

Kearney, Nebraska
April 9, 2013
7:00 p.m.

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on April 9, 2013, 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 Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Stan Johnston, Dan Schulte, Mitch Humphrey, Paul Brungardt, Ken Cordes, Wendell Dubbs, Michael Kennedy, Chad Henning, Steven Young, Steve Altmaier from KGFW Radio, Adam Konruff 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

The Council held a moment of silent prayer.

PLEDGE OF ALLEGIANCE

The Council members led the 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.

OATH OF OFFICE

Because of the weather, Police Officer Matthew Young will be sworn in on April 23, 2013.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

REZONING AT 202, 206, 208, 210 WEST 29TH STREET AND 2824 2ND AVENUE

Mayor Clouse stated the applicant has requested to postpone the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Nancy Norwood (Owner) to rezone from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as Lots 1, 2, 3, 4 of Block 29, Perkins & Harfords Addition to the City of Kearney, Buffalo County, Nebraska, excepting that part of said Lot 1 deeded to the State of Nebraska Department of Roads (202, 206, 208, 210 West 29th Street and 2824 2nd Avenue).

Moved by Lammers seconded by Nikkila to postpone until April 23, 2013 the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Nancy Norwood (Owner) to rezone from District R-2, Urban Residential Mixed-Density District to District UC, Mixed Use Urban Corridor District property described as Lots 1, 2, 3, 4 of Block 29, Perkins & Harfords Addition to the City of Kearney, Buffalo County, Nebraska, excepting that part of said Lot 1 deeded to the State of Nebraska Department of Roads (202, 206, 208, 210 West 29th Street and 2824 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

VACATE TRACT B, MIDWAY INDUSTRIAL DISTRICT AND THE FINAL PLAT FOR BALDWIN SUBDIVISION

Mayor Clouse opened the public hearing on the Applications submitted by Stan Johnston (Applicant) for Baldwin Filters, Inc. (Owner) to (1) vacate property described as a tract of land comprised of Tract B, Midway Industrial District, a subdivision being part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and to consider Ordinance No. 7795; and (2) the Final Plat for Baldwin Subdivision of Buffalo County, Nebraska for property described as a tract of land comprised of Tract B, Midway Industrial District (to be vacated), and part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (4400 East Highway 30) and to consider Resolution No. 2013-48. Planning Commission recommended approval.

These matters are basically “house-keeping” in nature, or perhaps a better way to describe it is cleaning up some paperwork. In 2008 Baldwin Filters and the City negotiated an agreement to facilitate a major expansion of the Baldwin facility in Kearney. The City owned property to the east of the existing plat and a subdivision was prepared to transfer ownership of approximately 20 additional acres to Baldwin which also entailed relocating some utilities and relocating Airport Road further to the east to its current configuration. Then, unfortunately, the economic downturn became a significant factor and delayed further progress. Because the project was on-hold, the Final Plat was never filed at that time. In late 2012, when the applicant attempted to file

the plat the Register of Deeds found, what she determined to be errors, on the plat and would not accept it without some modifications. One of her concerns had to do with the vacation of the pre-existing subdivision and also some of the text on the plat document needed to be revised. The revisions have been made and the Register of Deeds has reviewed the documents to verify that the changes are correct. Therefore, the applicant is requesting vacation of the existing tract known as Midway Industrial Tract B and also requesting approval of the Final Plat for Baldwin Subdivision.

Tract B of Midway Industrial Tract, which was originally platted in 1962, is to be vacated so that the land can be recognized as a new subdivision to be known as Baldwin Subdivision.

The final plat for this property combines the existing and new land into one 61.88 acre lot. The plat has been revised as previously discussed, changes have been reviewed by the Register of Deeds, and consequently, the plat is ready to be filed with the Register of Deeds pending approval by the Planning Commission and City Council.

This property is not in the City limits at this time but will be annexed in the future as set forth in the existing development agreement between the City and Baldwin.

Stan Johnston presented this matter to the Council. He stated this is a 7500 square foot addition. This expansion will allow all of the finished goods to come on site and will also free up a lot of the manufacturing space back in this part of the facility so that they can add additional production lines. This expansion is a big deal for Baldwin Filters and has been a long time coming. They are planning to break ground this summer.

Council member Lammers asked how many employees are anticipated with this expansion; he understood it was 40 employees. Mr. Johnston responded that is where they will add that count, over time. The distribution center as it is today, they are actually using more head count than they probably need due to the frequency of the orders coming in from the customers.

Council member Nikkila asked when construction will start. Mr. Johnston stated preliminary the ground breaking ceremony is set up for April 26th or 29th. The site work should begin mid to late summer. They started this process before the economic downturn and it is good that they have recovered and this is going to be a great addition to the community.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing and introduced Ordinance No. 7795 on the Application submitted by Stan Johnston (Applicant) for Baldwin Filters, Inc. (Owner) to vacate property described as a tract of land comprised of Tract B, Midway Industrial District, a subdivision being part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M., 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 Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7795. 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, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7795 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7795 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7795 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.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2013-48** approving the Final Plat for Baldwin Subdivision of Buffalo County, Nebraska for property described as a tract of land comprised of Tract B, Midway Industrial District (to be vacated), and part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (4400 East Highway 30). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2013-48

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Baldwin Subdivision" of Buffalo County, Nebraska for a tract of land comprised of Tract "B", Midway Industrial District (now vacated), and a part of the North Half of Section 33, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: Beginning at the northwest corner of the Northeast Quarter, and assuming the north line of the Northeast Quarter to have a bearing of N89°49'55"E; thence N89°49'55"E, and on the north line of said Northeast Quarter, 606.53 feet to a 3/4" rebar w/cap; thence S16°32'01"E, 755.33 feet to a 3/4" rebar w/cap; thence S15°56'00"W, 383.80 feet to a 3/4" rebar w/cap on the north right-of-way line of Highway #30; thence S75°18'33"W, and on the north right-of-way line of said Highway #30, 330.46 feet to a 3/4" rebar w/cap; thence S73°30'33"W, and on the north right-of-way line of said Highway #30, 518.83 feet to a 5/8" iron bar; thence S74°32'19"W, and on the north right-of-way line of said Highway #30, 281.19 feet to a 5/8" iron bar; thence S82°02'42"W, and on the north right-of-way line of said Highway #30, 101.20 feet to a 5/8" iron bar; thence S73°32'17"W, and on the north right-of-way line of said Highway #30, 400.04 feet to a 5/8" iron bar; thence S64°08'31"W, and on the north right-of-way line of said Highway #30, 64.15 feet to a 5/8" iron bar, said iron bar being a point of curvature on the east right-of-way line of railroad; thence on a curve to the right, and on the east right-of-way line of said railroad, said curve having a radius of 728.79 feet, a chord bearing of N31°14'41"W, an arc distance of 794.40 feet to a point of tangency; thence N00°01'04"W, and on the east

right-of-way line of said railroad, 794.88 feet to a point of curvature; thence on a curve to the right, and on the east right-of-way line of said railroad, said curve having a radius of 618.51 feet, a chord bearing of N04°53'58"E, an arc distance of 106.16 feet to a 3" pipe on the south right-of-way line of 39th Street; thence N89°43'49"E, and on the south right-of-way line of said 39th Street, 1296.74 feet to the point of beginning and containing 61.88 acres more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the terms and requirements of Sections 16-901 through 16-904 inclusive, R.R.S. 1943 (as amended) be accepted and ordered filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney, Nebraska.

BE IT FURTHER RESOLVED that Resolution No. 2008-176, passed and approved on the 14th day of October, 2008 be and is hereby repealed.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

MIDLAND MOLDING DEVELOPMENT PLANS, 3209 EAST 39TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Midland Molding (Applicant) for Wendell Dubbs (Owner) for Planned District Development Plan Approval for the construction of offices/production/warehouse on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District for property described as Lot 1, Northeast Industrial Sixth Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3209 East 39th Street) and to consider Resolution No. 2013-49. Planning Commission recommended approval noting that the street trees on the east side of Box Butte Avenue can be delayed until the sanitary sewer is installed in the future, and any fence erected on the east side of Box Butte Avenue must be at least 25-foot setback from the Box Butte Avenue right-of-way line and the submission of a radius map indicating improvements, a landscape schedule, and the trash enclosure locations be shown on the plans.

The applicant is requesting approval of Development Plans for an industrial business on 39th Street just east of the City Recycling Center. The property is zoned M-1/PD. The Planned District Overlay requires a Development Plan Package. Midland Molding is going to build a 40,000 square foot building (125 feet by 320 feet) east of the Recycling Center and Box Butte Avenue. The following is a summary of the proposed project:

- Box Butte Avenue is platted at this location but has not been constructed. City Code requires Box Butte Avenue to be paved the length of the property to the property line on the south side. Unfortunately, utilities are not ready to go in at this time and under normal circumstances the City would like to install water and sewer at the same time as the paving since these utility lines are typically located under the street pavement. As a compromise, the City is requesting an 8-inch water main be installed on

the west side of Box Butte Avenue within the public right-of-way extending south to the south lot line. A 16-inch diameter water main is available in 39th Street.

- Future sanitary sewer will be installed on the east side of Box Butte Avenue. Sanitary sewer is available near the northwest corner of Lot 1, Northeast Industrial Second Subdivision. There is a 25-foot building setback line along the east side of the street which will provide adequate room to accommodate the sewer main and required landscaping in the future when combined with the property within the public right-of-way. To allow for this future construction, street trees along the east side of Box Butte Avenue shall be delayed until after the sewer is installed and any fencing along the east side of the street shall be no closer to the street than the 25-foot setback line.

- Detention will be in the southeast corner of the lot draining into the existing drainage easement going east. Detention calculations are required at the time of building permit.

- Street trees of a deciduous canopy species with a minimum size of 2-inch caliper are required for the entire length of the 39th Street frontage. Nineteen trees are shown on the site plan along 39th Street. A minimum 10-foot wide grass strip along the street frontage is required with the tree plantings. Irrigation is not required in an M-1 zoning district but is suggested in order to keep the trees alive because if the trees die they have to be replaced.

- There may be a shared access drive in the future for the property owner to the east to share with this lot.

- The Fire Code requires a fire hydrant within 600 feet of all buildings that are equipped with fire sprinkler systems.

- Trash service will be provided by the City.

- A Development Agreement will be prepared addressing the future utility concerns.

Upon review of the plans staff requests the following additional information:

a) A 200-foot radius map indicating all improvements within 200 feet including adjacent zoning districts and land uses.

b) A Landscape Schedule depicting the quantity, species and cultivar, and size of the proposed trees. The trees along Box Butte Avenue shall be shown in a manner that designates them for future installation as opposed to the 39th Street trees which shall be installed with the initial building permit, or a note pertaining to this issue shall be provided on the plans.

c) Proposed trash enclosure locations shall be shown on the plans.

Michael Kennedy presented this matter to the Council. He is handling the architectural process for the new addition at Midland Molding located at Box Butte Avenue and 39th Street. They have added the plant list, what the trees are, and the trees along 39th Street which are part of the project. The floor plan of the facility will have offices in the area which will be to the 39th Street side. The production area and warehouse area will be towards the back of the facility. The dumpster area is in the back of the facility which was one of the items that was requested. They will be bringing the water main all the way to the south end of Box Butte. The sanitary sewer will be a temporary condition where the manhole will feed over to the existing sanitary sewer in 39th Street. When the infrastructure is brought into the project it will be on the east side of Box Butte and then at that point, when the infrastructure is there, the sanitary sewer will be connected to it.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-49** approving the Application submitted by Midland Molding (Applicant) for Wendell Dubbs (Owner) for Planned District Development Plan Approval for the construction of offices/production/warehouse on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District for property described as Lot 1, Northeast Industrial Sixth Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3209 East 39th Street) noting that the street trees on the east side of Box Butte Avenue can be delayed until the sanitary sewer is installed in the future, and any fence erected on the east side of Box Butte Avenue must be at least 25-foot setback from the Box Butte Avenue right-of-way line and the submission of a radius map indicating improvements, a landscape schedule, and the trash enclosure locations be shown on the plans. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2013-49

WHEREAS, Midland Molding (Applicant) for Wendell Dubbs (Owner) have applied for Planned District Development Plan Approval for the construction of offices/production/warehouse on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as Lot 1, Northeast Industrial Sixth Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3209 East 39th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Midland Molding (Applicant) for Wendell Dubbs (Owner) for Planned District Development Plan Approval for the construction of offices/production/warehouse on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as Lot 1, Northeast Industrial Sixth Subdivision, a subdivision being part of the Northeast Quarter of the Northwest Quarter in Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (3209 East 39th Street) be approved noting that the street trees on the east side of Box Butte Avenue can be delayed until the sanitary sewer is installed in the future, and any fence erected on the east side of Box Butte Avenue must be at least 25-foot setback from the Box Butte Avenue right-of-way line, and said approval is subject to the Development Agreement and provision for the following items:

- A 200-foot radius map indicating all improvements within 200 feet including adjacent zoning districts and land uses;
- A Landscape Schedule depicting the quantity, species and cultivar, and size of the proposed trees. The trees along Box Butte Avenue shall be shown in a manner that designates them for future installation as opposed to the 39th Street trees which shall be installed with the initial building permit, or a note pertaining to this issue shall be provided on the plans;
- Proposed trash enclosure locations shall be shown on the plans.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CASH-WA DEVELOPMENT PLANS FOR 615 WEST 4TH STREET

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Cash-Wa Distributing Co., Inc. (Owner) for Planned District Development Plan Approval for the construction of a freezer addition on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District for property described as Lot 1 of Block One, Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (615 West 4th Street) and to consider Resolution No. 2013-50. Planning Commission recommended approval.

The applicant is requesting approval of Development Plans for expansion of the existing Cash-Wa freezer warehouse located west of the main building. The property is zoned M-1/PD. Older parts of the Cash-Wa campus, including the main building, are not in the planned overlay area and are zoned "straight" M-1. Ultimately, there are plans to add more warehousing space to the main building, relocate truck and trailer parking, and revise some access and circulation routes, but those changes are not part of this application and will not come before Planning Commission or City Council in the future since that area of the campus is not included in the PD overlay zoning.

With this project, the applicant is proposing a 69,830 square foot building addition on the north side of the existing free-standing refrigerated warehouse. In essence the proposed addition provides about double the enclosed refrigerated space as the existing building. The addition is split into two equal halves with the southern half that abuts the existing building reserved for freezer space while the northern half will be used as refrigerated space until renovations to the main campus building will allow all frozen inventory to be stored in the freestanding building and the north half will be converted to full time freezer use.

Site development requirements such as stormwater detention and landscaping were designed and implemented when the freezer building was constructed and are already in place. The proposed and existing buildings are well set back from property lines and screening and buffering are accounted for. Some new concrete must be poured to complete the parking and circulation area around the new addition.

The City Code requires sharp cut-off, shielded, downcast light fixtures that do not negatively impact the neighboring properties. Staff was unsure what type and location of lighting is being proposed and therefore, requested the applicant to address the lighting issue with Planning Commission. The applicant reviewed the lighting plan and assured the Commission that the lights would not negatively impact any of the surrounding neighbors. With other security provisions in place there is no need for a lot of lighting.

The Planning Commission also asked if the neighbors to the north have experienced any drainage problems. Staff responded by informing the Commission that all drainage issues were resolved several years ago.

Chad Henning from Cash-Wa presented this matter to the Council. He stated this would be a full storage addition to our current freezer facility which they completed in November 2009. It will be slightly under 70,000 square feet and it will remain on their existing site. All access into this campus will be going through the guard shaft. They have water drainage from an existing berm and an area for water drainage which will drain to the south toward the street. This addition is basically a carbon copy of their existing building. There are two different features of this facility: (1) approximately 28,400 square feet of freezer and (2) an additional 29,490 square feet of convertible cooler. This has been designed so that in the future, for temperatures ranging from 45° and up will be for produce storage, box meat, cheeses and, if needed, it can be a freezer in the future. The landscape currently exists from when the facility was built in 2009 to meet all the requirements; essentially, they will be adding some concrete.

Council member Lammers asked how long before completion of the building. Mr. Henning responded the sooner the better; anywhere from 9-12 months.

Council member Buschkoetter stated that he understood the first phase was done in 2009, this is the second phase, and will there be another phase after this. Mr. Henning stated there very well could be which is the reason they designed the second part of that cooler to be converted to where they could turn it into a freezer.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-50** approving the Application submitted by Miller & Associates (Applicant) for Cash-Wa Distributing Co., Inc. (Owner) for Planned District Development Plan Approval for the construction of a freezer addition on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District for property described as Lot 1 of Block One, Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (615 West 4th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2013-50

WHEREAS, Miller & Associates (Applicant) for Cash-Wa Distributing Co., Inc. (Owner) have applied for Planned District Development Plan Approval for the construction of a freezer addition on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as Lot 1 of Block One, Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (615 West 4th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates (Applicant) for Cash-Wa Distributing Co., Inc. (Owner) for Planned District Development Plan Approval for the construction of a freezer addition on property zoned District M-1/PD, Limited Industrial/Planned Development Overlay District and described as Lot 1 of Block One, Cash-Wa Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska (615 West 4th Street) be approved.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

VACATE LOT 1, BLOCK ONE, EASTBROOKE THIRTEENTH AND REZONE NORTH OF 56TH STREET ALONG EASTBROOKE DRIVE

Public Hearings 5, 6, 7 and 8 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) to (1) vacate Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7796; and (2) to rezone from District AG, Agricultural District and District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District to District R-1, Urban Residential Single-Family (Low Density) District and District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) and consider Ordinance No. 7797. Planning Commission recommended approval subject to the establishment of a home owners association for the duplex development, acknowledgment of the sanitary sewer connection fees due, and compliance with all conditions of agreements as approved by City Council.

The applicant is requesting approval to vacate portions of an existing subdivision and replat the area into the next phase of residential neighborhood generally known as Eastbrooke. This phase of Eastbrooke includes both single-family homes and duplexes. The developer had originally planned the northwest corner of the intersection of 56th Street and Eastbrooke Drive for R-2 development, then rezoned it to R-3/PD for multi-family apartments, but now would like to go back to an R-2 duplex project at this location. The adjacent area to the north was preliminary platted into single-family R-1 type lots and the preliminary plat is still valid. The duplex development will consist of condominium style ownership with common areas in shared ownership. With this phase of development, the final section of Eastbrooke Drive will be paved from the terminus of the existing paving south to 56th Street replacing the gravel-based emergency access road that exists there now.

Lot 1 of Block One, Eastbrooke Thirteenth containing some 5.11 acres is the subject of the vacation request. The applicant would like to combine this property with some of the surrounding property that was subdivided as approved on the preliminary plat and replat the combined total containing 32 lots on 18.71 acres into a proposed subdivision to be known as Eastbrooke Fourteenth, an addition to the City.

Current zoning of the property is R-3/PD and AG. Rezoning to R-2/PD and R-1 is required. The planned zoning district is required because the developer is proposing private streets (drives) through the duplex development as shown in "Road Lot A." This property is designated for "Mixed Use 1" on the Future Land Use Map of the City of

Kearney Comprehensive Development plan so no amendment is required.

Eastbrooke Fourteenth as proposed consists of:

- 29 R-1 lots.
- A 6.5 acre tract platted as Lots 1, 2, 3 of Block 4 that will contain 13 duplex buildings, 2 single-family homes, all served by a private road system contained in "Road Lot A."
- One additional R-2 lot, approximately 90 x 150 feet.
- Paving of 58th Street eastward to Eastbrooke Drive
- Paving of Eastbrooke Drive from Eastbrooke 9th Addition south to 56th Street.

The Preliminary Plat was previously approved as was a Public Works Plan for overall Eastbrooke subdivisions. 29 single-family lots are proposed north of 58th Street. Lots 1 – 3, Block Four consists of about 6.5 acres that will accommodate the 13 duplex buildings, 2 single-family homes, and Road Outlot A. Lot 4, Block Four is the single R-2 lot south of 58th Street which will likely end up with a single-family home instead of a duplex, although either could be constructed by right in R-2 zoning.

A new combined Public Works Plan has been submitted to demonstrate feasibility of serving the duplex area with infrastructure and utilities. Brungardt Engineering has prepared the PW Plan for the duplex project while Miller & Associates is designing the public improvements to serve the remainder of the development located within the platted street right-of-ways. The two engineering firms are coordinating the utility layout. A Developer Constructed Infrastructure Agreement will be required for the water and sanitary sewer for the duplex development. City sanitary sewer, water, and storm sewer for the duplex development will be located within a dedicated easement shown as Road Lot A. A separate Developer Constructed Infrastructure Agreement will be required for the water, sanitary sewer, paving and storm sewer within the platted street right-of-ways. All City utilities and infrastructure in street right-of-ways will be installed under Developer Constructed Infrastructure provisions for both the R-1 and R-2 areas, although 59th Street paving, water and sanitary sewer will be delayed to a future date. A Subdivision Agreement has been signed and returned to the City.

Avenue T will be extended to Eastbrooke Drive at this time while Avenue U will be extended approximately the length of one additional lot. 59th Street paving will be delayed to a future date and 58th Street will continue east in the future.

Sanitary Sewer Connection fees relative to Sewer Connection District 2001-1 in the amount of \$34.51 per foot for 78 feet of frontage in Lot 1, Block Six totaling \$2,691.78 must be paid before connecting to the sanitary sewer system.

All City services are available to the property and the property is contiguous to the city limits. Therefore, this subdivision shall be annexed as an addition to the City of Kearney.

A site plan of the duplex area is part of the development plan package. The key components of the project include:

- The duplex units are set back 25 feet from Road Lot A and a minimum of 30 feet from rear property lines.

- There are 28 guest parking spaces scattered throughout the duplex development in seven locations.
- The entry into the duplex development from Eastbrooke Drive is approximately 150 feet north of 56th Street.
- Road Lot A contains a 25-foot wide paved private drive and also serves as an easement for City utilities.
- Eastbrooke Drive will feature center medians with landscaping and there will be an Eastbrooke sign and a gazebo where Eastbrooke Drive connects to 56th Street mirroring the same entry statement that was created at Avenue N and Eastbrooke Drive to the northwest.
- The duplex units will have basements and each will have a 2-car attached garage.
- An 8-foot wide hike/bike trail with 2-foot shoulders is required along the 56th Street frontage in conformance with the trails master plan.
- There are no landscaping requirements in an R-2 zoning district even though Landscape Plans are generally required as part of the Development Plan submittal. Staff requests a Landscape Master Plan for the file in the future, perhaps during building permit phase.
- An association of owners shall be established and a Home Owners Association (HOA) agreement shall be filed at the Register of Deeds office.
- All common areas shall be maintained by the developer or the HOA, including landscaping within the duplex development and in public areas, such as the roadway medians.
- Detention will be towards the north-central part of the duplex development.
- Lot 1, Block Two is questionable as to whether the lot provides enough space to build a house once all setbacks are accounted for. This lot and the adjoining lots may need to be reconfigured.

Mitch Humphrey presented this matter to the Council. He stated this project is as important as the last three or four developments because this project will be one that provides a place for the employees to live from the plants and businesses. This project is located in the Eastbrooke development located north of 56th Street and east of Avenue N. Mr. Norwood has been developing single family housing in the area and it has come to be a really nice neighborhood. This phase will more than likely be the next to last platting phase that can be done. They have about 18.71 acres that will open up the much needed Eastbrooke Drive connection to 56th Street as it goes around to Avenue N and it will provide an area right in the corner that will be designated for duplex development with the area to the north being single family. The zoning for this project will be R-1 to the north side and they are going to take the area that is presently zoned R-3/PD and add to it a little bit and zone all of that area to R-2 to accommodate the duplexes.

The area that is presently zoned R-3/PD is a tract of land that was zoned and platted as Eastbrooke Thirteenth. They contemplated constructing some apartment complexes on that site because the way the market is and the need for housing. Also because of the fact the condominiums in Stoneridge development has gone so well they decided they would put some additional duplex development in that area. With the R-2 development along 56th Street it will blend nicely as the balance of the Eastbrooke development is

completed.

The platting for this project will consist of 29 single family lots and it is noted as being four R-2 lots and a road lot. Basically, they are going to open 58th Street which is the southern east-west corridor. They are going to plat 59th Street and open Eastbrooke Drive and extend a little bit of Avenue U up on the north side. Again the total project site acreage is 18.71 acres and they will have about 7.6 acres zoned R-2 with the balance being developed into single family residential housing. They have dealt with the Utility Department and Public Works Department to get the site utilities to work.

The duplex development is an interesting project. The developers looked at their other duplexes that were built, assembled the comments from the people who have lived in or purchased those units and put the best of the comments together. The plans are laid out on site in such a way that there is separation in each building, proper setbacks from the road lot which will be a private street, and proper setbacks along the rear yards of the buildings. The utilities will loop within the project with the water lines and sanitary sewer lines located primarily in corridors located underneath the road lot; therefore, the road lot will essentially be an egress easement with utility easements located within it.

They have submitted a landscape plan, projects of this nature typically do not have landscaping plans but needed to prepare one for the condominium association that will be created later; therefore, they thought it would be appropriate to reflect a landscaping plan. It is generously landscaped with deciduous trees, shade trees, ornamental trees and so forth and then there will be a large amount of coniferous trees consisting of Austrian pines and blue spruce trees to provide the needed privacy. A gazebo will be located in the corner that will set off the site similar to the entrance on the westerly side of the Eastbrooke development on Avenue N. The street corridor that will run along Eastbrooke Drive adjacent to this development will consist of islands that will have landscaping on them very similar to the islands on the west side of the project with cutout for driveway to accommodate this site as well as a cut for a potential development on the east side of Eastbrooke Drive. There will be some sort of signage that will set off this site very similar to the Eastbrooke sign that it currently on the other side.

Council member Nikkila asked if there was a fence to the southern end of that development just off of 56th Street. Mr. Humphrey stated there is no fence. They do have an extension of the pedestrian trail consisting of an 8-foot sidewalk but typically does not place fences there.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Applications submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) to (1) vacate Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska; and (2) to rezone from District AG, Agricultural District and District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District to District R-1, Urban Residential Single-Family (Low Density) District and District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of

Kearney, Buffalo County, Nebraska (to be vacated), and part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) and introduced Ordinance Nos. 7796 and 7797 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance Nos. 7796 and 7797. 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, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance Nos. 7796 and 7797 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, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance Nos. 7796 and 7797 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance Nos. 7796 and 7797 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.

FINAL PLAT FOR EASTBROOKE FOURTEENTH

Public Hearings 5, 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval subject to the establishment of a home owners association for the duplex development, acknowledgment of the sanitary sewer connection fees due, and compliance with all conditions of agreements as approved by City Council.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the Final Plat and Subdivision Agreement for Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) and to consider Resolution No. 2013-51.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-51** approving the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the Final Plat and Subdivision Agreement for Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2013-51

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being Lot 1, Block One, Eastbrooke Thirteenth, now vacated, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the East Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and assuming the South line of the Southwest Quarter said Section 19 as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence N89°54'11"W and on the South line of the Southwest Quarter of said Section 19 a distance of 1036.75 feet to a point on the East line of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, if extended southerly; thence leaving the South line of the Southwest Quarter of said Section 19, N00°05'49"E a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast Corner of Lot 1, Block One, Eastbrooke Twelfth, and the Southwest Corner of Lot 1, Block One, Eastbrooke Thirteenth, now vacated; thence continuing N00°05'49"E on the West line of said Lot 1, Block One, Eastbrooke Thirteenth a distance of 339.57 feet to the Northeast Corner of Lot 4, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; thence on the North line of said Lot 4, Block Six, Eastbrooke Eighth N89°54'11"W a distance of 87.50 feet to the Northwest Corner of said Lot 4, Block Six, Eastbrooke Eighth; thence on the Easterly line of said Eastbrooke Eighth N03°21'29"W a distance of 541.09 feet to a point on the North line of 59th Street, a street in the City of Kearney, Buffalo County, Nebraska, said point also being on the South line of Lot 5, Block Four, Eastbrooke Eighth, if extended easterly; thence on the North line of 59th Street and on the South line of Lot 5, Block Four, Eastbrooke Eighth, if extended easterly, S87°44'46"W a distance of 8.65 feet to the Southeast Corner of said Lot 5, Block Four, Eastbrooke Eighth; thence on the East line of Block Four, Eastbrooke Eighth N01°07'46"W a distance of 135.02 feet to the Southwest Corner of Lot 3, Block Three, Eastbrooke Ninth, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the East line of said Block Four, Eastbrooke Eighth and on the Southerly line of said Eastbrooke Ninth N87°44'46"E a distance of 215.48 feet; thence on the Southeasterly line of said Eastbrooke Ninth N38°56'58"E a distance of 253.70 feet; thence on the Easterly line of said Eastbrooke Ninth N03°26'41"E a distance of 144.79 feet to the Southwest Corner of Lot 1, Block Four, Eastbrooke Tenth, an addition to the City of Kearney, Buffalo County, Nebraska;

thence leaving the Easterly line of said Eastbrooke Ninth and on the Southerly line of said Eastbrooke Tenth, S78°56'10"E a distance of 175.35 feet to the Southwest Corner of Lot 1, Block Five of said Eastbrooke Tenth; thence on the Southwesterly line of said Lot 1, Block Five of said Eastbrooke Tenth S61°09'55"E a distance of 135.35 feet to the Southeast Corner of said Lot 1, Block Five, Eastbrooke Tenth; thence N38°56'58"E and on the Southeasterly line of said Lot 1, Block Five of Eastbrooke Tenth a distance of 90.74 feet to the Northeast Corner of said Lot 1, Block Five, Eastbrooke Tenth, said point also being on the Southwesterly line of Avenue "U", a street in the City of Kearney, Buffalo County, Nebraska; thence on the Northeasterly line of said Lot 1, Block Five, Eastbrooke Tenth, if extended, and on the Southwesterly line of Avenue "U" S51°03'02"E a distance of 20.00 feet to a point on the Southeasterly line of Lot 1, Block One of said Eastbrooke Tenth, if extended; thence on the Southeasterly line of said Lot 1, Block One, Eastbrooke Tenth, if extended, N38°56'58"E a distance of 198.17 feet to the Northeasterly Corner of said Lot 1, Block One, Eastbrooke Tenth; thence S51°00'49"E a distance of 78.00 feet; thence S38°56'58"W a distance of 198.12 feet; thence N51°03'02"W a distance of 8.00 feet; thence S38°56'58"W a distance of 135.00 feet; thence S51°03'02"E a distance of 80.00 feet; thence S30°55'19"E a distance of 137.53 feet; thence S00°08'19"W a distance of 233.81 feet; thence N89°54'11"W a distance of 155.08 feet to a point on a non-tangent 383.00 foot radius curve, concave Westerly; thence Southerly on said non-tangent curve forming a central angle of 14°41'23" an arc distance of 98.20 feet to a point of tangency, said point bears S07°14'53"E a chord distance of 97.93 feet from the previously described point; thence S00°05'49"W a distance of 32.88 feet; thence S89°54'11"E a distance of 7.00 feet; thence S00°05'49"W a distance of 195.00 feet to a point on the North line of Lot 1, Block One of said Eastbrooke Thirteenth, if extended Easterly; thence on the North line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended Easterly, N89°54'11"W a distance of 85.00 feet to the Northeast Corner of said Lot 1, Block One, Eastbrooke Thirteenth and on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the West line of said "Eastbrooke Drive", S00°05'49"W a distance of 424.04 feet; thence continuing on the West line of said "Eastbrooke Drive", S45°05'49"W a distance of 35.36 feet to a point on the North line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line of said 56th Street, N89°54'11"W and parallel with the South Line of the Southwest Quarter of said Section 19 a distance of 471.79 feet to the place of beginning, containing 18.71 acres, more or less, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

BE IT FURTHER RESOLVED that the Subdivision Agreement, marked as Exhibit "A" attached hereto and made a part hereof by reference, be and is hereby approved and that the President of the Council be and is hereby authorized and directed to execute said agreement on behalf of the City of Kearney, Nebraska. Said Subdivision Agreement shall be filed with the final plat with the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the final plat on behalf of the City of Kearney,

Nebraska.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF EASTBROOKE FOURTEENTH

Public Hearings 5, 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval subject to the establishment of a home owners association for the duplex development, acknowledgment of the sanitary sewer connection fees due, and compliance with all conditions of agreements as approved by City Council.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the annexation of Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) and consider Resolution No. 2013-52.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-52** approving the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the annexation of Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska for property described as part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2013-52

WHEREAS, an Application has been submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for the inclusion of Eastbrooke Fourteenth, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being Lot 1, Block One, Eastbrooke Thirteenth, now vacated, an addition to the City of Kearney, Buffalo County, Nebraska, and part of the East Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and assuming the South line of the Southwest Quarter said Section 19 as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence N89°54'11"W and on the South line of the Southwest Quarter of said Section 19 a distance of 1036.75 feet to a point on the East line of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo

County, Nebraska, if extended southerly; thence leaving the South line of the Southwest Quarter of said Section 19, N00°05'49"E a distance of 50.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southeast Corner of Lot 1, Block One, Eastbrooke Twelfth, and the Southwest Corner of Lot 1, Block One, Eastbrooke Thirteenth, now vacated; thence continuing N00°05'49"E on the West line of said Lot 1, Block One, Eastbrooke Thirteenth a distance of 339.57 feet to the Northeast Corner of Lot 4, Block Six, Eastbrooke Eighth, an addition to the City of Kearney, Buffalo County, Nebraska; thence on the North line of said Lot 4, Block Six, Eastbrooke Eighth N89°54'11"W a distance of 87.50 feet to the Northwest Corner of said Lot 4, Block Six, Eastbrooke Eighth; thence on the Easterly line of said Eastbrooke Eighth N03°21'29"W a distance of 541.09 feet to a point on the North line of 59th Street, a street in the City of Kearney, Buffalo County, Nebraska, said point also being on the South line of Lot 5, Block Four, Eastbrooke Eighth, if extended easterly; thence on the North line of 59th Street and on the South line of Lot 5, Block Four, Eastbrooke Eighth, if extended easterly, S87°44'46"W a distance of 8.65 feet to the Southeast Corner of said Lot 5, Block Four, Eastbrooke Eighth; thence on the East line of Block Four, Eastbrooke Eighth N01°07'46"W a distance of 135.02 feet to the Southwest Corner of Lot 3, Block Three, Eastbrooke Ninth, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the East line of said Block Four, Eastbrooke Eighth and on the Southerly line of said Eastbrooke Ninth N87°44'46"E a distance of 215.48 feet; thence on the Southeasterly line of said Eastbrooke Ninth N38°56'58"E a distance of 253.70 feet; thence on the Easterly line of said Eastbrooke Ninth N03°26'41"E a distance of 144.79 feet to the Southwest Corner of Lot 1, Block Four, Eastbrooke Tenth, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the Easterly line of said Eastbrooke Ninth and on the Southerly line of said Eastbrooke Tenth, S78°56'10"E a distance of 175.35 feet to the Southwest Corner of Lot 1, Block Five of said Eastbrooke Tenth; thence on the Southwesterly line of said Lot 1, Block Five of said Eastbrooke Tenth S61°09'55"E a distance of 135.35 feet to the Southeast Corner of said Lot 1, Block Five, Eastbrooke Tenth; thence N38°56'58"E and on the Southeasterly line of said Lot 1, Block Five of Eastbrooke Tenth a distance of 90.74 feet to the Northeast Corner of said Lot 1, Block Five, Eastbrooke Tenth, said point also being on the Southwesterly line of Avenue "U", a street in the City of Kearney, Buffalo County, Nebraska; thence on the Northeasterly line of said Lot 1, Block Five, Eastbrooke Tenth, if extended, and on the Southwesterly line of Avenue "U" S51°03'02"E a distance of 20.00 feet to a point on the Southeasterly line of Lot 1, Block One of said Eastbrooke Tenth, if extended; thence on the Southeasterly line of said Lot 1, Block One, Eastbrooke Tenth, if extended, N38°56'58"E a distance of 198.17 feet to the Northeasterly Corner of said Lot 1, Block One, Eastbrooke Tenth; thence S51°00'49"E a distance of 78.00 feet; thence S38°56'58"W a distance of 198.12 feet; thence N51°03'02"W a distance of 8.00 feet; thence S38°56'58"W a distance of 135.00 feet; thence S51°03'02"E a distance of 80.00 feet; thence S30°55'19"E a distance of 137.53 feet; thence S00°08'19"W a distance of 233.81 feet; thence N89°54'11"W a distance of 155.08 feet to a point on a non-tangent 383.00 foot radius curve, concave Westerly; thence Southerly on said non-tangent curve forming a central angle of 14°41'23" an arc distance of 98.20 feet to a point of tangency, said point bears S07°14'53"E a chord distance of 97.93 feet from the previously described point; thence S00°05'49"W a distance of 32.88 feet; thence S89°54'11"E a distance of 7.00 feet; thence S00°05'49"W a distance of 195.00 feet to a point on the North line of Lot 1, Block One of said Eastbrooke Thirteenth, if extended Easterly; thence on the North line of said Lot 1,

Block One, Eastbrooke Thirteenth, if extended Easterly, N89°54'11"W a distance of 85.00 feet to the Northeast Corner of said Lot 1, Block One, Eastbrooke Thirteenth and on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the West line of said "Eastbrooke Drive", S00°05'49"W a distance of 424.04 feet; thence continuing on the West line of said "Eastbrooke Drive", S45°05'49"W a distance of 35.36 feet to a point on the North line of 56th Street, a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line of said 56th Street, N89°54'11"W and parallel with the South Line of the Southwest Quarter of said Section 19 a distance of 471.79 feet to the place of beginning, containing 18.71 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on March 15, 2013 on the inclusion of Eastbrooke Fourteenth within the corporate limits and recommended the Kearney City Council approve said application; and

WHEREAS, said application to include the land within the corporate limits was duly signed by the owners of the land affected with the express intent of platting the land as Eastbrooke Fourteenth, an addition to the City of Kearney, Buffalo County, Nebraska; and

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on April 9, 2013 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the land to be platted as Eastbrooke Fourteenth shall be included within the corporate limits of the City of Kearney, Buffalo County, Nebraska, that the inhabitants of such addition shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules and regulations of the City of Kearney.

BE IT FURTHER RESOLVED that the inclusion of Eastbrooke Fourteenth within the corporate limits of the City of Kearney is subject to the final plat being filed with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

EASTBROOKE FOURTEENTH DEVELOPMENT PLANS

Public Hearings 5, 6, 7 and 8 were discussed together but voted on separately. Planning Commission recommended approval subject to the establishment of a home owners association for the duplex development, acknowledgment of the sanitary sewer connection fees due, and compliance with all conditions of agreements as approved by City Council.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for Planned District Development Plan Approval for the construction of a condominium development on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District for property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and part of the

Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) and to consider Resolution No. 2013-53.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-53** approving the Application submitted by Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for Planned District Development Plan Approval for the construction of a condominium development on property to be zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District for property described as Lot 1 of Block One, Eastbrooke Thirteenth, an addition to the City of Kearney, Buffalo County, Nebraska (to be vacated), and part of the Southeast Quarter of the Southwest Quarter of Section 19, and part of the East Half of the Southwest Quarter of Section 19, all located in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) subject to (1) the establishment of a home owners association for the duplex development; (2) acknowledgment of the sanitary sewer connection fees due, and (3) compliance with all conditions of any future agreements as approved by City Council. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2013-53

WHEREAS, Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) have applied for Planned District Development Plan Approval for the construction of a condominium development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being Lot 1, Block One, Eastbrooke Thirteenth (now vacated), an addition to the City of Kearney, Buffalo County, Nebraska, and part of the East Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M, Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and assuming the South line of the Southwest Quarter of Section 19 as bearing N89°54'11"W and all bearings contained herein are relative thereto; thence N89°54'11"W and on the South line of the Southwest Quarter of Section 19 a distance of 1036.75 feet to a point on the East line of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, if extended southerly; thence leaving the South line of the Southwest Quarter of said Section 19, N00°05'49"E a distance of 50.0 feet to the Southeast Corner of Lot 1, Block One, of said Eastbrooke Twelfth and the Southwest Corner of Lot 1, Block One, Eastbrooke Thirteenth; thence continuing N00°05'49"E on the West line of said Lot 1, Block One, Eastbrooke Thirteenth a distance of 449.04 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of Lot 1, Block One, Eastbrooke Thirteenth; thence continuing N00°05'49"E on the West line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended Northerly, a distance of 82.65 feet to a point on a non-tangent 555.00 foot radius curve, concave southeasterly; thence leaving the West line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended northerly, on said non-tangent curve forming a central angle of 25°51'12" an arc distance of 243.00 feet to a point of tangency, said point bears N77°33'13"E a chord distance of 241.07 feet from

the previously described point; thence $S89^{\circ}54'11''E$ a distance of 266.48 feet; thence $S00^{\circ}05'49''W$ a distance of 135.00 feet to a point on the North line of Lot 1, Block One of said Eastbrooke Thirteenth, if extended Easterly; thence on the North line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended Easterly, $N89^{\circ}54'11''W$ a distance of 5.00 feet to the Northeast Corner of said Lot 1, Block One, Eastbrooke Thirteenth and on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line said Lot 1, Block One, Eastbrooke Thirteenth, $N89^{\circ}54'11''W$ a distance of 496.79 feet to the place of beginning, containing a total of 6.58 acres, more or less, Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Buffalo Surveying Corp. (Applicant) for Camron, Inc. (Owner) for Planned District Development Plan Approval for the construction of a condominium development on property zoned District R-2/PD, Urban Residential Mixed-Density/Planned Development Overlay District and described as a tract of land being Lot 1, Block One, Eastbrooke Thirteenth (now vacated), an addition to the City of Kearney, Buffalo County, Nebraska, and part of the East Half of the Southwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M, Buffalo County, Nebraska, all more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 19, and assuming the South line of the Southwest Quarter of Section 19 as bearing $N89^{\circ}54'11''W$ and all bearings contained herein are relative thereto; thence $N89^{\circ}54'11''W$ and on the South line of the Southwest Quarter of Section 19 a distance of 1036.75 feet to a point on the East line of Lot 1, Block One, Eastbrooke Twelfth, an addition to the City of Kearney, Buffalo County, Nebraska, if extended southerly; thence leaving the South line of the Southwest Quarter of said Section 19, $N00^{\circ}05'49''E$ a distance of 50.0 feet to the Southeast Corner of Lot 1, Block One, of said Eastbrooke Twelfth and the Southwest Corner of Lot 1, Block One, Eastbrooke Thirteenth; thence continuing $N00^{\circ}05'49''E$ on the West line of said Lot 1, Block One, Eastbrooke Thirteenth a distance of 449.04 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of Lot 1, Block One, Eastbrooke Thirteenth; thence continuing $N00^{\circ}05'49''E$ on the West line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended Northerly, a distance of 82.65 feet to a point on a non-tangent 555.00 foot radius curve, concave southeasterly; thence leaving the West line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended northerly, on said non-tangent curve forming a central angle of $25^{\circ}51'12''$ an arc distance of 243.00 feet to a point of tangency, said point bears $N77^{\circ}33'13''E$ a chord distance of 241.07 feet from the previously described point; thence $S89^{\circ}54'11''E$ a distance of 266.48 feet; thence $S00^{\circ}05'49''W$ a distance of 135.00 feet to a point on the North line of Lot 1, Block One of said Eastbrooke Thirteenth, if extended Easterly; thence on the North line of said Lot 1, Block One, Eastbrooke Thirteenth, if extended Easterly, $N89^{\circ}54'11''W$ a distance of 5.00 feet to the Northeast Corner of said Lot 1, Block One, Eastbrooke Thirteenth and on the West line of "Eastbrooke Drive", a street in the City of Kearney, Buffalo County, Nebraska; thence on the North line said Lot 1, Block One, Eastbrooke Thirteenth, $N89^{\circ}54'11''W$ a distance of 496.79 feet to the place of beginning, containing a total of 6.58 acres, more or less, Buffalo County, Nebraska (north of 56th Street along Eastbrooke Drive) be approved subject to (1) the establishment of a home owners association for the duplex development; (2) acknowledgment of the sanitary sewer connection fees due, and (3) compliance with all conditions of any future agreements as approved by City Council.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF 7 PROPERTIES ALONG 17TH AVENUE AND 56TH STREET

Mayor Clouse opened the public hearing on the proposed annexation of the following tracts of land to be included within the corporate limits: 5110 17th Avenue, 5120 17th Avenue, 5308 17th Avenue, 5410 17th Avenue, 5514 17th Avenue, northwest corner of 56th Street and 17th Avenue, and 2407 West 56th Street and to consider Ordinance No. 7798. Planning Commission recommended approval.

City Attorney Michael Tye presented this matter to the Council. The City continues to investigate areas of the community that for one reason or another have not been annexed but are eligible for annexation. Most commonly, property is annexed into the corporate limits of the City through the subdivision process as the Final Plat for subdivided property contiguous to the corporate limits is filed at the Register of Deeds Office as "an addition to the City of Kearney, Buffalo County, Nebraska." The City is then obligated to serve the property with municipal services within twelve months if the services are requested.

The second way to annex property is by agreement. The Greene's, the Stone's, and Vetter Holding, Inc. along the western side of 17th Avenue just on the edge of the Kearney city limits signed Annexation Agreements. The remaining parcels agreed to annexation as a part of their Subdivision/Development Agreements with the City.

In accordance with Section 19-929 of the Nebraska Statutes, "the municipal governing body shall not take final action on matters relating to...the annexation of territory...until it has received the recommendation of the planning commission if such commission in fact has been created and is existent." The Planning Commission considered the proposed annexation at a public hearing held on March 15, 2013 and was approved. There were no members of the public that testified at said hearing.

In accordance with Section 16-117 of the Nebraska Revised Statutes, the City Council, on March 26, 2013, passed a resolution stating its intent to annex, approved an annexation plan, and set the public hearing for comment on the proposed annexation before the City Council for April 9. The Council will receive comments from the public with regard to the annexation. Most generally, the City Council always suspends the rules requiring the reading on three different days and moves for final passage. However, in accordance with Section 16-404 of the Nebraska Revised Statutes, "...such requirement shall not be suspended for any ordinance for the annexation of territory." Therefore, we will have the first reading of the ordinance by title on April 9, the second reading on April 23 and the third and final reading on May 14.

There was no one present in opposition to this hearing.

Moved by Nikkila and seconded by Lear to close the public hearing on the proposed annexation of the following tracts of land to be included within the corporate limits: 5110 17th Avenue, 5120 17th Avenue, 5308 17th Avenue, 5410 17th Avenue, 5514 17th Avenue, northwest corner of 56th Street and 17th Avenue, and 2407 West 56th Street and introduced Ordinance No. 7798 and moved Ordinance No. 7798 be placed on first reading by title and that the City Clerk be permitted to read Ordinance No. 7798 on its first reading. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. City Clerk read Ordinance No. 7798 by title on first reading.

ACQUISITION OF PROPERTY FOR KEARNEY EAST BYPASS FROM 11TH STREET TO 56TH STREET

Mayor Clouse opened the public hearing on the proposed acquisition of the following in connection with the Kearney East Bypass from 11th Street to 56th Street: (1) Permanent Easement for berm purposes located in the South Half of Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (2) Right-of-Way for a tract of land located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (3) Temporary Easement for drive construction purposes located in the Northwest Quarter and in the North Half of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (4) Temporary Easement for culvert construction purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (5) Temporary Easement for grading purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (6) Temporary Easement for grading purposes located in the North Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (7) Temporary Easement land for culvert construction purposes located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and (8) Control of Access located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska and consider Resolution No. 2013-54.

Director of Public Works Rod Wiederspan presented this matter to the Council. On February 22, 2011 the State Department of Road acquired from the City of Kearney 5.79 acres for permanent right-of-way, 181.98 acres for conservation easement, 0.03 acres for a temporary easement and miscellaneous improvements to land owned by the City of Kearney in the Southwest Quarter of Section 8, the South Half of Section 5 and the Southwest Quarter of Section 4, all in Township 8 North, Range 15 West of the 6th P.M. Buffalo County. These acquisitions were necessary to construct Phase I of the Cherry Avenue Interchange and Bypass.

As construction of Phase I continue, we are moving forward with the Phase II portion of the Bypass from 11th Street to 56th Street. In order to move forward with the bidding and construction process, the Nebraska Department of Roads is in the process of acquiring the additional right-of-way and easements necessary to construct Phase II.

Two tracts need to be acquired from the City of Kearney:

- Tract 3 consists of a permanent easement containing .5 acres located in the South Half of Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. The just compensation offer for Tract 3 is \$2,250.00.
- Tract 21 consists of .12 acres for a permanent right-of-way, 1.01 acres for a temporary easement and control access located in the South Half of Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. The just compensation offer for Tract 21 is \$7,510.00.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-54** approving the proposed acquisition of the following in connection with the Kearney East Bypass from 11th Street to 56th Street: (1) Permanent Easement for berm purposes located in the South Half of Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (2) Right-of-Way for a tract of land located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (3) Temporary Easement for drive construction purposes located in the Northwest Quarter and in the North Half of the Southwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (4) Temporary Easement for culvert construction purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (5) Temporary Easement for grading purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (6) Temporary Easement for grading purposes located in the North Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; (7) Temporary Easement land for culvert construction purposes located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska; and (8) Control of Access located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

RESOLUTION NO. 2013-54

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition in connection with the Kearney East Bypass from 11th Street to 56th Street and voted in favor to proceed with the acquisition; and

WHEREAS, the Nebraska Department of Roads has granted to the City of Kearney, Nebraska a Warranty Deed in connection with the Kearney East Bypass from 11th Street to 56th Street for Tract 3 – a Permanent Easement to a tract of land for berm purposes located in the South Half of Section 5, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: Referring to the northeast corner of the Southeast Quarter of said Section 5; thence southerly a distance of

1205.88 feet along the east line of said Section to a point on the north line of the property owned by the Grantor(s); thence westerly deflecting 099 degrees, 11 minutes, 14 seconds right, a distance of 487.57 feet along said line to a point on the westerly new Highway 10 right-of-way line; thence southerly deflecting 098 degrees, 59 minutes, 21 seconds left, a distance of 11.98 feet along said line to the point of beginning; thence southerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 72.18 feet along said line; thence westerly deflecting 098 degrees, 52 minutes, 36 seconds right, a distance of 330.96 feet; thence northerly deflecting 090 degrees, 26 minutes, 01 seconds right, a distance of 61.81 feet; thence easterly deflecting 087 degrees, 51 minutes, 44 seconds right, a distance of 319.50 feet to a point on the westerly new Highway 10 right-of-way line to the point of beginning containing 0.50 acres, more or less, Buffalo County, Nebraska.

WHEREAS, the Nebraska Department of Roads has granted to the City of Kearney, Nebraska a Warranty Deed in connection with the Kearney East Bypass from 11th Street to 56th Street for Tract 21 as follows:

- Right-of-Way – a tract of land located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: referring to the southwest corner of the South Half of the Southwest quarter; thence easterly a distance of 33.00 feet along the west line of said Quarter Section to a point on the easterly existing Cherry Avenue right-of-way line; thence northerly deflecting 089 degrees, 52 minutes, 12 seconds left, a distance of 1011.76 feet along said right-of-way line to the point of beginning; thence northerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 268.00 feet along said right-of-way line; thence easterly deflecting 089 degrees, 56 minutes, 02 seconds right, a distance of 20.88 feet; thence southerly deflecting 090 degrees, 26 minutes, 19 seconds right, a distance of 268.01 feet; thence westerly deflecting 089 degrees, 33 minutes, 41 seconds right, a distance of 19.14 feet to a point on the easterly existing Cherry Avenue right of way line to the point of beginning containing 0.12 acres, more or less, Buffalo County, Nebraska.

- There will be no ingress or egress over the following described controlled access line located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska: referring to the southwest corner of the South Half of the Southwest Quarter; thence easterly a distance of 210.55 feet along the south line of said Quarter Section; thence northerly deflecting 089 degrees, 27 minutes, 24 seconds left, a distance of 90.00 feet along said right-of-way line; thence westerly deflecting 090 degrees, 32 minutes, 36 seconds left, a distance of 31.37 feet to the point of beginning; thence westerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 146.84 feet to a point on the easterly existing Cherry Avenue right-of-way line; thence northerly deflecting 090 degrees, 07 minutes, 48 seconds right, a distance of 921.76 feet along said right-of-way line; thence easterly deflecting 089 degrees, 56 minutes, 02 seconds right, a distance of 19.14 feet; thence northerly deflecting 089 degrees, 33 minutes, 41 seconds left, a distance of 268.01 feet; thence westerly deflecting 090 degrees, 26 minutes, 19 seconds left, a distance of 20.88 feet to a point on the easterly existing Cherry Avenue right-of-way line; thence northerly deflecting 090 degrees, 03 minutes, 58 seconds right, a distance of 41.59 feet along said right-of-way line to a point on the north line of the property owned by the Grantor(s) to the point of termination.

- Temporary Easement – a tract of land for drive construction purposes located in the Northwest Quarter and in the North Half of the Southwest Quarter of Section 28,

Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: referring to the West Quarter corner of said Section 28; thence easterly a distance of 40.00 feet along the south line of said Northwest Quarter to a point on the easterly existing Cherry Avenue right-of-way line to the point of beginning; thence southerly deflecting 090 degrees, 07 minutes, 40 seconds right, a distance of 56.32 feet along said right-of-way line; thence northeasterly deflecting 137 degrees, 04 minutes, 04 seconds left, a distance of 52.48 feet; thence northerly deflecting 034 degrees, 15 minutes, 25 seconds left, a distance of 39.00 feet; thence northwesterly deflecting 073 degrees, 43 minutes, 19 seconds left, a distance of 53.64 feet to a point on the easterly existing Cherry Avenue right-of-way line; thence southerly deflecting 114 degrees, 57 minutes, 11 seconds left, a distance of 43.30 feet along said right-of-way line to a point on the south line of said Northwest Quarter; thence easterly deflecting 090 degrees, 07 minutes, 04 seconds left, a distance of 7.00 feet along said line to the point of beginning containing 0.07 acres, more or less, Buffalo County, Nebraska.

- Temporary Easement – a tract of land for culvert construction purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: referring to the northwest corner of the Northwest Quarter; thence easterly a distance of 33.00 feet along the north line of said Quarter Section to a point on the easterly existing Cherry Avenue right-of-way line; thence southerly deflecting 090 degrees, 07 minutes, 27 seconds right, a distance of 1233.96 feet along said right-of-way line to the point of beginning; thence southerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 211.78 feet along said right-of-way line; thence easterly deflecting 090 degrees, 23 minutes, 06 seconds left, a distance of 39.34 feet; thence northerly deflecting 089 degrees, 22 minutes, 04 seconds left, a distance of 204.00 feet; thence westerly deflecting 079 degrees, 39 minutes, 37 seconds left, a distance of 40.92 feet to a point on the easterly existing Cherry Avenue right-of-way line to the point of beginning containing 0.19 acres, more or less, Buffalo County, Nebraska.

- Temporary Easement – a tract of land for grading purposes located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: referring to the northwest corner of the Northwest Quarter; thence easterly a distance of 33.00 feet along the north line of said Quarter Section to a point on the easterly existing Cherry Avenue right-of-way line; thence southerly deflecting 090 degrees, 07 minutes, 27 seconds right, a distance of 90.00 feet along said right-of-way line to the point of beginning; thence southerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 664.73 feet along said right-of-way line; thence northeasterly deflecting 122 degrees, 31 minutes, 58 seconds left, a distance of 19.51 feet; thence northerly deflecting 057 degrees, 32 minutes, 45 seconds left, a distance of 654.27 feet; thence westerly deflecting 090 degrees, 02 minutes, 45 seconds left, a distance of 15.55 feet to a point on the easterly existing Cherry Avenue right-of-way line to the point of beginning containing 0.24 acres, more or less, Buffalo County, Nebraska.

- Temporary Easement – a tract of land for grading purposes located in the North Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: referring to the southwest corner of the Southwest Quarter; thence easterly a distance of 33.00 feet along the south line of said Quarter Section to a point on the easterly existing Cherry Avenue right-of-way line; thence northerly deflecting 089 degrees, 52 minutes, 12 seconds left, a distance of 90.00 feet along said right-of-way line to the point of beginning; thence

northerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 921.76 feet along said right-of-way line; thence easterly deflecting 089 degrees, 56 minutes, 02 seconds right, a distance of 19.14 feet; thence southerly deflecting 090 degrees, 18 minutes, 29 seconds right, a distance of 921.76 feet; thence westerly deflecting 089 degrees, 37 minutes, 41 seconds right, a distance of 15.25 feet to a point on the easterly existing Cherry Avenue right-of-way line to the point of beginning containing 0.36 acres, more or less, Buffalo County, Nebraska.

- Temporary Easement – a tract of land for culvert construction purposes located in the South Half of the Southwest Quarter of Section 21, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, described as follows: beginning at the southwest corner of north half of the Southwest Quarter; thence easterly a distance of 33.00 feet along the south line of said Quarter Section to a point on the easterly existing Cherry Avenue right-of-way line; thence northerly deflecting 089 degrees, 52 minutes, 12 seconds left, a distance of 1011.76 feet along said right-of-way line; thence easterly deflecting 089 degrees, 56 minutes, 02 seconds right, a distance of 19.14 feet to the point of beginning; thence northeasterly deflecting 056 degrees, 46 minutes, 21 seconds left, a distance of 99.22 feet; thence northerly deflecting 033 degrees, 13 minutes, 39 seconds left, a distance of 73.00 feet; thence westerly deflecting 067 degrees, 04 minutes, 04 seconds left, a distance of 57.55 feet; thence southerly deflecting 112 degrees, 29 minutes, 36 seconds left, a distance of 178.43 feet to the point of beginning containing 0.15 acres, more or less, Buffalo County, Nebraska.

- Control of Access – there will be no ingress or egress over the following described controlled access line located in the Northwest Quarter of Section 28, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska: referring to the northwest corner of the Northwest Quarter; thence easterly a distance of 210.55 feet along the north line of said Quarter Section; thence southerly deflecting 090 degrees, 32 minutes, 36 seconds right, a distance of 90.00 feet; thence westerly deflecting 089 degrees, 27 minutes, 24 seconds right, a distance of 30.02 feet to the point of beginning; thence westerly deflecting 000 degrees, 00 minutes, 00 seconds, a distance of 146.88 feet to a point on the easterly existing Cherry Avenue right-of-way line; thence southerly deflecting 089 degrees, 52 minutes, 33 seconds left, a distance of 1355.74 feet along said right of way line to the point of termination, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Warranty Deeds granted by Nebraska Department of Roads to the City of Kearney be and are hereby approved and accepted.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Mayor Clouse stated the Consent Agenda was amended on Monday, April 8, 2013 by adding Subsection 12.

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter,

Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held March 26, 2013.
2. Approve the following Claims:

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

Air Cleaning Technologies \$177.25 smcs; Alamar Uniforms \$4,330.65 smcs; Ally B Designs \$75.00 co; Amax Contracting \$73.33 co; Amer Fence Co \$66.48 smcs; Amer First Aid \$403.85 smcs; Anaconda Sports \$1,377.60 smcs; Anderson Bros \$125.13 smcs; Anderson Ford \$71,344.00 co; Antelope \$45.00 smcs; Arctic Refrigeration \$231.00 smcs; Ashbrook Simon-Hartley \$1,911.83 smcs; Ask Supply \$547.64 smcs; Audio Go \$81.67 smcs; Aurora Coop \$81.60 smcs; Baird Holm \$97.50 smcs; Baker & Taylor \$4,058.92 smcs; Bamford \$986.51 smcs; Blackstone Audiobooks \$408.50 smcs; Bluecross Blueshield \$106,984.37 smcs; Bosselman \$1,284.81 smcs; Buck,S \$15.00 smcs; Buffalo Co Sheriff \$135,381.50 smcs; Buffalo Co Treasurer \$30.00 smcs,co; Builders \$400.88 smcs,co; Candy,T \$33.95 smcs; Cardenas \$100.00 smcs; Cash-Wa \$1,734.51 smcs; Central NE Bobcat \$4,623.00 co; Central States Wire \$275.00 smcs; Charter \$244.98 smcs; Chief Supply \$123.33 smcs; City Glass \$59.95 smcs; City of Ky \$434,779.98 ps; Community Action Partner \$267.00 smcs; Construction Rental \$19.98 co; Cornhusker Marriott \$595.00 smcs; Cordova,T \$355.00 smcs; Crossroads \$92.40 smcs; D&M Security \$64.50 smcs; Deeter Foundry \$1,246.00 smcs; Dell \$3,330.00 smcs; Demco \$4,589.88 smcs; Dutton-Lainson \$330.96 smcs; Dye,A \$38.44 smcs; DY-NA Tool \$1,000.00 smcs; Eakes \$28.83 smcs; Egan Supply \$1,458.72 smcs; EMC Ins \$5,485.00 smcs; Eustis Body Shop \$940.00 smcs; Farmers Union Coop \$562.50 smcs; Fireguard \$5,237.26 smcs; Footjoy \$1,330.67 smcs; Frontier \$120.91 smcs; Gale \$1,042.15 smcs; Gear for Sports \$468.37 smcs; Grainger \$1,335.60 co; Graphic Screen Printers \$52.00 smcs; Gray,C \$412.50 smcs; Griffith,B \$11.35 smcs; H&H Distributing \$518.10 smcs; Happ,L \$31.00 smcs; HOA Solutions \$20,000.00 co; Hoffart,J \$40.00 smcs; Hometown Leasing \$207.71 smcs; ICMA RC \$3,860.51 ps; IRS \$123,223.46 ps; Jack Lederman \$326.42 smcs; James,D \$80.00 smcs; John Deere Landscapes \$1,183.86 smcs; Johnson,S \$30.00 smcs; JR's Portable Cleaning \$150.00 smcs; Kart-Man \$995.48 smcs; Ky Chamber Comm \$298.00 smcs; Ky Towing \$1,100.00 smcs; Ky United Way \$1,001.06 ps; Ky Visitors Bureau \$29,897.19 smcs; Krull Ins \$1,950.00 smcs; Lattice Communications \$9,925.00 smcs; Lincoln Winwater \$1,335.00 smcs; Mac Tools \$76.49 smcs; Magic Cleaning \$2,740.00 smcs; Malleck,J \$66.85 smcs; Marchand,M \$215.10 smcs; Marlatt Machine Shop \$1,130.29 smcs; Matheson Tri-Gas \$28.79 smcs; McCarty,D \$258.60 smcs; Mellen & Associates \$1,015.32 smcs; Metlife \$11,243.30 ps; Michael Todd \$1,346.05 smcs; Microfilm Imaging \$2,800.00 co; Midlands Contracting \$127,870.63 co; Mid-NE Garage \$150.00 smcs; Miller & Associates \$62,382.19 co; Miller,R \$810.00 smcs; Miracle Recreation \$469.00 co; Moonlight Embroidery \$3,278.00 smcs; Motorola Solutions \$30,498.00 smcs; Munch,M \$617.00 smcs; NDEQ \$12,519.63 smcs; NE Child Support \$2,910.74 ps; NE Dept of Revenue \$52,540.42 ps; NE Forest Service \$10.00 smcs; NE Library Comm \$732.16 smcs; NE Society of CPA's \$125.00 smcs; NEland Distributors \$844.72 smcs; Neopost

\$3,643.92 smcs; New World Systems \$1,772.11 co; Northwestern Energy \$6,197.64 smcs; Officenet \$222.60 co; O'Keefe Elevator \$367.97 smcs; One Call Concepts \$339.20 smcs; Outdoor Recreation \$809.50 co; Paramount Linen \$40.82 smcs; Payflex \$548.25 smcs,ps; Peoplecube \$330.00 smcs; Pep Co \$56.34 smcs; Ping \$354.00 smcs; Pioneer Mfg \$1,266.50 smcs; Pitney Bowes \$52.48 smcs; Platte Valley Comm \$8,511.70 smcs; Platte Valley Labs \$35.00 smcs; Platte Valley Medical \$401.00 ps; Powerplan \$105.00 smcs; Presto-X \$107.12 smcs; Public Engines \$1,188.00 smcs; Random House \$127.50 smcs; RC Booth Enterprises \$53.50 smcs; Recorded Books \$1,587.95 smcs; Reinke's \$268.35 smcs; Russell's Appliance \$699.00 smcs; Sage,P \$17.11 smcs; Salem Press \$685.50 smcs; Sapp Bros \$25,059.40 smcs; Shea,S \$165.00 smcs; Skiles,J \$39.00 smcs; Sonetics \$490.00 smcs; Spencer Turbine \$60.00 co; State of NE/AS Central \$4,010.43 smcs,co; Stocker,K \$10.69 smcs; Sun Life Financial \$62,976.06 smcs; Taser Int'l \$843.96 smcs; Titleist \$5,535.98 smcs; Tomark Sports \$228.09 smcs; Tour Edge Golf \$1,129.22 smcs; Tri-County Glass \$865.20 smcs; Ultra Chem \$498.71 smcs; Union Bank \$58,091.67 ps; Verizon \$57.08 smcs; Vernon \$960.37 smcs; Vessco \$146.30 smcs; Village Uniform \$484.41 smcs; Walker Display \$258.50 smcs; Walters Electric \$196.00 smcs; Wegner,T \$162.00 ps; West Villa Animal Hospital \$42.41 smcs; Wiederspan,R \$166.68 smcs; Winter Equipment \$1,414.01 smcs; WT Cox Information \$9,777.83 smcs; WTG Midwest \$2,772.37 smcs; Yant Equipment \$161.50 smcs; Payroll Ending 3-23-2013 -- \$353,843.59. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt **Resolution No. 2013-55** to declare the intent to issue tax-exempt bonds pertaining to the 2012 Part 6 Improvements; Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue.

RESOLUTION NO. 2013-55

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska (the "City"), as follows:

Section 1. The President and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed project as described below.

Section 2. This resolution shall stand as a statement of the City's official intent under Regulation Section 1.150-2 of the regulations of the United States Treasury and for such purpose the following information is hereby given:

1. A general functional description of the project for which expenditures may be made and reimbursement from bond proceeds provided is as follows:

2012 Part 6 Phase 2 Improvements - Paving (Paving Improvement District 2012-956)	\$800,000.00
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2. The maximum principal amount of debt expected to be issued for such project is \$800,000.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 4. Approve the request submitted by Richard Stacy from Miller & Associates to extend the filing date until April 30, 2013 for filing the final plat and Subdivision Agreement for Franssen Addition.
- 5. Adopt **Resolution No. 2013-56** approving the revised meeting room policy at the Kearney Public Library.

RESOLUTION NO. 2013-56

WHEREAS, on April 10, 2012 the City Council adopted Resolution No. 2012-59 approving the revised "Kearney Public Library Policy Manual"; and

WHEREAS, with the expansion of the Kearney Public Library, it has been determined to amend Article 12 "Meeting Room Policy" of the Kearney Public Library Policy Manual; and

WHEREAS, the Library Advisory Board has determined it necessary to amend the Meeting Room Policy.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the recommendation from the Library Advisory Board, on amending Article 12 "Meeting Room Policy" of the Kearney Public Library Policy Manual, a copy marked as Exhibit "A", attached hereto and made a part hereof, be and is hereby approved.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

- 6. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits inside the KRAVE Underground located in the Kaufmann Center, 2202 Central Avenue on May 4, 2013 from 3:00 p.m. until 7:00 p.m. for a reception.
- 7. Approve the application for a Special Designated License submitted by Kearney Investment Corp., dba Holiday Inn in connection with their Class CK-17964 catering liquor license to dispense beer, wine and distilled spirits in the Training Room located at the Platte Valley State Bank, 2223 1st Avenue on May 23, 2013 from 5:00 p.m. until 8:00 p.m. for Business After Hours event.
- 8. Adopt **Resolution No. 2013-57** accepting the bids received for the 2013 Part 6 Improvements; Cemetery Paving and award the bid to GD Concrete Construction in the amount of \$34,075.00.

RESOLUTION NO. 2013-57

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 2, 2013 at 2:00 p.m. for the 2013 Part 6 Improvements; Cemetery Paving; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$37,860.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by GD Concrete Construction, Inc. of Overton, Nebraska in the sum of \$34,075.00 be accepted as the lowest responsible bid for 2013 Part 6 Improvements; Cemetery Paving.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that GD Concrete Construction, Inc. be and is the lowest responsible bidder for the 2013 Part 6 Improvements; Cemetery Paving to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of GD Concrete Construction, Inc. of Overton, Nebraska in the sum of \$34,075.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$37,860.00 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 9TH DAY OF APRIL, 2013.

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 McFarland Family Farms LLC, dba Mac's Creek Vineyards & Winery in connection with their Class YK-056229 catering liquor license to dispense wine at Earl May Nursery and Garden Center located at 320 West 4th Street on April 25, 2013 from 3:00 p.m. until 7:00 p.m. for a sampling/tasting.

10. Approve the recommendation from the Downtown Improvement Board for the temporary closing of 23rd Street from 1st Avenue to Avenue A, including the intersection at Central Avenue and 23rd Street, on May 23, 30, June 6, 13, 20, 27, July 2, 11, 18, 25, August 1, 8, 15, 22, 29, September 5, 12, 19, 26, October 3, 10 from 3:00 p.m. until 10:00 p.m. to conduct MarketPlace.

11. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N on May 4, 2013 from 3:00 p.m. until 12:00 a.m. for a reception.

12. Adopt **Resolution No. 2013-59** approving the application to the Nebraska Crime Commission Victim Assistance, Victims of Crime Act and State Victim Assistance Funds

grant in the amount of \$47,798.00.

RESOLUTION NO. 2013-59

WHEREAS, the City of Kearney is eligible to apply for a 2013-2014 Victim Assistance, Victims of Crime Act and State Victim Assistance Funds (VOCA) grant.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute, on behalf of the City of Kearney, the application and any and all contracts, documents or other memoranda between the City of Kearney and the Nebraska Crime Commission so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

COUNTRY INN & SUITES MANAGER APPLICATION

Mayor Clouse opened for discussion the manager application for Steven Young submitted by Pair-A-Dice Properties VII, Inc., dba Country Inn & Suites in connection with their Class I-086142 liquor license and located at 105 Talmadge Road.

Steven Young presented this matter to the Council. He has been involved with the restaurant business for 25 years and currently supervises four different liquor licenses and their managers are trained and the support staff are TIPS trained and then with the consistency at the top, it seems to work out better. Their policy for employees selling to a minor is that they are fired immediately.

Mayor Clouse asked if the responsible hospitality council management training is similar to the TIPS training. Mr. Young replied that it is more in depth than TIPS; it is a full day of training class.

Moved by Clouse seconded by Lammers to approve the manager application for Steven Young submitted by Pair-A-Dice Properties VII, Inc., dba Country Inn & Suites in connection with their Class I-086142 liquor license and located at 105 Talmadge Road. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

NEBRASKA POWER REVIEW BOARD FOR STAROSTKA ESTATES ADDITION

Because of a conflict of interest, Mayor Clouse abstained from discussion and voting on this matter.

Vice-President Buschkoetter opened for discussion Resolution No. 2013-58 authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which comprises the City to include the annexed land described as Starostka Estates Addition, a tract of land being Lot 1, Gary Addition, a subdivision being part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 65th Street).

On July 11, 1989, the City Council passed Resolution No. 89-55 approving the Professional Retail Operations Agreement between NPPD and the City of Kearney. The City of Kearney owns an electric distribution system and NPPD leases and operates the City's system. NPPD maintains the system and constructs any additions necessary for service to the extent such additions are within the established extension area.

At the March 12, 2013 Council meeting, the Council adopted Resolution No. 2013-31 to include what is known as Starostka Estates Addition within the corporate boundaries of the City. The property is located east of the intersection of Avenue N and 65th Street. In order for electrical service to be provided to the area, NPPD will need to apply to the Nebraska Power Review Board for an order amending its existing retail service area to include this 11.72-acre tract of land into the corporate boundaries. The City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement and will be a co-applicant with NPPD to the Nebraska Power Review Board.

Moved by Lammers seconded by Nikkila to adopt **Resolution No. 2013-58** authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which comprises the City to include the annexed land described as a tract of land being Lot 1, Gary Addition, a subdivision being part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of the intersection of Avenue N and 65th Street). Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse abstained. Motion carried.

RESOLUTION NO. 2013-58

WHEREAS, on March 12, 2013 the Kearney City Council passed and approved Resolution No. 2013-31 including "STAROSTKA ESTATES ADDITION" within the corporate boundaries of the City of Kearney said property described as a tract of land being Lot 1, Gary Addition, a subdivision being part of the Southwest Quarter of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, with said Lot 1, Gary Addition being more particularly described as follows: Referring to the Southwest Corner of the Northwest Quarter of Section 19, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, said point also being the Southwest Corner of said Gary Addition, and assuming the West line of the Northwest Quarter of said Section 19 as bearing NORTH and all bearings contained herein are relative thereto: thence S89°58'12"E on the South line said Northwest Quarter of Section 19 and the South line of said Gary Addition a distance of 40.0 feet to the ACTUAL PLACE OF BEGINNING, said point being the

Southwest Corner of Lot 1, Gary Addition and said point being on the East line of Avenue N, a street in the City of Kearney, Buffalo County, Nebraska as shown on the plat and dedication of said Gary Addition filed at Instrument No. 1995-2063, recorded on November 29, 1995 in the Office of the Buffalo County Register of Deeds; thence continuing S89°58'12"E on the South line of the Northwest Quarter and on the South line of said Gary Addition a distance of 1124.26 feet to the Southeast Corner of said Lot 1, Gary Addition; thence N51°03'37"W on the Northeasterly line of said Lot 1, Gary Addition a distance of 1445.42 feet to the Northwest Corner of said Lot 1, Gary Addition, said point also being on the East line of said Avenue N; thence SOUTH parallel with and 40.0 feet Easterly of the West line of said Northwest Quarter of Section 19 and on the West line of said Gary Addition and on the East line of said Avenue N a distance of 907.86 feet to the place of beginning, containing 11.72 acres, more or less, Buffalo County, Nebraska (east of the intersection of Avenue N and 65th Street); and

WHEREAS, the Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of Kearney, to include the above described property into the corporate boundaries of the City of Kearney, Nebraska; and

WHEREAS, the City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of Kearney; and

WHEREAS, it is determined by the City Council that it would be desirable and in the best interests of the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of Kearney, Nebraska in said retail service area.

BE IT FURTHER RESOLVED that the Vice-President be and is hereby authorized to execute on behalf of the City of Kearney a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

BE IT FURTHER RESOLVED that such joint application shall be prosecuted at the sole cost and expense of NPPD.

PASSED AND APPROVED THIS 9TH DAY OF APRIL, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

OPEN ACCOUNT CLAIMS: NPPD - \$6,886.43; STANLEY CLOUSE - \$446.84

Moved by Nikkila seconded by Lear that Open Account Claims in the amount of \$6,886.43 payable to Nebraska Public Power District and in the amount of \$446.84 payable to Stanley Clouse be allowed. Roll call resulted as follows: Aye: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

UPDATES

City Manager Michael Morgan stated Kearney has seen a tremendous impact with respect to the annexation policy that is something staff brought forward a few years ago and that can be quite a point of contention in many cities and that policy has developed and worked well for City staff, Planning Commission and City Council. A fairly significant annexation is occurring with the 56th Street corridor. With the work that City staff has done over the past few years makes the process very easy.

Also, Kearney is the envy of how it accomplished the alcohol policy and the training that is required. The state has even looked very closely at Kearney to maybe learn what they could do it a little differently and even acquire some of the things that Kearney does. So it is just one of those things that Kearney quietly goes about and does its business and it has paid some great dividends.

Tonight is probably a little anti-climactic with Baldwin's but it is one of the most significant projects in Kearney's history. It is a great partnership with Baldwins, Buffalo County and the State working together to accomplish this project and share in the financing.

It is going to get quite busy in Kearney. There are some significant major projects on the horizon that will be announced here in the very near future. It's not only the amount of street work but also the building permit activities have picked up.

Finally, a few years ago, the Airport struggled to get 10,000 enplanements and last month it had 1,200 which is one of the biggest March numbers in the history. The City accepted bids on a new aviation corporate hangar which will be a nice asset to the Airport. Also, next week the City will be accepting bids for a new fire station at the Airport.

The City of Kearney joined and Kearney somewhat leads the effort to create Greater Nebraska Cities which were cities in this geographical area. We teamed up with the Sarpy County which represents several cities in Sarpy County. We teamed up together and hosted over ten senators today at a luncheon. It was a very informative meeting for the cities. There were several mayors, city managers, city administrators and had an open discussion about municipal finance, property taxes, occupation taxes and the Senators really appreciated it. Senator Hadley was there, which he plays a very important role in the revenue committee. They represented over 230,000 citizens in that room which was pretty historic event. Very well done and very unusual to have the eastern cities and somewhat western cities involved in something like that but the Senators were very receptive and had some good questions.

Council member Nikkila asked whether the City had any damage from the storm. City Manager replied that it had no major issues. The utility department has challenges with potential sewer backups with rain and fill and where they could not get power to certain lift stations. There were no major damage to any City facilities. Certainly, some tree

damage and some minor.

Council member Nikkila stated as he was preparing for this week's meeting and listening to the people talk about the plans, he was blown away by how good of a job City staff, the Planning Commission and the developers and companies do to work together and bring proposals that they have already worked out all the details. There is not a lot of controversy.

Council member Lammers wanted to extend congratulations to Baldwin's, Cash-Wa, Midland Molding and Eastbrooke with their new expansions. This is significant expansions for the City of Kearney and it's just exciting to be a part of the City Council during these times.

Council member Buschkoetter stated there are some pretty important businesses to the community that continue to grow and not only is it great that they grow but again if you have businesses that are not growing you run a significant risk that businesses are beginning to fade out and die in your community. Kearney is are doing very well, not only is it not shrinking, it is growing and it is the envy of a lot of places.

VIII. ADJOURN

Moved by Lear seconded by Lammers that Council adjourn at 8:01 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**