Therefore, this ordinance will sell the 5.25 acres located along Airport Road to Bosselman Energy, Inc.

Council Member Lammers introduced Ordinance No. 7928 selling a tract of land being part of the North Half of the Southwest Quarter and part of the North Half of the Southeast Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska to Bosselman Energy, Inc., 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 Nikkila 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, Lammers, Buschkoetter, Lear, Nikkila. 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. 7928 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7928 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7928 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**

**REDEVELOPMENT PROJECT FOR UNIVERSITY SELF STORAGE; NORTHEAST CORNER OF AVENUE Q AND HIGHWAY 30**

Mayor Clouse opened for discussion the redevelopment project (University Self Storage) for Redevelopment Area #5 for an area described as Lot 1 except the north 150 feet, Anderson Park 5th Subdivision to the City of Kearney, Buffalo County,

Nebraska (northeast corner of Avenue Q and Highway 30) and consider Resolution No. 2014-176.

Assistant City Manager/Development Services Director Suzanne Brodine, presented this matter to the Council. Loren and Kay Downing, University Self Storage, are considering building a 22,700 square foot all steel building for commercial purposes located on the northeast corner of Avenue Q and Highway 30. The new building will replace an existing structure – relocated from the Kearney Airbase. The Downings currently own the property, but infrastructure costs including demolition, dirt work, and paved parking pose a significant impact on development.

The total new valuation of the property is estimated to be \$319,000. The most recent valuation was \$123,125 – creating an estimated new increment of \$195,875. The estimated new real estate taxes per year are \$4,127. Total estimated on-site eligible TIF expenditures are \$60,125, including demolition, dirt work, paving, and storm drainage.

Tax Increment Financing at 80% would generate \$3,301.60 per year for ten years, totaling \$33,016.00.

On August 4, the CRA recommended Council approve up to 80% of the available Tax Increment up to \$33,000 of eligible expenses payable over 10 years.

Moved by Lear seconded by Buschkoetter to adopt **Resolution No. 2014-176** finding that the redevelopment project set forth in the application submitted by Loren and Kay Downing for University Self Storage would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 80 percent of the anticipated TIF valuation up to a maximum of \$33,000 payable until the 10-year TIF period expires be granted; and further move granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Loren and Kay Downing for University Self Storage. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-176**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the “Act”), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #5 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as Lot 1 except the north 150 feet, Anderson Park 5th Subdivision to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 600037000; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as Lot 1 except the north 150 feet, Anderson Park 5th Subdivision to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 600037000 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as Lot 1 except the north 150 feet, Anderson Park 5th Subdivision to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 600037000 shall be divided, for a

period not to exceed 10 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

6. Recognizing that, after the date of this Resolution, circumstances may arise necessitating changes, additions or deletions to the specific legal description of the Redevelopment Project (described in Paragraphs 1 and 4 above and the attached Exhibit "B"), the City Manager is hereby authorized to make such changes, additions or deletions to the legal description as the City Manager deems reasonable or necessary, together with the authority to execute all documents, certificates or instruments necessary in connection therewith, specifically including the execution of an Amended Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REDEVELOPMENT PROJECT FOR AVENUE G STORAGE; AVENUE G AND 19TH STREET**

Mayor Clouse opened for discussion the redevelopment project (Avenue G Storage) for Redevelopment Area #3 for an area described as Lot 596 together with the vacated south half of the alley abutting said lot on the north and Lot 597, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (Avenue G and 19th Street) and consider Resolution No. 2014-177.

Assistant City Manager/Development Services Director Suzanne Brodine, presented this matter to the Council. Allen Mitchel and Mike Lewis, Avenue G Storage, LLC are considering building a 2,016 square foot all steel building for commercial purposes located at the corner of Avenue G and 19th Street. The new building will be constructed next to the existing building on the property. Mr. Mitchel and Mr. Lewis currently own the property, but infrastructure costs including dirt work, water and sewer infrastructure, drainage, and paved parking pose a significant impact on development.

The total new valuation of the property is estimated to be \$168,000. The most recent valuation was \$79,815 – creating an estimated new increment of \$88,185. The estimated new real estate taxes per year are \$1,858. Total estimated on-site eligible TIF expenditures are \$29,440.

Tax Increment Financing at 80% would generate \$1,486.40 per year for fifteen years, totaling \$22,296.

On August 4, the CRA recommended Council approve 10 years of the available Tax Increment up to \$22,300 of eligible expenses.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2014-177** finding that the redevelopment project set forth in the application submitted by Allen Mitchel and Mike Lewis for Avenue G Storage would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 100 percent of the anticipated TIF valuation up to a maximum of \$22,300 payable until the 10-year TIF period expires be granted; and further move granting the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Allen Mitchel and Mike Lewis for Avenue G Storage. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2014-177**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #3 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the

Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as Lot 596 together with the vacated south half of the alley abutting said lot on the north and Lot 597, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska and is designated as Parcel IDs 60057300 and 600574000; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that:

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as Lot 596 together with the vacated south half of the alley abutting said lot on the north and Lot 597, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska and is designated as Parcel IDs 60057300 and 600574000 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as Lot 596 together with the vacated south half of the alley abutting said lot on the north and Lot 597, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska and is designated as Parcel IDs 60057300 and 600574000 shall be divided,

for a period not to exceed 10 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

6. Recognizing that, after the date of this Resolution, circumstances may arise necessitating changes, additions or deletions to the specific legal description of the Redevelopment Project (described in Paragraphs 1 and 4 above and the attached Exhibit "B"), the City Manager is hereby authorized to make such changes, additions or deletions to the legal description as the City Manager deems reasonable or necessary, together with the authority to execute all documents, certificates or instruments necessary in connection therewith, specifically including the execution of an Amended Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project.

PASSED AND APPROVED THIS 26TH DAY OF AUGUST, 2014.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIM**

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$598.52 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

## **VII. REPORTS**

### **CLOSED SESSION**

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 6:43 p.m. for the protection of the public interest to discuss possible litigation. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss possible litigation. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Buschkoetter seconded by Lear that Council reconvene in regular session at 7:28 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

## **VIII. ADJOURN**

Moved by Buschkoetter seconded by Lammers that Council adjourn at 7:28 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**ATTEST:**

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

\_\_\_\_\_  
**MICHAELLE E. TREMBLY  
CITY CLERK**