

Kearney, Nebraska
April 26, 2016
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 April 26, 2016, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: Randy Buschkoetter. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Paul Brodine, Assistant City Manager; Tony Jelinek, Interim Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Craig Bennett, Michael Park, Duane Ruh, Tim O'Brien, Steve Altmaier from KGFW Radio, Jessica Kokesh from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/MOMENT OF SILENCE

With the absence of a 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

REZONING NORTH OF 3RD STREET BETWEEN 4TH AVENUE AND 6TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Paul and Linda Younes to rezone from District C-2, Community Commercial District to District C-2/PD, Community Commercial/Planned Development Overlay District property described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue) and consider Ordinance No. 8072.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated what is before City Council is the rezoning of West Tract of Lot 1, Block Two and Outlot A from C-2 to C-2/PD. As a requirement that would be the boundary of the West Tract and East Tract. The setback for C-2 is 25 feet but a residential building in a C-2 is increased to 30 feet so they are asking for the relaxation of the five feet on the street yard frontage at which that building is already constructed at 25 feet.

They are looking at constructing a building to be lined up with the same 25 foot. The other variance is along the east side that they are asking the exception on, they have 25 feet to the building but they have a little bump out for mechanical that is eight feet wide and that bump out technically is greater than 25 feet.

The reason they are here is because if you go over 36 units in a C-2, it requires a PD and so he has an existing 20-unit building and is proposing 24 units which puts it at a total of 44. The utilities have already been stubbed out to the buildings for future development. Another component is the landscape plan that is a requirement of going to a C-2/PD. Mr. Bennett discussed the landscaping plan along 3rd Street.

Another component is the floor plan; it is a mix of 3-bedroom and 2-bedroom units with a caveat on the north end. There will be a workout room on the first level and then on the second level will be a mix of apartment units and stairs, and the third floor plan is very similar to the second floor plan with bedrooms, corridors and stairs.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Miller & Associates for Paul and Linda Younes to rezone from District C-2, Community Commercial District to District C-2/PD, Community Commercial/Planned Development Overlay District property described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue) and introduced Ordinance No. 8072 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 close the hearing and suspend the rules for Ordinance No. 8072. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. 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. 8072 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8072 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8072 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.

DEVELOPMENT PLANS FOR RESIDENTIAL APARTMENT COMPLEX NORTH OF 3RD STREET BETWEEN 4TH AVENUE AND 6TH AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates for Paul and Linda Younes for Planned District Development Plan Approval for the construction of a residential apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue) and consider Resolution No. 2016-67.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Clouse to close the hearing and adopt **Resolution No. 2016-67** approving the Application submitted by Miller & Associates for Paul and Linda Younes for Planned District Development Plan Approval for the construction of a residential apartment complex on property to be zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue) allowing the following deviations: (1) a 25-foot front yard setback on both buildings instead of the required 30-foot setback; and (2) a 17-foot side yard setback for the off-set on the existing building instead of the required 25-foot setback. Roll call resulted as follows: Aye: Clouse, Lammers, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

RESOLUTION NO. 2016-67

WHEREAS, Miller & Associates for Paul and Linda Younes have applied for Planned District Development Plan Approval for the construction of a residential apartment complex on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates for Paul and Linda Younes for Planned District Development Plan Approval for the construction of a residential apartment complex on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as West Tract, Lot 1 of Block Two, Younes Center Third Addition and Outlot A of Block Two, Younes Center Fourth Addition, all in the City of Kearney, Buffalo County, Nebraska (north of 3rd Street between 4th Avenue and 6th Avenue) be approved with the following deviations:

1. Allow a 25-foot front yard setback on both buildings instead of the required 30-foot setback.
2. Allow a 17-foot side yard setback for the off-set on the existing building instead of the required 25-foot setback.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

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 22 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

1. Approve Minutes of Regular Meeting held April 12, 2016 and Minutes of Special Meeting held April 12, 2016.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services
 - ER Equipment Rental
 - CO Capital Outlay
 - DS Debt Service

4Imprint \$361.01 smcs; Accuquilt \$152.97 smcs; Ace Hardware \$95.95 smcs; Ace Irrigation \$481.43 smcs; Admin Arsenal \$225.00 co; Advance Auto \$11.49 smcs; Agri-Coop \$914.04 smcs; Alert All \$562.50 smcs; All Makes Auto \$4,116.00 smcs; Ally B Designs \$650.00 smcs; Amazon \$3,507.20 smcs,co; American \$575.58 smcs,co; Amer Electric \$1,852.50 co; Americlnn \$97.61 smcs; Andersen,J \$876.40 smcs; Anderson,B \$50.00 smcs; APA Membership \$150.00 smcs; Apple Market \$29.35 smcs; Arrowhead

Scientific \$321.79 smcs; Ask Supply \$396.90 smcs; Aspen Publishers \$429.07 smcs; Aurora Coop \$146.72 smcs; Auto Value \$1,471.16 smcs; Baker & Taylor \$2,836.34 smcs; Beacon Ballfields \$845.00 smcs; Bells Construction \$540.00 co; Bennett,P \$80.00 smcs; Berens-Tate Consulting \$5,000.00 smcs; Best Buy \$326.24 co; Bike Shed \$18.00 smcs; BlueCross/BlueShield \$253,297.36 smcs; Blvd Hair Studio \$20.01 smcs; Boardtronics \$638.81 smcs; Bosselman \$929.67 smcs; BP Ambassador \$36.70 smcs; Brilliance Publishing \$133.74 smcs; Broadfoots \$350.00 smcs; Brown,J \$108.80 smcs; Brumbaugh,S \$50.00 smcs; Buffalo Outdoor Power \$632.63 smcs; Builders \$2,869.00 smcs,co; Butterfield,J \$37.22 smcs; Buyonlinenow.com \$399.36 smcs; Cabela's \$78.00 smcs; Career Cruising \$799.00 smcs; Carquest \$1,848.79 smcs; Cash Wa \$3,102.58 smcs,ps; Caudillo,J \$572.49 smcs; CDW Government \$1,075.07 co; Cengage Learning \$136.89 smcs; Central Hydraulic \$668.11 smcs; Central NE Bobcat \$445.06 smcs,co; Central NE Rehabilitation \$240.00 smcs,ps; Central Rest Products \$90.29 smcs; Cerilliant \$309.32 smcs; Charter \$598.40 smcs; Chesterman \$701.40 smcs; Chicken Coop \$114.39 smcs; Cintas \$280.74 smcs; City of Ky \$14,190.28 smcs, ps; Clark Enersen \$7,193.76 co; Clark,L \$41.85 smcs; Clint Smith Graphics \$5,850.00 smcs; CMH Interiors \$4,142.85 smcs; Coldspring \$239.40 smcs; Comfy Bowl \$50.00 smcs; Compass Tools \$325.00 smcs; Complete Roofing \$13,390.50 smcs; Conesco Life \$19.00 ps; Construction Rental \$305.51 smcs; Copycat \$57.84 smcs; Country Catering \$1,515.00 smcs; CPS \$136.80 smcs; Creativemarket.com \$3.00 smcs; Culligan \$187.50 smcs; Daake,J \$8.31 smcs; Danko Emergency \$137.01 smcs; Dawson PPD \$3,088.56 smcs; DCI Credit Services \$231.10 ps; Decalpaper.com \$42.61 smcs; Delight Donuts \$76.80 smcs; Dent Popper \$950.00 smcs; Depository Trust \$15,916.25 ds; DHHS \$280.00 smcs; Diamond Vogel \$73.35 smcs; Diestler,J \$500.00 smcs; Dog Poop Bags \$135.79 smcs; Dowhy Towing \$345.50 smcs; Doyle Security \$929.46 smcs; Dreamstime.com \$39.00 smcs; Dutton-Lainson \$144.60 smcs; Eagle Distributing \$1,156.96 smcs; Eakes \$1,514.59 smcs; EB Tree Care \$215.00 smcs; Econ Dev Council \$7,856.20 smcs; EMC Ins \$61,877.55 smcs; Enforcement Video \$20,730.00 co; Enterprise \$20.84 smcs; Enterprise Electric \$2,097.00 smcs; Expedia \$481.07 smcs; Expression Wear \$543.00 smcs; Facebook \$52.06 smcs; Family Fresh Market \$29.18 smcs; Farmers Union \$46.00 smcs; Fastenal \$1,357.00 smcs; Fedex \$25.27 smcs; Fiddelke \$128.19 smcs; Fjeldhelm,R \$17.55 smcs; Fore Better Golf \$600.00 smcs; Frontier \$9,523.94 smcs; Fuel Tech \$642.23 smcs; Fun Express \$128.14 smcs; Galeton Gloves \$1,395.00 smcs; Gall's \$240.41 smcs; Ganz Title \$225.00 smcs; Garrett Tires \$5,570.68 smcs; Gillming,R \$25.00 smcs; Graham Tire \$881.43 smcs; Grainger \$518.36 smcs; Grow Nebraska \$82.26 smcs; Hach \$975.12 smcs; Haight,D \$75.00 smcs; Harbur,C \$174.08 smcs; Harshbarger,K \$574.76 smcs; Hawke,T \$280.50 smcs; HD Supply \$36,425.33 smcs; Herk's Welding \$6,229.40 smcs; Hill,A \$50.00 smcs; HOA Solutions \$2,534.00 smcs; Hobby-Lobby \$326.40 smcs; Holmes Plbg \$565.78 smcs; Hometown Leasing \$265.92 smcs; Hubcapzone \$90.00 smcs; Huddle House \$309.15 smcs; Husker Auto \$18,379.00 co; Hyatt Denver Tech Center \$635.08 smcs; IAPMO \$1,331.29 smcs; ICMA RC \$4,468.77 ps; Icon Poly \$199.00 smcs; Integrated Construction \$56,809.00 co; Int'l Society Arboriculture \$117.85 smcs; IRS \$142,039.46 ps; Midwest Labs \$37.55 smcs; Jack Lederman \$1,081.05 smcs; Jefs Nutrition \$15.21 smcs; John Deere \$2,179.58 smcs,co; Johnson Service \$3,911.25 smcs; Johnstone Supply \$8.36 smcs; Kampbell,K \$20.57 smcs; Ky Clinic \$486.00 ps; Ky Concrete \$2,725.35 smcs, co; Ky Crete & Block \$1,606.40 co; Ky Glass \$1,727.50 smcs; Ky Powersports \$14,012.83 smcs,co; Ky Quality \$25.98 smcs; Ky Towing \$200.00 smcs; Ky Visitors Bureau \$96,850.55 smcs; Ky Warehouse \$89.50 smcs; Ky

Winlectric \$140.72 smcs; Ky Winnelson \$71.24 smcs; Kelly Supply \$624.63 smcs; Kidwell \$26,906.19 co; Kimball Midwest \$789.70 smcs; Kipkyakits.com \$93.93 smcs; Konica Minolta \$1,310.17 smcs; Kowalek,G \$8.51 smcs; Landmark Implements \$936.56 smcs; Lawson Products \$225.05 smcs; LCL Truck Equipment \$94.67 smcs; LED Lighting \$820.59 co; Lewis,D \$52.94 smcs; Liberty Cleaners \$27.84 smcs; Lifeguard Store \$578.10 smcs; Lindeman,T \$33.64 smcs; Linhart Construction \$24,656.19 co; Lips Printing \$58.40 smcs; Little Caesars \$15.12 smcs; Lockmobile \$52.80 smcs; Logan Contractor \$1,428.42 smcs,co; L-Tron \$189.00 smcs; Mach 3 \$350.00 smcs; Mail Express \$3,283.87 smcs, co; Marketing Displays \$125.97 smcs; Marketlab \$34.68 smcs; Marlatt Machine \$437.55 smcs; Matheson \$497.61 smcs; Mead Lumber \$178.21 smcs,co; Menards \$4,673.56 smcs,co; Middleton Electric \$451.38 co; Midlands Contracting \$107,266.95 co; Mid-Plains Equipment \$1.00 smcs; Midwest Labs \$37.55 smcs; Midwest Turf \$2,126.13 smcs; Miigerl,J \$26.63 smcs; Millar,C \$21.83 smcs; Miller Signs \$400.00 co; Monoprice \$143.86 smcs; Moonlight Embroidery \$1,041.75 smcs; Most Dependable Fountains \$4,020.00 co; Municipal Supply \$5,107.47 smcs; NASRO \$500.00 smcs; Nat'l Hole in One \$266.00 smcs; NE Child Support \$2,305.89 ps; NE Comm Energy Alliance \$9,759.00 smcs; NE Dept Environmental \$14,563.21 smcs; NE Dept of Labor \$43.00 smcs; NE Library Assn \$520.00 smcs; NE Library Comm \$1,500.00 smcs; NE License Beverage \$200.00 smcs; NE Machinery \$55.96 smcs; NE Peterbilt \$752.90 smcs; NE Planning & Zoning Assn. \$180.00 smcs; NE Safety & Fire \$355.00 smcs; NE Sec of State \$120.00 smcs; NE Statewide \$255.00 smcs; NE Truck Center \$450.53 smcs; NEland Distributors \$1,625.70 smcs; Neumeister,A \$105.00 smcs; Newman Traffic Signs \$13,891.70 smcs;NGPC Reservations \$154.71 smcs; Northern Safety \$133.92 smcs; Northwest Electric \$939.08 smcs; Northwestern \$5,908.48 smcs; Notepage \$250.00 smcs; Nova Fitness \$496.64 ps; NRG Media \$154.00 smcs; NYSCA \$20.00 smcs; Oak Creek Engineering \$11,188.28 co; Oakely Signs \$149.82 smcs; OCLC \$630.59 smcs; Office Depot \$361.27 smcs; Officemax \$1,393.83 smcs; Officenet \$642.00 smcs; O'Hara Lindsay \$2,000.00 smcs; O'Reilley Auto \$446.63 smcs; Oriental Trading \$143.54 smcs; Orscheln \$901.92 smcs; Outdoor Recreation \$4,400.00 co; Panowicz,M \$50.00 smcs; Paramount \$389.56 smcs; Party America \$58.53 smcs; Paypal-Abarely \$15.99 smcs; Paypal-Bigsell \$499.99 smcs; Paypal-Cragcmoore \$550.00 smcs; Paypal-Ervandkalcom \$579.91 smcs; Paypal-IAPE \$50.00 smcs; Paypal-Martys \$28.95 smcs; Paypal-NE \$50.00 smcs; Paypal-Outletgroup \$94.64 smcs; Paypal-Sellerhk201 \$13.48 smcs; Paypal-Vadimpetors \$30.00 smcs; Penworthy \$327.19 smcs; Pep Co \$172.68 smcs; Petzold,M \$25.00 smcs; Platinum Awards \$20.35 smcs; Platt Electric \$237.24 smcs; Platte Valley Automart \$1,298.24 smcs; Platte Valley Comm \$107.80 smcs; Platte Valley Lab \$62.50 smcs; Police Technical Training \$70.00 smcs; Positive Promotions \$53.75 smcs; Postage Refill \$975.00 smcs; Pot O'Gold \$155.00 smcs; Presto-X \$661.54 smcs; Proactive Sports \$961.22 smcs; Project Harmony \$600.00 smcs; Provantage \$2,959.28 smcs,co; Pulliam,R \$90.00 smcs; QA Balance \$125.00 smcs; Qualifiedhardware.com \$158.00 smcs; Quill \$322.19 smcs; Railroad Controls \$233.34 smcs; Random House \$120.00 smcs; Rathod,S \$113.00 smcs; Ready Mixed \$6,039.88 smcs,co; Reams \$731.02 smcs; Recorded Books \$861.48 smcs; Recreation Division \$170.00 smcs; Recreonoics \$507.15 smcs; Redbox \$1.61 smcs; Resource Mgmt \$1,567.68 smcs; Rheome Tree \$4,645.00 smcs; Rich,T \$50.00 smcs; Ring.com \$30.00 co; Roper Radiator \$989.00 smcs; Rotary District 5630 \$200.00 smcs; RR Donnelley \$485.48 smcs; S&S Worldwide \$65.97 smcs; Sadd,K \$19.06 smcs; Safariland \$137.75 smcs; Salter,J \$572.49 smcs; Sampson Construction \$122,674.00

co; Sandhill Plastics \$184.42 smcs; Sapp Bros \$27,299.75 smcs; Sayler Screenprinting \$374.75 smcs; Sazama,M \$25.48 smcs; Schneider,T \$50.00 smcs; Schreiber,S \$17.80 smcs; Shemat,K \$50.00 smcs; Sherwin Williams \$367.67 smcs; Shultz,R \$105.00 smcs; Sid Dillion \$30,739.00 co; Sign Center \$45.00 smcs; Simpson,J \$96.00 smcs; Sirchie Finger Print \$101.33 smcs; Smmdirect.com \$32.12 co; Southern Computer \$213.40 co; Staab,J \$384.00 smcs; Stamps.com \$4.99 smcs; State of NE/Dept Labor \$210.00 ps; Steinbrinks \$4,373.53 smcs; Stones,A \$55.00 smcs; Strategic Materials \$367.24 smcs; Sunbelt Rentals \$1,004.47 smcs; Superior Signals \$279.00 smcs; Supplyhouse.com \$52.30 smcs; Supplyworks \$461.31 smcs; Tacha,J \$50.00 smcs; Target \$69.88 smcs; Tenorio,D \$50.00 smcs; Thompson,D \$50.00 smcs; Thompson,J \$50.00 smcs; Thomson Reuters-West \$648.00 smcs; Tielke's \$85.66 smcs; Titleist \$7,033.55 smcs; Tour Edge \$916.00 smcs; Tractor-Supply \$348.59 smcs;T rafcon \$220.00 smcs; Trans Iowa Equipment \$355.48 smcs; Treadway,M \$50.00 smcs; Tri State Oil \$224.00 smcs; Turner Body Shop \$643.73 smcs; U.S. Plastic \$167.04 smcs; Union Bank \$70,167.27 ps; Unique Mgmt \$277.45 smcs; United \$207.20 smcs; United Seeds \$1,235.00 smcs; UNK \$1,000.00 smcs; UPS \$131.77 smcs,co; USA Blue Book \$1,018.28 smcs; USA Communications \$148.30 smcs; USGA \$110.00 smcs; USPS \$204.92 smcs; V Belt Global Supply \$52.26 smcs; Verizon \$114.79 smcs; Ver-Mac \$2,119.00 co; Walgreens \$20.58 smcs; Wal-mart \$760.08 smcs; Walsh,C \$142.00 smcs; Walton,T \$40.00 smcs; Waterlink \$668.73 smcs; Weis Fire \$106.12 smcs; Weller,B \$114.77 smcs; Wells Fargo \$500.00 smcs; Wheeler,L \$31.00 smcs; Wicks Sterling Trucks \$318.24 smcs; Wilke's True Value \$311.58 smcs; Williams,M \$296.70 smcs; Winscot,A \$140.80 smcs; World Theatre \$25.00 smcs; WPCI \$160.50 ps; Young,M \$87.47 smcs; Zimmerman Printing \$359.32 smcs; Payroll Ending 4-16-2016 -- \$401,350.82. 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 May 10, 2016 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 and wine inside First National Bank located at 2223 2nd Avenue on Thursday, May 12, 2016 from 5:00 p.m. until 10:00 p.m. for a Chamber event.
5. Adopt Resolution No. 2016-68 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Remington Heights Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2016-68

WHEREAS, on the 9th day of July, 2013 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2013-127 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and TWL LLC, a Nebraska Limited Liability Company to construct water, sanitary sewer, paving and storm sewer improvements for Remington Heights Addition, an addition to the City of Kearney, Buffalo County,

Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water, sanitary sewer, paving and storm sewer improvements to serve the property described as Remington Heights Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Adopt Resolution No. 2016-69 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2016-69

WHEREAS, on the 25th day of February, 2014 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2014-39 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and TWL LLC, a Nebraska Limited Liability Company to construct water, sanitary sewer, and concrete pavement and storm sewer improvements for Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water, sanitary sewer, and concrete pavement and storm sewer improvements to serve the property described as Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County,

Nebraska constructed under, and in accordance with, Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt Resolution No. 2016-70 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Lots 6 through 17 of Block Three, Bel Air Addition and all of Bel Air Fifth Addition, additions to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2016-70

WHEREAS, on the 11th day of December, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-225 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and TWL LLC, a Nebraska Limited Liability Company to construct the public improvements consisting of paving, water and sanitary sewer for Bel Air Fifth Addition and Lots 6 through 17 of Block Three, Bel Air Third Addition, additions to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 “Acceptance of Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City’s Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for paving, water and sanitary sewer to serve the property described as Bel Air Fifth Addition and Lots 6 through 17 of Block Three, Bel Air Third Addition, additions to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 “Developer Constructed Infrastructure” of Chapter 9 “Public Works” of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt Resolution No. 2016-71 approving the Developer Constructed Infrastructure Agreement for Central Community College First Addition between the City of Kearney and Central Community College for the installation of water mains and fire hydrants to serve the property.

RESOLUTION NO. 2016-71

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska that the agreement entitled "Developer Constructed Infrastructure Agreement for Central Community College First Addition" for the installation of water mains and fire hydrants between the City of Kearney and Central Community College to serve Central Community College First Addition, 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 APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Approve the application for a Special Designated License submitted by Chug-A-Lug Sports Bar Inc., dba Chug A Lug Sports Bar in connection with their Class C-042049 liquor license to dispense beer and distilled spirits in a 32'x54' fenced area located south of their licensed beer garden located at 1115 East 25th Street on June 18, 2016 from 8:00 a.m. until 12:30 a.m. for a beer garden and fund raiser.

10. Approve the solicitation for Request for Proposals for Naming Rights for youth baseball and softball complexes at Patriot Park with Proposals due October 25, 2016.

11. Adopt Resolution No. 2016-72 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Lots 1, 2 and 3 of Block Four, Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska.

RESOLUTION NO. 2016-72

WHEREAS, on the 25th day of June, 2013 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2013-115 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Camron Inc., a Nebraska Corporation to construct the public improvements for water mains, sanitary sewer mains, paving and storm sewer for Lots 1, 2 and 3, Eastbrooke Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance

with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water mains, sanitary sewer mains, paving and storm sewer to serve the property described as Lot 1, 2 and 3, Eastbrooke Fourteenth Addition, an addition to the City of Kearney, Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt Resolution No. 2016-73 accepting the public improvements constructed under a Developer Constructed Infrastructure Agreement for Lot 1 and part of Lot 2 of Block One, Northridge Retirement Subdivision of Buffalo County, Nebraska.

RESOLUTION NO. 2016-73

WHEREAS, on the 25th day of June, 2013 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2013-116 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Ridge View Apartments, L.L.C., a Nebraska Limited Liability Company, to construct the public improvements for water and sanitary sewer mains and service lines for Lot 1 and part of Lot 2 of Block One, Northridge Retirement Subdivision of Buffalo County, Nebraska; and

WHEREAS, the Developer has constructed the public improvements in accordance with the requirements and standards set forth in Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney; and

WHEREAS, in accordance with Section 9-1318 "Acceptance of Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney the Developer has certified to the City that there are no liens or other encumbrances against the construction work; and

WHEREAS, the City's Engineers have determined that the work is in compliance with the design and is complete.

NOW THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the public improvements for water and sanitary sewer mains and service lines to serve the property described as Lot 1 and part of Lot 2 of Block One, Northridge Retirement Subdivision of Buffalo County, Nebraska constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney be and are hereby accepted.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt Resolution No. 2016-74 approving Application and Certificate for Payment No. 2 in the amount of \$236,346.25 submitted by Blessing, LLC and approved by Miller & Associates for the 2015 Part 12 Improvements – Bid B consisting of Paving Improvement District No. 2015-978 for 9th Avenue from 10th Street south to its terminus in a cul-de-sac; Paving Improvement District No. 2015-979 for 10th Street from 9th Avenue east to the east lot line of Lot 1 of Block Two, Jean Michel of Chateau Marteau.

RESOLUTION NO. 2016-74

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2015 Part 12 Improvements – Bid B consisting of Paving Improvement District No. 2015-978 for 9th from 10th Street south to its terminus in a cul-de-sac and Paving Improvement District No. 2015-979 for 10th Street from 9th Avenue east to the east lot line of Lot 1 of Block Two, Jean Michel of Chateau Marteau., and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$236,346.25 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$260,526.50</u>
Contract Sum To Date	260,526.50
Gross Amount Due	252,476.00
Retainage (10%)	12,623.80
Amount Due to Date	239,852.20
Less Previous Certificates for Payment	<u>3,505.95</u>
Current Payment Due	\$236,346.25

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

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

14. Adopt Resolution No. 2016-75 approving Application and Certificate for Payment No. 10 in the amount of \$23,132.69 submitted by Blessing, LLC and approved by Miller & Associates for the 2014 Part 11 Improvements consisting of Paving Improvement District No. 2014-969 for 11th Street from a point 109.74 feet west of 30th Avenue, thence east for a distance of 2,440.08 feet; Paving Improvement District No. 2014-970 for 27th Avenue from 11th Street south a distance of 850± feet as platted in Lot 1, Bearcat Corner; and Paving Improvement District No. 2014-971 for 30th Avenue from 11th Street south a distance of 1,500± feet as platted in Lot 1, Bearcat Corner.

RESOLUTION NO. 2016-75

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2014 Part 11 Improvements consisting of Paving Improvement

District No. 2014-969 for 11th Street from a point 109.74 feet west of 30th Avenue, thence east for a distance of 2,440.08 feet; Paving Improvement District No. 2014-970 for 27th Avenue from 11th Street south a distance of 850[±] feet as platted in Lot 1, Bearcat Corner; and Paving Improvement District No. 2014-971 for 30th Avenue from 11th Street south a distance of 1,500[±] feet as platted in Lot 1, Bearcat Corner, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 10 in the amount of \$23,132.69 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$1,814,396.00
Change Order No. 1 (5-26-2015)	+ 40,765.12
Change Order No. 2 (10-27-2015)	+ 1,903.13
Change Order No. 3 (2-9-2016)	+ <u>18,249.70</u>
Contract Sum To Date	1,875,313.95
Gross Amount Due	1,817,171.04
Retainage (2%)	36,343.42
Amount Due to Date	1,780,827.61
Less Previous Certificates for Payment	<u>1,757,694.92</u>
Current Payment Due	\$ 23,132.69

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 10, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

15. Adopt Resolution No. 2016-76 approving Application and Certificate for Payment No. 1 in the amount of \$131,174.55 submitted by Blessing, LLC and approved by Miller & Associates for the 2015 Part 2 Improvements consisting of Paving Improvement District No. 2014-967 for 49th Street from the west line of Lot 1, Block Four, Good Samaritan Society Kearney Village Subdivision, thence easterly to the south line of Lot 9, Block Four, Good Samaritan Society Kearney Village Subdivision, thence continuing northerly and easterly in 50th Street to the east line of Outlot B, Good Samaritan Society Kearney Village Subdivision and continuing easterly in 50th Street to a point located 140.38 feet east of the east line of Outlot B, Castle Ridge Fourth Addition.

RESOLUTION NO. 2016-76

WHEREAS, Blessing Construction of Kearney, Nebraska has performed services in connection with the 2015 Part 2 Improvements consisting of Paving Improvement District No. 2014-967 for 49th Street from the west line of Lot 1, Block Four, Good Samaritan Society Kearney Village Subdivision, thence easterly to the south line of Lot 9, Block Four, Good Samaritan Society Kearney Village Subdivision, thence continuing northerly and easterly in 50th Street to the east line of Outlot B, Good Samaritan Society Kearney Village Subdivision and continuing easterly in 50th Street to a point located 140.38 feet east of the east line of Outlot B, Castle Ridge Fourth Addition, and

the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$131,174.55 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$583,423.50
Change Order No. 1 (1-12-2016)	- <u>21,825.00</u>
Contract Sum To Date	561,598.50
Gross Amount Due	145,749.50
Retainage (10%)	14,574.95
Amount Due to Date	131,174.55
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$131,174.55

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

16. Adopt Resolution No. 2016-77 approving Change No. 1 showing a decrease in the amount of \$16,641.00, Application and Certificate for Payment No. 3-Final in the amount of \$171,295.90, and accept the Certificate of Substantial Completion submitted by Midlands Contracting and approved by Miller & Associates for the 2015 Part 11 Improvements – Bid A consisting of Water District No. 2015-579 and Sanitary Sewer District No. 2015-516 for 17th Avenue from 11th Street south to the south lot line of Lot 3 of Block, Three Park View Estates Eighth Addition AND in 8th Street from 17th Avenue east to 16th Avenue.

RESOLUTION NO. 2016-77

WHEREAS, Midlands Contracting of Kearney, Nebraska has performed services in connection with the 2015 Part 11 Improvements – Bid A consisting of consisting of Water District No. 2015-579 and Sanitary Sewer District No. 2015-516 for 17th Avenue from 11th Street south to the south lot line of Lot 3 of Block, Three Park View Estates Eighth Addition AND in 8th Street from 17th Avenue east to 16th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an decrease to the contract sum in the amount of \$16,641.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference; and

WHEREAS, the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 3-Final in the amount of \$171,295.90 as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$473,899.00
Change Order No. 1 (4-26-2016)	- <u>16,641.00</u>
Contract Sum To Date	457,258.00

Gross Amount Due	457,258.00
Retainage (0%)	.00
Amount Due to Date	457,258.00
Less Previous Certificates for Payment	<u>285,962.10</u>
Current Payment Due	\$171,295.90

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of March 31 2016, as shown by Exhibit "C" attached hereto and made a part hereof by reference.

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

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

17. Adopt Resolution No. 2016-78 approving Application and Certificate for Payment No. 1 in the amount of \$185,288.13 submitted by Dan Roeder Concrete and approved by Miller & Associates for the 2015 Part 11 Improvements – Bid B consisting of Paving Improvement District No. 2015-976 for 17th Avenue from 11th Street south to the south lot line of Lot 3 of Block Three, Park View Estates Eighth Addition; Paving Improvement District No. 2015-977 for 8th Street from 17th Avenue east to 16th Avenue.

RESOLUTION NO. 2016-78

WHEREAS, Dan Roeder Concrete of Kearney, Nebraska has performed services in connection with the 2015 Part 11 Improvements – Bid B consisting of Paving Improvement District No. 2015-976 for 17th Avenue from 11th Street south to the south lot line of Lot 3 of Block Three, Park View Estates Eighth Addition; Paving Improvement District No. 2015-977 for 8th Street from 17th Avenue east to 16th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 1 in the amount of \$185,288.13 as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	<u>\$669,200.00</u>
Contract Sum To Date	669,200.00
Gross Amount Due	205,875.70
Retainage (10%)	20,587.57
Amount Due to Date	185,288.13
Less Previous Certificates for Payment	<u>.00</u>
Current Payment Due	\$185,288.13

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 1, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

18. Approve the Plans and Specifications for the Yanney Park Northwest Sign and set the bid opening date for May 17, 2016 at 2:00 p.m.

19. Approve the Plans and Specifications for the 2015 Part 14 Improvements; Avenue E from 25th Street to 27th Street and set the bid opening date for May 17, 2016 at 2:00 p.m.

20. Accept the bids received for the 2015 Part 10 Improvements consisting of Paving Improvement District No. 2015-980, Water District No. 2015-582, and Sanitary Sewer District No. 2015-519 for 46th Street Place from Avenue R to its terminus in a cul-de-sac and adopt Resolution No. 2016-79 awarding the bid to Dan Roeder Concrete in the amount of \$229,643.00.

RESOLUTION NO. 2016-79

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 19, 2016 at 2:00 p.m. for the 2015 Part 10 Improvements consisting of Paving Improvement District No. 2015-980, Water District No. 2015-582, and Sanitary Sewer District No. 2015-519 for 46th Street Place from Avenue R to its terminus in a cul-de-sac; and

WHEREAS, the Engineer's Estimate for the 2015 Part 10 Improvements was \$235,490.00; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the amount of \$229,643.00 be accepted as the lowest responsible bid for the 2015 Part 10 Improvements; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Dan Roeder Concrete be and is the lowest responsible bidder for the 2015 Part 10 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete in the amount of \$229,643.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Estimate for the 2015 Part 10 Improvements was \$235,490.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that the President of the Council of the City of Kearney, Nebraska, be and is hereby authorized and directed to execute contracts for such improvements in accordance with the bid, plans, specifications, and general stipulations pertaining thereto.

PASSED AND APPROVED THIS 26TH DAY OF APRIL, 2016.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

21. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on Saturday, May 28, 2016 from 6:00 p.m. until 1:00 a.m. for a dance (alternate location is Exhibit Building and alternate date is May 27, 2016).

22. Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class IK-064728 liquor license to dispense beer and wine at the All Makes Office Supply, 3715 29th Avenue, Suite C on Thursday, May 19, 2016 from 2:00 p.m. until 8:00 p.m. for a Chamber event.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 8071 REZONING 105 WEST 29TH STREET

Trius Federal Credit Union has acquired the subject property located at 105 West 29th Street and requested and received approval to rezone the property from R-2, Urban Residential Mixed-Density District to UC, Mixed Use Urban Corridor District in order to expand their business.

At the last Council meeting, there were only three Council members present so the ordinance was placed on first reading. Therefore, with a quorum present, the ordinance can be passed.

Council Member Lammers introduced Ordinance No. 8071 rezoning from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as Lot 415, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska, 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, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. 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. 8071 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8071 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8071 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. 8073 CREATING PAVING DISTRICT NO. 2016-982

This paving improvement district is for the reconstruction of 31st Street and Avenue A intersection. The intersection improvements would include new paving, storm sewer, and traffic signal. The existing signal was installed as a temporary signal when the hospital expanded west closing Central Avenue north of 31st Street. It is now time to replace the failing temporary signal with a new permanent signal.

Council Member Lammers introduced Ordinance No. 8073 creating Paving Improvement District No. 2016-982 for Avenue A from the north lot line of Lot 27, Cortland Place, thence south to the south lot line of Lot 558, Southwest Quarter School Section Addition; AND 31st Street from the west lot line of Lot 560, thence east to the east lot line of Lot 558, all in Southwest Quarter School Section Addition, 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, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. 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. 8073 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Lear. Nay: None. Buschkoetter absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 8073 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 8073 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

SITE PLAN FOR 2402 AVENUE I

Mayor Clouse opened for discussion the request submitted by Tim O'Brien on the review and evaluation of site development features by Administration as it pertains to minimum bufferyard to be provided adjacent to residential uses for property zoned District C-3, General Commercial District and described as Lots 1 and 2, Melton Addition, an addition to the City of Kearney, Buffalo County, Nebraska (2402 Avenue I).

Tim O'Brien from Tim & Lanny's Auto presented this matter to the Council. He stated the Code requires a 25-foot buffer space between the properties and what he is asking is for City Council approval to do away with the green space which cannot be seen from the street and allow him to put the green space in along the front of the building.

Council Member Lammers asked about the property behind Mr. O'Brien's building. Mr. O'Brien stated it is a single family residence. They just recently put up a 6-foot white vinyl privacy fence to help buffer between his property and his neighbors.

Council Member Nikkila asked the one point of the appeal is the staff is looking to make changes that would eventually make this a moot point anyway for other developments. Is that partially why they are doing it now since staff was planning to make those changes in the future in the Code.

Assistant City Manager Paul Briseno stated Mr. O'Brien did a good job communicating with staff his concerns and what he pointed out was something that they never looked at and that is that 20-foot bufferyard really is not fair for redeveloping lots within the community and really that is what they should be working towards is redeveloping and helping people out. The 20-foot bufferyard is unfair for those people who have smaller lots. Therefore in looking at this, staff will probably bring forward a recommendation that the City look at a percentage versus a 20-foot minimum that way it is fairer for the smaller lots.

He is also meeting the intent here by creating some type of buffer with the fence and the building and overall beautifying the lot while adding green space for storm water run-off. So all in all he has done a fabulous job in trying to meet the intent of the Code and opening the eyes of staff.

Moved by Lear seconded by Clouse to approve the site plan as presented. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter absent. Motion carried.

FOOD TRUCKS ON PUBLIC PROPERTY

Mayor Clouse opened for discussion whether to allow food trucks to use public parking areas either in the street or in public parking lots.

City Attorney Michael Tye presented this matter to the Council. He stated several weeks ago Michael Park came to a Council meeting and asked City Council to look at the code sections and the rules as they apply to the parking of food trucks in the community. Since that time he has had some additional conversations with Mr. Park and they appreciate him bringing this forward. They also had an opportunity to speak with various City departments that would have some involvement primarily the police department as they deal with itinerant merchant permits and parking. They also talked with parks, the library because they can be affected based on their parking needs and so what he has provided an overview of what is allowed currently and how that is structured in code and then they can talk about some alternatives.

Staff thought it would be best to bring this back to City Council to get their thoughts before they draft something that might go a direction that Council might not be interested in. Currently, all food trucks are required to get an itinerate merchant permit; that is not just food trucks but anybody that has a transient type of a business without a permanent location. That is administered by the Police Department, they can pay an annual fee and they then get a permit.

Currently, food trucks are allowed to park in private parking areas with the property owner's permission and that is how most of the food trucks in the City of Kearney operate and that is perfectly fine. Food trucks are also allowed to operate if they are a part of special event permit and those come before City Council usually from a non-profit organization asking for City Council to give consent to either allow them to use a public parking lot or sometimes to use public streets. The obvious one is Cruise Night but there are others; MONA uses the parking lot adjacent to the museum on occasion. Those come to City Council as an application and then can be reviewed on a case by case basis and grant that permission so it is possible food trucks could operate as part of those types of permits.

In talking with the Police Department, they indicated that they would not be in favor of allowing food trucks to park in the street on a regular basis and their primary concern is safety of patrons going to and from a food truck that would be in a street and that might not be the best and the most ideal way to do that. If you go beyond that then you are talking about public parking lots.

Food trucks are not currently allowed to set up in public parking lots. The preference from the Parks Department is that food trucks not be in parks parking lots because they have vendors often times non-profit organizations that are selling concessions. That is how they raise money so that is their preference unless it is for a special event. The Library, given the limited parking space that it has, would prefer not to have a food truck take up extra space during their business hours because they have very limited parking for their patrons.

The issue would be if they were to allow food trucks in other public parking lots how would that be done or is it something that Council would allow at all. The possible parking lots include the parking lot north of MONA, the parking lot just behind City Hall, and the lot on Railroad Street, and the parking lot next to Cunningham's. Part of the challenge with allowing food trucks in those areas is you would take up parking spots that could be used by the public if they are coming downtown to shop, eat, etc.

Some of it would be a management issue, if you have a limited number of permits for example or ways of allowing that, you probably would have to do some sort of lottery system or something to allow people to have access to that because there are more than just Mr. Park's food truck that does operate here in the City so you would have to give people the opportunity to have that space. The other thing is that you would probably have to block that off so the public would not access to that area. Those are some of the issues and questions staff have talked about; it is an overview of what is allowed now.

Mayor Clouse asked if there was any discussion with the Downtown Board. Mr. Tye stated they have not but maybe they can explore that if that is something Council would like. Mayor Clouse stated he would like to hear their comments since its primarily downtown parking lots.

Council Member Lammers stated one of his concerns would be the restaurants that have brick and mortar, they pay property taxes and contributed back to the community through those taxes that are collected. He does not have an opposition to the food trucks per se but if that is the case and they are doing it on a full time basis then a different type of fee structure needs to be arranged for the food trucks and someone who does a special event.

Michael Park, 3924 11th Avenue, stated there is one additional lot by Car Quest which is a City lot as well. He also does have a bricks and mortar store so he does contribute the taxes and fees.

Mayor Clouse asked what types of challenges Mr. Park has getting onto private property. Mr. Park stated some of the challenges particularly as they are getting more trucks there has been some bad karma where a food vendor did not ask permission and so that soured quite a few people on allowing trucks to park on their property. The whole idea for him was to get more exposure to the food trucks. Kearney is not that large and he realizes that shutting a street down is a concern.

It is his understanding that the Downtown Improvement Board is looking at creating a fairly regular event where they would have the possibility of having multiple food trucks in the downtown area on a given night. The other challenges are private property and a lot of times property owners are fine but would want to charge a large amount of rent for four hours of time.

Council Member Lear asked how he saw food trucks differing from other types of potential merchants like rugs or something like that. Mr. Park stated generally those people would set up for a day. He is talking about a meal period say from 11:00 a.m. to 1:00 p.m. and then 5:30 p.m. to 7:30 p.m. They are more mobile and not spreading things out; he is a contained unit.

One of the things that he shared with the City Attorney was one of the regulations for example in Milwaukee every truck has to return to a home base for so many hours within a 24-hour period and that is where you can dump your waste water, empty trash etc. and that is tied to having a bricks and mortars location rather than going home and dumping your dirty water down the storm drain.

Council Member Nikkila stated one of the things he considered when City Attorney was talking about the public lots was none of them really seem viable for this type of thing except the MONA parking lot. The idea of getting access to a public lot, the challenge of picking who gets that spot is very difficult but thinks they should try to make it work.

Council Member Lear stated he thinks the parking lot on Railroad Street is another one because it is not as full and easy access to downtown, it would be another possible location. He is more open to the idea of the lots then any street parking just because they are already limited in street parking downtown.

Council Member Nikkila stated he understands why the Police would be concerned about lateral parking but if it is parallel he would not have as much of an issue. Folks would not have to go on the street to be served and you would not take up additional parking spots because if you went to a lateral spot people would have to be taking up one of the other lateral spots just to go up to the window.

Mayor Clouse stated they do not have to take action tonight. He thinks its fine how it is just because of the competition with the bricks and mortars and then things they do. He thinks there is enough private parking or lots around that they can negotiate that and if there are squatters then the Police Department will take care of that. He definitely agrees with not on the street besides special events. He would like to hear what the Downtown Improvement Board.

Mr. Tye stated they can certainly take it up with the Downtown Improvement Board and talk with them. Maybe if they are talking about a special event of course that is still a possibility, they would need to bring through an application to City Council to designate what they are talking about so City Council can review.

Mayor Clouse stated in his mind targeting a couple City parking lots and have some type of process where it was open and fair so that not one person was always in that same slot.

City Manager Michael Morgan stated he agrees they could end up with a lot of effort for a business that really is not supposed to be there in the first place with staff doing separate permits because there are four to five food trucks in Kearney which has grown quite a bit. The other issue is once you are in a City lot and you are there on a more frequent basis there is a bigger liability issue which they have never addressed and needs to be evaluated.

The other issue he believes is somewhat unfair is they exempted food trucks from the food and beverage occupation tax. At that time, the City did not have any food trucks. He believes there should be some correction or to create a separate occupation tax and apply it to food trucks which he thinks is appropriate and can be considered. You can limit it to certain lots some lots are not very busy in the evenings. The daytime is very concerning so if you want they can go back and look at liability. He does think the Downtown Improvement Board is looking to do some more events which City staff has been very cooperative with and those come under the Downtown Improvement District's insurance.

Mayor Clouse stated he would like those couple of areas looked at. City Manager stated the only other overriding concern that he's surprised that you will hear from others is that you have a lot of other merchants that would love the opportunity to have access and so there needs to be some reason why you would distinguish. One of course would be occupation taxes, they are paying some unique and different for the use and providing liability insurance.

Mr. Tye stated you would have to define food trucks differently and define the time which is what many communities do. It is for a narrow limited period of time, they setup and then they are gone.

OPEN ACCOUNT CLAIM

Moved by Lear seconded by Lammers that the Open Account Claim in the amount of \$83,289.18 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Lammers Lear. Nay: None. Clouse abstained and Buschkoetter absent. Motion carried.

VII. REPORTS

City Manager Michael Morgan stated Public Works Director and himself were excited this morning they drove through the community and every part of the community has something going on. He was excited to see the first two lanes of Cherry Avenue paved through 56th Street, and hoping that it will be completed so they can finish the paving through that intersection. They still have to do some grading and asphalt shoulders.

VIII. ADJOURN

Moved by Clouse seconded by Lear that Council adjourn at 6:04 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Lear, Nikkila. Nay: None. Buschkoetter absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**