

*Kearney, Nebraska
May 14, 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 May 14, 2013, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/ Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Eric Hellriegel, Marvion Reichert, Mitchel Greenwalt, 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

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

PLEDGE OF ALLEGIANCE

Two Boy Scouts from Troop 139 led the Council members and audience in the Pledge of Allegiance.

ANNOUNCEMENT

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

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

CONDITIONAL USE PERMIT TO SBA TOWERS: 3406 LAKEVIEW DRIVE

Mayor Clouse opened the public hearing on the Application submitted by SBA Towers IV, LLC (Applicant and Owner) for a Conditional Use Permit to continue with the existing telecommunications tower on property zoned District R-1, Urban Residential Single-Family District (Low Density) and described as a tract of land located in the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3406 Lakeview Drive) and consider Ordinance No. 7800.

City Attorney Michael Tye presented this matter to the Council. This matter involves an application from SBA Towers IV, LLC, to continue a Conditional Use Permit for a 300-foot telecommunications tower located at 3406 Lakeview Drive in the City of Kearney. SBA Towers IV, LLC has recently purchased this telecommunication tower from USA Towers and is required to have a Conditional Use Permit to continue to operate a telecommunications tower at this location.

The history of a tower at this location, 3406 Lakeview Drive, goes back to a 300-foot tower being originally constructed in 1950. So a 300-foot communications tower has continually been at this location since that time. The tower was ultimately purchased by Mr. Chandler Lynch who requested permission from the City to reconstruct a new 300-foot tower at this location as a part of his Conditional Use Permit. This request was reviewed and approved by City Council on June 13, 2001. As a part of this application, Mr. Lynch was required to plant landscaping and make other improvements to the property. In December 2010, USA Towers purchased the telecommunications tower from Mr. Lynch and entered into an agreement to continue the Conditional Use Permit and comply with the terms as set forth therein. This Agreement and the extension of the Conditional Use Permit with USA Towers was approved by City Council at that time.

When City staff became aware of the fact that the tower had been sold to SBA Towers IV, LLC, staff requested that SBA Towers provide an updated engineering report based on the present configuration of the tower and all of the equipment that is presently attached to the existing tower. SBA Towers engaged a licensed engineering firm and provided an updated engineering report that is signed and stamped by the engineers attesting to the fact that the tower is structurally sound. Also, staff requested that SBA Towers enter into an agreement to extend the Conditional Use Permit which includes provisions for insurance coverage and naming the City as an additional insured. Further, this Agreement includes a hold harmless provision requiring SBA to hold the City harmless with reference to this telecommunications tower. Also, City staff requested that SBA Towers commit to regularly clearing snow from the sidewalks at this location due to difficulties with this in the past. SBA Towers has provided a letter indicating that they are aware of the City's requirement regarding snow removal and they will make sure the snow is cleared pursuant to City code. Also, City staff indicated that the landscaping as it currently exists is not in compliance with the original terms of the Conditional Use Permit. SBA Towers has agreed to bring the property into compliance with the original landscape plan or to provide an alternative landscape plan by June 30, 2013, which would then be approved by City Council.

SBA Towers has responded to all requests made by City staff for information and has been very cooperative in responding to questions or concerns raised by City staff.

Kyle Waller, attorney from Omaha, Nebraska, stated would restate all of the City Attorney's remarks. The one point with respect to the structural analysis, this structural analysis was performed on April 9th so it is about 5-6 weeks old. In addition there were some inquiries about the structural integrity of the tower before SBA purchased it. City Attorney had requested another structural analysis back in 2011 and that structural analysis came back the same that the tower is structurally sound.

Mayor Clouse stated that the previous analysis was a different engineering firm. City Attorney confirmed and it was a request the City made to the previous owner to provide updated engineering and so the City actually has two engineering firms that have reviewed it. One for the prior owner and now one for the new owner, both of them determined it was structurally sound.

Council member Buschkoetter stated that some of the concerns from the neighborhood would be normal wind conditions, the top of the tower would be in range of a few homes. Mr. Waller stated he believed the structural analysis that has been performed indicates that it is tested for those standards and have been met. He believes they take into consideration wind, weather and things of that nature to make sure it is structurally sound and can withstand those types of situations.

Council member Buschkoetter asked if they have already contracted for the snow removal aspect. Mr. Waller stated that has already been taken care of and there is a letter dated April 2, 2013 which has been signed by the zoning manager, Diane Borchardt for SBA which indicates that will be taken care of; and in addition, also represents that not only will that be taken care of but the current landscaping is not where it should be, and it also will be taken care of by June 30th.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by SBA Towers IV, LLC (Applicant and Owner) for a Conditional Use Permit to continue with the existing telecommunications tower on property zoned District R-1, Urban Residential Single-Family District (Low Density) and described as a tract of land located in the Southwest Quarter of the Northwest Quarter of Section 35, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (3406 Lakeview Drive) and introduced Ordinance No. 7800 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to close the hearing and suspend the rules for Ordinance No. 7800. 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 No. 7800 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 Nikkila seconded by Lear that Ordinance No. 7800 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 No. 7800 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.

RECEIVE INPUT ON CDBG GRANT NOS. 11-CR-004 AND 12-CR-004

Mayor Clouse opened the public hearing to receive input concerning community revitalization projects under Grant Nos. 11-CR-004 and 12-CR-004.

Eric Hellriegel presented this matter to the Council. As a requirement for Community Development Block Grant (CDBG) funding, the City of Kearney must conduct a second public hearing during the course of a grant project. The purpose of the hearing is to update the public on the status of the project and gather public input regarding the project. These grants are available to local governments. This hearing encompasses two separate grant projects the City is completing.

The following two projects outlines the grant number, amount of CDBG funds, and the amount of local match for each project:

- 11-CR-004 – \$175,000 of Community Revitalization Funds for the construction of sidewalks and ADA ramps in the Emerson Elementary School area, [0230-Streets, \$163,000-General Administration, \$12,000]; matching funds of \$163,000 will be contributed to this project by the City of Kearney.
- 12-CR-004 – \$15,000 of Community Revitalization Funds for a comprehensive revitalization strategy plan, [0630-Planning, \$13,500; 0181-General Administration, \$1,500]; the City of Kearney has contributed \$4,500 as a match.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing for the purpose to receive input concerning community revitalization projects under Grant Nos. 11-CR-004 and 12-CR-004. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

SANITARY SEWER EASEMENT IN FOUNTAIN HILLS SIXTH ADDITION

Mayor Clouse opened the public hearing on the proposed acquisition for sanitary sewer easement purposes a tract of land described as being part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., and part of Outlot A, Fountain Hills Sixth Addition to the City of Kearney, all in Buffalo County, Nebraska and consider Resolution No. 2013-74.

Director of Utilities Kirk Stocker presented this matter to the Council. At the October 9, 2012 City Council meeting the Council approved the rezoning, final plat, annexation and subdivision agreement for Fountain Hills Fifth Addition, an Addition to the City of Kearney. The development of Fountain Hills Fifth Addition requires that a sanitary sewer main be constructed from the existing sanitary sewer main in 56th Street southward through unplatted property to 50th Street.

Included in the Subdivision Agreement for Fountain Hills Fifth Addition, the developer/property owner agreed to grant an easement for the sanitary sewer main at no cost to the City. The Utilities Department, along with Miller & Associates the City's Engineer for the sewer project, prepared a Permanent and Temporary Sanitary Sewer Easement and the developer/property owner has signed the easement.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-74** approving the proposed acquisition for sanitary sewer easement purposes a tract of land described as being part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., and part of Outlot A, Fountain Hills Sixth Addition to the City of Kearney, all in Buffalo County, Nebraska. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2013-74

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 for a Permanent Sanitary Sewer Main Easement and a Temporary Sanitary Sewer Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Grand West LLC, a Nebraska Limited Liability Company, by and through Steven D. Craig, Member, Anna L. Stehlik, Trustee, and Morrison Enterprises, LLC, a Nebraska Limited Liability Company, by and through Kenneth Morrison, its Business Manager have granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer Main Easement and a Temporary Sanitary Sewer Main Easement as follows:

PERMANENT SANITARY SEWER MAIN EASEMENT

A tract of land being part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., and part of Outlot A, Fountain Hills Sixth Addition to the City of Kearney, all in Buffalo County, Nebraska, more particularly described as follows: Referring to the westernmost corner of Lot 3, Block Four, Fountain Hills Fifth Addition to said City, and assuming the southeasterly line of said lot as bearing N47°13'44"E and all other bearings shown hereon relative thereto; thence from said westernmost corner N50°43'34"W a distance of 19.53 feet to a point on the northerly right-of-way of 50th Street as platted on said Fountain Hill Fifth Addition and the ACTUAL POINT OF BEGINNING of the centerline of a 20 feet wide (10 feet each side) tract to be used for

sanitary sewer purposes; thence N10°25'25"E a distance of 351.39 feet; thence N00°29'55"E a distance of 414.76 feet; thence N02°23'57"W a distance of 194.88 feet; thence N22°51'31"W a distance of 183.16 feet; thence N00°23'08"W a distance of 351.06 feet; thence N45°40'03"E a distance of 289.14 feet to a point on the east line of said Outlot lying 177.88 feet Northerly along said east line from the southeast corner of said Outlot and the Point of Termination, Buffalo County, Nebraska.

TEMPORARY SANITARY SEWER MAIN EASEMENT

A tract of land being part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., and part of Outlot A, Fountain Hills Sixth Addition to the City of Kearney, all in Buffalo County, Nebraska, more particularly described as follows: Referring to the westernmost corner of Lot 3, Block Four, Fountain Hills Fifth Addition to said City, and assuming the southeasterly line of said lot as bearing N47°13'44"E and all other bearings shown hereon relative thereto; thence from said westernmost corner N50°43'34"W a distance of 19.53 feet to a point on the northerly right-of-way of 50th Street as platted on said Fountain Hill Fifth Addition and the ACTUAL POINT OF BEGINNING of the centerline of a 100 foot wide (50 feet each side) tract to be used for sanitary sewer purposes; thence N10°25'25"E a distance of 351.39 feet; thence N00°29'55"E a distance of 414.76 feet; thence N02°23'57"W a distance of 194.88 feet; thence N22°51'31"W a distance of 183.16 feet; thence N00°23'08"W a distance of 351.06 feet; thence N45°40'03"E a distance of 289.14 feet to a point on the east line of said Outlot lying 177.88 feet northerly along said east line from the southeast corner of said Outlot and 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 Permanent Sanitary Sewer Main Easement and a Temporary Sanitary Sewer Main Easement granted by Grand West LLC, a Nebraska Limited Liability Company, by and through Steven D. Craig, Member, Anna L. Stehlik, Trustee, and Morrison Enterprises, LLC, a Nebraska Limited Liability Company, by and through Kenneth Morrison, its Business Manager to the City of Kearney be and is hereby approved and accepted.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Clouse seconded by Lammers that Subsections 1 through 22 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held April 23, 2013.
2. Approve the following Claims:
 - PS Personnel Services
 - SMCS Supplies, Materials & Contractual Services

ER	Equipment Rental
CO	Capital Outlay
DS	Debt Service

Achtenberg,A \$11.62 smcs; Alamar Uniforms \$224.77 smcs; Albrecht,H \$2,424.00 smcs; All Makes Auto Supply \$544.25 smcs; Amax Contracting \$137.60 smcs; American Fence Co \$5,534.00 smcs; American First Aid \$398.07 smcs; Anderson Brothers \$214.23 smcs; Arehart,J \$15.18 smcs; Artisans \$500.00 smcs; Ask Supply \$744.98 smcs; Asphalt & Concrete \$4,074.00 smcs; Aurora Coop \$818.90 smcs; Baye,S \$55.20 smcs; Bicskei,M \$10.70 smcs; Blessing \$101,735.10 co; Bohn,M \$27.34 smcs; Bosselman \$31,438.22 smcs; Brabec,R \$1,870.50 smcs; Broadfoot's \$385.00 smcs; Brown Traffic Products \$23,280.00 smcs; Bruce Furniture \$1,208.46 smcs; Bruha,S \$450.00 smcs; Bryan,A \$120.00 smcs; Buffalo Co. Treasurer \$1,725.86 co; Buffalo Co. Weed Control \$404.88 smcs; Builders \$4,693.98 co; CAP America \$850.09 smcs; Capital Business Systems \$169.93 smcs; Carstens,C \$18.80 smcs; Cash-Wa Distributing \$1,165.40 smcs; Central District Health Dept. \$2,610.00 smcs; Central Fire & Safety \$695.00 smcs; Central States Group \$77.15 smcs; Charter \$285.25 smcs; Chemsearch \$1,851.99 smcs; Cherry,C \$130.00 smcs; Chesterman \$262.55 smcs; Chief Supply \$27.99 smcs; City Glass \$656.49 smcs; City of Krny \$37,831.29 ds; City of Krny \$349,659.07 smcs,ps; CMI \$192.71 smcs; CompassCom \$50.00 smcs; Construction Rental \$127.50 co; Cook,R \$1,200.00 smcs; Copycat Printing \$765.07 smcs; Culligan \$245.00 smcs; Cummins Central Power \$5,279.44 smcs; Cunningham,S \$152.50 smcs; Cushing,B \$23.44 smcs; Davis,B \$38.43 smcs; Dawson Public Power \$2,789.09 smcs; Dehaven,T \$31.37 smcs; Dish \$235.97 smcs; Dmilaco \$79.96 smcs; Donovan,L \$43.67 smcs; DPC Industries \$22,477.95 smcs; Dutton-Lainson \$125.19 smcs; Eakes \$2,495.48 smcs,co; Eckhoff,K \$9.68 smcs; Edeal,A \$42.01 smcs; Eirich,T \$50.00 smcs; EMC Insurance \$1,265.12 smcs; Engels Glass Design \$54.00 smcs; Explorer Post 61 \$310.00 smcs; Express Distributing \$104.50 smcs; Express Sharpening \$84.00 smcs; Faimon,T \$11.15 smcs; Farmers Union Coop \$42.50 smcs; Flohr,J \$15.00 smcs; Footjoy \$284.09 smcs; Fountain Hill Property \$15.45 smcs; Front Range Training \$750.00 smcs; Galls \$94.60 smcs; Gametime \$2,103.93 co; Garcia,A \$39.95 smcs; Garcia,R \$857.79 smcs; Gates,R \$35.14 smcs; Gene Steffy Chrysler \$76,803.00 co; German American Society \$839.55 smcs; Golf Buddy \$218.52 smcs; Green,C \$14.65 smcs; H&H Distributing \$1,063.40 smcs;H2 Golf Company \$54.95 smcs; Harley Davidson \$19,081.72 co; Hartman,J \$35.96 smcs; HD Supply \$21,533.80 smcs; Hindu Temple \$60.00 smcs; HOA Solutions \$839.30 smcs; Hometown Leasing \$207.71 smcs; Horizon Designs \$175.00 smcs; Husker Auto Group \$48,187.00 co; Hydrite Chemical \$14,389.81 smcs; ICMA Retirement Trust \$3,852.64 ps; IES Commercial \$570.00 smcs; Ihle,Dr. \$60.57 smcs; Internal Revenue Service \$121,302.41 ps; Isaac,B \$11.92 smcs; ISG Infrasy \$830.00 smcs; Jack Lederman \$638.76 smcs; Jacobson,C \$15.00 smcs; K&K Parts \$1,686.28 smcs; Kaeding,C \$36.31 smcs; Ky Catholic \$20.82 smcs; Ky Chamber Comm. \$298.00 smcs; Ky Concrete \$1,587.62 smcs,co; Ky Hub \$5,792.00 smcs; Ky Noon Rotary \$110.00 smcs; Ky Powersports \$25.95 smcs; Ky United Way \$664.04 ps; Keough,J \$42.00 smcs; KHAS-TV \$2,510.00 smcs; KK Auctions \$319.50 smcs; Kovar,M \$211.31 smcs; Krepel,J \$496.00 smcs; Krolikowski,A \$0.41 smcs; Krull Insurance \$1,950.00 smcs; Lang,L \$165.30 smcs; Leonard,C \$33.99 smcs; Levanders Body Shop \$100.00 smcs; Lincoln Winwater \$745.29 smcs; Lindner,S \$77.32 smcs; Location Technologies \$545.00 smcs; Lockhorn,S \$113.00 smcs; Loy,N \$55.00 smcs; Lynch,D \$283.00 smcs;

Magic Cleaning \$4,100.00 smcs; Mail Express \$2,218.11 smcs; Matheson Tri-Gas \$98.00 smcs; Menards \$9.05 smcs; Metal Doors \$951.84 smcs; Metlife \$7,798.12 ps; Midlands Contracting \$132,334.08 smcs,co; Mid-NE Garage Doors \$100.00 smcs; Midwest Breathing \$288.55 smcs; Miller & Associates \$22,153.64 smcs,co; Miller Signs \$350.00 co; Milliman \$1,800.00 smcs; Mills,P \$13.92 smcs; Moonlight Embroidery \$255.50 smcs; Muller,W \$15.00 smcs; Municipal Supply \$5,550.44 smcs; Murray,N \$9.60 smcs; NE Child Support Pyt. Ctr. \$2,910.74 ps; NE Dept. of Environmental \$150.00 smcs; NE Dept. of Revenue \$69,171.61 smcs,ps; NE DOL/Boiler Inspection \$36.00 smcs; NE Planning & Zoning \$480.00 smcs; NE Public Health \$2,193.00 smcs; Nebraskaland Distributors \$919.34 smcs; Nelson,K \$41.55 smcs; New World Systems \$2,245.30 smcs; NMC Exchange \$17,840.00 co; Noller Electric \$80.75 smcs; Nordhues,B \$26.01 smcs; Norm's Plumbing \$30.00 smcs; North Platte Airport Auth. \$1,200.00 smcs; Northwest Electric \$1,102.25 smcs; Northwestern Energy \$13,765.65 smcs; NP Realty \$452.17 smcs,co; O'Hara Lindsay & Assoc. \$1,500.00 smcs; Olson,J \$286.50 smcs; Omaha World Herald \$260.91 smcs; One Call Concepts \$451.30 smcs; O'Reilly Automotive \$304.62 smcs; Oreshkov,N \$907.79 smcs; Outdoor Recreation \$2,709.00 co; Outlook Nebraska \$90.00 smcs; Overhead Door \$113.15 smcs; Pacific Bow Butts Target \$1,696.00 smcs; Paramount \$152.39 smcs; Pat's Plumbing \$300.00 smcs; Patterson,B \$60.61 smcs; Payflex Systems \$544.00 ps; Peace,S \$37.70 smcs; Peck,S \$40.88 smcs; Pep Co. \$56.34 smcs; Pfeifer,M \$16.72 smcs; Platte Valley Comm. \$1,805.47 smcs; Platte Valley Laboratories \$35.00 smcs; Platte Valley Medical \$208.00 ps; Platte Valley State Bank \$0.81 smcs; Pollat,R \$28.47 smcs; Presto-X \$148.61 smcs; Ready Mixed Concrete \$6,179.04 smcs,co; Recognition Unlimited \$123.85 smcs; Resource Management \$936.00 smcs; Rheome Tree Service \$2,255.00 smcs; Ropers Radiator Service \$1,199.00 smcs; Ruskamp,V \$3.80 smcs; Saltzgaber,S \$8.54 smcs; Sapp Brothers \$30,050.80 smcs; Scales \$1,000.00 smcs; Schroeder,C \$7.98 smcs; Shafer,M \$40.84 smcs; Sheets,S \$17.73 smcs; Sheldon,C \$39.28 smcs; Sherwin-Williams \$158.26 smcs; Shrine Bowl of NE \$175.00 smcs; Siegel,B \$40.84 smcs; Skeeter Barnes \$4,753.08 smcs; Skrdlant,R \$30.00 smcs; Smith Signs \$420.00 smcs; Snap-On Tools \$1,364.60 smcs; SOS Portable Toilets \$105.00 smcs; Standage,H \$75.00 smcs; Starostka,D \$64.25 smcs; State of NE/AS Central \$4,417.61 smcs,co; Steinbrink Landscaping \$150.00 smcs; Sun Life Financial \$62,976.06 smcs; Tacha,J \$50.00 smcs; Talbert,S \$42.49 smcs; Teahon,K \$34.66 smcs; Ten Thousand Villages \$42.79 smcs; Texoma Golf \$262.76 smcs; Theis,J \$60.00 smcs; Thome,B \$16.36 smcs; Thompson,K \$23.83 smcs; Thomson West Pyt. Ctr. \$1,191.24 smcs; Thyne,J \$53.08 smcs; Tielke's Sandwiches \$92.35 smcs; Titleist \$738.61 smcs; Tour Edge Golf Mfg. \$707.00 smcs; Trejon,G \$125.00 smcs; Tri-Cities Group \$195.26 smcs; TruGreen ChemLawn \$196.00 smcs; Tye & Rademacher \$11,090.21 smcs; Union Bank & Trust \$56,663.12 smcs; Van Diest Supply \$12,218.90 smcs; Van Pool,M \$23.16 smcs; Vasquez,C \$40.00 smcs; Verizon Wireless \$1,005.00 smcs; Village Uniform \$723.18 smcs; Volkmer,D \$38.02 smcs; Wall,R \$15.00 smcs; Walters Electric \$76.99 smcs; Watson-Marlow \$4,375.99 smcs; Wegner,T \$180.00 ps; Wells Fargo Equipment \$33,407.66 ds; Wessels,W \$11.70 co; West Villa Animal Hospital \$54.11 smcs; Wethington,M \$30.00 smcs; Whelen Engineering \$273.00 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$88.12 smcs; Wilkins Hinrichs Stober \$42,984.08 co; Worthington,P \$22.11 smcs; Yendra,J \$49.67 smcs; Zimmerman Printers \$245.00 smcs; Payroll Ending 4-20-2013 -- \$347,936.89 and payroll ending 5-4-2013 -- \$365,542.15. 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. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside an outdoor fenced area located in the parking lot of Kearney Powersports, 511 South 2nd Avenue, on June 20, 2013 from 4:00 p.m. until 11:00 p.m. for a beer garden (alternate location inside Kearney Powersports).
4. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits inside an outdoor fenced area located in the parking lot of Kearney Powersports, 511 South 2nd Avenue, on August 1, 2013 from 4:00 p.m. until 11:00 p.m. for a beer garden (alternate location inside Kearney Powersports).
5. Authorize administration to make request to the Nebraska Department of Economic Development to extend the grant contract for CDBG #11-CR-004 to November 8, 2013 to complete the improvements for sidewalks and ADA ramp improvements.
6. Adopt **Resolution No. 2013-75** approving the Development Agreement for Northeast Industrial Sixth Subdivision between the City of Kearney and Michael Meier, Marta Meier, Wendell Dubbs and Sally Dubbs for water and storm sewer improvements for Box Butte Avenue for Lot 1, Northeast Industrial Sixth Subdivision.

RESOLUTION NO. 2013-75

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized to execute on behalf of the City of Kearney, the Development Agreement for Northeast Industrial Sixth Subdivision between the City of Kearney and Michael T. Meier, Co-Trustee of the Michael T. Meier Revocable Living Trust, dated June 22, 2012, Marta S. Meier, Co-Trustee of the Marta S. Meier Revocable Living Trust, dated June 22, 2012, AND Wendell R. Dubbs, Co-Trustee of the Wendell R. Dubbs Revocable Living Trust, dated June 20, 2012 and Sally J. Dubbs, Co-Trustee of the Sally J. Dubbs Revocable Living Trust, dated June 20, 2012 for paving, water and storm sewer improvements for Box Butte Avenue for abutting Lot 1, Northeast Industrial Sixth Subdivision. The Development Agreement, marked as Exhibit "A" is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

7. Adopt **Resolution No. 2013-76** approving Change Order No. 2 showing a decrease in the amount of \$605.20 and accept the Certificate of Substantial Completion submitted by Ardent Lighting Group and approved by Miller & Associates for 2012 Part

4 Improvements; Harmon Park Tennis Court Lighting.

RESOLUTION NO. 2013-76

WHEREAS, Ardent Lighting Group, LLC of Knoxville, Iowa has performed services in connection with the 2012 Part 4; Harmon Park Tennis Court Lighting, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing a decrease to the contract sum in the amount of \$605.20, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$117,749.00
Change Order No. 1 (1-22-2013)	+ 7,146.41
Change Order No. 2 (5-14-2013)	- 605.20
Contract Sum to Date	<u>\$124,290.21</u>

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of April 30, 2013, as shown by Exhibit "B" attached hereto and made a part hereof by reference.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order No. 2, as shown on Exhibit "A" and the Certificate of Substantial Completion as shown on Exhibit "B" be and are hereby accepted and approved.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Accept the bids received for the 2013 Part 2 Improvements; Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place and adopt **Resolution No. 2013-77** awarding the bid to Dan Roeder Concrete in the amount of \$105,372.80.

RESOLUTION NO. 2013-77

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on April 16, 2013 at 2:00 p.m. for the 2013 Part 2 Improvements; consisting of Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$87,465.75 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$105,372.80 be accepted as the lowest responsible bid for 2013 Part 2 Improvements; consisting of Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place.

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 Dan Roeder Concrete be and is the lowest responsible bidder for the

2013 Part 2 Improvements; consisting of Paving Improvement District No. 2012-953 for Avenue L from 65th Street Place north northeasterly to 66th Street Place to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete of Kearney, Nebraska in the sum of \$105,372.80 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$87,465.75 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 14TH DAY OF MAY, 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 the Nebraska Aids Project, Inc. to dispense beer, wine and distilled spirits on the main floor inside the Museum of Nebraska Art and in the sculpture garden, 2401 Central Avenue on June 15, 2013 from 4:00 p.m. until 10:00 p.m. for a fund raiser.

10. Adopt **Resolution No. 2013-78** amending the Money Accumulation Plan for Employees of the City of Kearney and authorize the Mayor and other appropriate officers of the City of Kearney to execute any document or amendment necessary to amend and administer the Plan.

RESOLUTION NO. 2013-78

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

Adoption of Amended and Restated Money Accumulation Plan for Employees of the City of Kearney: NOW, BE IT RESOLVED, that in order to adopt the amendments required for tax-qualified retirement plans under the Pension Protection Act of 2006, the Heroes Earnings Assistance and Relief Tax Act of 2008, and the Worker, Retiree, and Employer Recovery Act of 2008, and all other tax laws enacted since the Plan was last amended, as such laws apply to government plans, and to make certain other amendments to the Money Accumulation Plan for Employees of the City of Kearney (the "Plan") as required by applicable tax laws and regulations, the Plan shall be, and it hereby is, amended and restated effective January 1, 2013, in the form of the Plan document submitted at this meeting and by this reference made a part of this resolution.

Authorizations: NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Mayor and other appropriate elected officials and officers of the City of Kearney shall be, and they hereby are, authorized to do any and all things necessary to carry out and accomplish the foregoing Resolutions, including the execution of any document or amendment which may be necessary or appropriate to amend, restate, and administer the aforesaid Plan, including such actions as may be necessary or appropriate to achieve and maintain tax qualification of the aforesaid Plan under Section 401(a) of the Internal Revenue Code of 1986, as amended.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Adopt **Resolution No. 2013-79** approving the submission of an application for a Nebraska Community Mural Project grant from the Mid-America Arts Alliance (M-AAA) in partnership with the Nebraska Arts Council.

RESOLUTION NO. 2013-79

WHEREAS, the City of Kearney is requesting to submit an application for a Nebraska Community Mural Project grant from the Mid-America Arts Alliance (M-AAA) in partnership with the Nebraska Arts Council; and

WHEREAS, in partnership with the Nebraska Arts Council, M-AAA is offering one Nebraska community a unique opportunity to participate in a community-based mural project in 2013.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to authorize Administration to submit an application in the amount of \$50,176 for a Nebraska Community Mural Project grant from the Mid-America Arts Alliance (M-AAA) in partnership with the Nebraska Arts Council.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. Adopt **Resolution No. 2013-80** approving T-Hangar A-6 Lease Agreement between the City of Kearney and Richard Fiese for storage purposes at the Kearney Regional Airport.

RESOLUTION NO. 2013-80

BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the President be and is hereby authorized and directed to execute the T-Hangar A-6 Lease Agreement, on behalf of the City of Kearney, Nebraska, with Richard Fiese, the Agreement, marked Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

13. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropic in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building (alternate location is Exhibit Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 7, 2013

from 6:00 p.m. until 1:00 a.m. for a dance.

14. Approve the application for a Special Designated License submitted by Juan Lazo, dba El Tropico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exposition Building (alternate location is Exhibit Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 22, 2013 from 6:00 p.m. until 1:00 a.m. for a dance.

15. Amend **Resolution No. 2008-132** to correct the legal description for the specific area on the redevelopment project submitted by Cash-Wa for an expansion to its facility located in Redevelopment Area 8 (615 West 4th Street).

RESOLUTION NO. 2008-132A

WHEREAS, the City Council adopted Resolution No. 2008-132 on August 12, 2008 approving a specific redevelopment project within Redevelopment Plan No. 8; and

WHEREAS, it has been determined that the legal description set forth in Resolution No. 2008-132 needs to be amended to specifically designate the area to be Lot 1 of Block One, Cash-Wa Second Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580082100.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the legal description set forth in Resolution No. 2008-132 be amended to specifically designate the area for this redevelopment project to be Lot 1 of Block One, Cash-Wa Second Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580082100.

BE IT FURTHER RESOLVED that except as amended by this resolution, all of the terms and conditions of original Resolution No. 2008-132 are hereby confirmed and shall remain in effect. The legal description set forth in said original Resolution No. 2008-132 is hereby replaced in full as Lot 1 of Block One, Cash-Wa Second Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 580082100.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an amended Allocation Agreement and Notice of Pledge of Taxes with the correct legal description with respect to the Redevelopment Project substantially in the form attached hereto as Amended Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

16. Amend **Resolution No. 2013-73** to correct the legal description for the specific area on the redevelopment project submitted by Cash-Wa for a cold storage expansion located in Redevelopment Area 8 (401 4th Avenue).

RESOLUTION NO. 2013-73A

WHEREAS, the City Council adopted Resolution No. 2013-73 on April 23, 2013

approving a specific redevelopment project within Redevelopment Plan No. 8; and

WHEREAS, it has been determined that the legal description set forth in Resolution No. 2013-73 needs to be amended to specifically designate the area to be Lot 2, Cash-Wa Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 601804501.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the legal description set forth in Resolution No. 2013-73 be amended to specifically designate the area for this redevelopment project to be Lot 2, Cash-Wa Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 601804501.

BE IT FURTHER RESOLVED that except as amended by this resolution, all of the terms and conditions of original Resolution No. 2013-73 are hereby confirmed. The legal description set forth in said original Resolution No. 2013-73 is hereby replaced in full as Lot 2, Cash-Wa Addition to the City of Kearney, Buffalo County, Nebraska and is designated as Parcel ID 601804501.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Amended Allocation Agreement and Notice of Pledge of Taxes with the correct legal description with respect to the Redevelopment Project substantially in the form attached hereto as Amended Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

17. Reject the bids received for the construction of the 2013 Kearney Regional Airport concrete paving improvements.

18. Approve the Plans and Specifications for the 2013 Airport Asphalt Pavement Improvements and set the bid opening date for June 4, 2013 at 2:00 p.m.

19. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 1, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

20. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 15, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

21. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-059311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on June 21, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

22. Approve the recommendation from the Downtown Improvement Board to temporarily close the parking lot located north of the Museum of Nebraska Art, 2401 Central Avenue, on June 15, 2013 from 6:00 a.m. until 11:00 p.m. in conjunction with the Queen's Birthday Event.

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7801 CREATING PAVING DISTRICT NO. 2013-962

With regard to Subsection 1 through 5, On October 9, 2012 the City entered into a Subdivision Agreement with Grand West and Morrison Enterprises for the creation of paving, water, sanitary sewer and storm sewer improvements for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition.

Section 57-102 of the Kearney City Code requires the developer to deposit fifty percent of the total estimated costs of the districts. The remaining unpaid costs of the improvements shall be assessed against the property in said districts on a basis of special benefit to the property, if any, as provided by law.

Council Member Lammers introduced Ordinance No. 7801, being Subsection 1 of Agenda Item V creating Paving Improvement District No. 2013-962 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7801 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7801 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7801 is declared to be lawfully passed and adopted upon publication in

pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7802 CREATING WATER DISTRICT NO. 2013-570

Council Member Lammers introduced Ordinance No. 7802, being Subsection 2 of Agenda Item V creating Water District No. 2013-570 in 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7802 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7802 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7802 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7803 CREATING SANITARY SEWER DISTRICT NO. 2013-508

Council Member Lammers introduced Ordinance No. 7803, being Subsection 3 of Agenda Item V creating Sanitary Sewer District No. 2013-508 in 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition, and in a sanitary sewer easement located in part of the Southeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 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 Nikkila seconded the motion to

suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7803 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7803 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7803 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7804 CREATING SEWER CONNECTION DISTRICT 2013-1

Council Member Lammers introduced Ordinance No. 7804, being Subsection 4 of Agenda Item V creating Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7804 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7804 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7804 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7805 CREATING SEWER CONNECTION DISTRICT NO. 2013-2

Council Member Lammers introduced Ordinance No. 7805, being Subsection 5 of Agenda Item V creating Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7805 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7805 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7805 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7806 CREATING WATER DISTRICT NO. 2013-571

Earlier on the agenda was the approval of the Development Agreement for Lot 1, Northeast Industrial Sixth Subdivision. One of the conditions of that agreement is the City would create a water district in Box Butte Avenue from 39th Street south to the south line of Lot 1, Northeast Industrial Sixth Subdivision. Therefore, attached is the ordinance creating said water district.

Council Member Lammers introduced Ordinance No. 7806, being Subsection 6 of Agenda Item V creating Water District No. 2013-571 in Box Butte Avenue from 39th Street south to the south line of Northeast Industrial Second Subdivision and Northeast Industrial Sixth Subdivision, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers,

Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7806 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7806 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7806 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

ORDINANCE NO. 7807 AMEND SECTIONS 8-1310 AND 46-102 OF THE CITY CODE

The City Council adopted an ordinance on March 15, 2013 pertaining to the issue of chickens in residential neighborhoods, banning them from neighborhoods within the City but continuing to allow them, as well as other animals, in the two-mile extraterritorial jurisdiction. It has been determined that Section 8-1310 and Section 46-102 of the City Code still have reference to allowing chickens in residential districts. Therefore, this ordinance will remove those references as directed by the City Council and Planning Commission.

Council Member Lammers introduced Ordinance No. 7807, being Subsection 7 of Agenda Item V amending Section 8-1310 "Large Animal Pets, Livestock, and Fowl Prohibited Within the City Limits" of Chapter 8 "Police" and Section 46-102 "Supplemental Use Regulations: Agricultural Uses" of Chapter 46 "Supplemental Use Regulations" of the Code of the City of Kearney to eliminate the reference of chickens in District R-1 Urban Residential Single-Family District, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7807 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7807 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7807 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

ORDINANCE NO. 7798 – ANNEXATION OF 7 PROPERTIES ALONG 17TH AVENUE AND 56TH STREET

Mayor Clouse stated Ordinance No. 7798 annexing 5110, 5120, 5308, 5410, 5514 17th Avenue, 2407 West 56th Street, 5710 19th Avenue, and the northwest corner of 56th Street and 17th Avenue into the City limits will be placed on third and final reading by title only.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7798 annexing 5110, 5120, 5308, 5410, 5514 17th Avenue, 2407 West 56th Street, 5710 19th Avenue, and the northwest corner of 56th Street and 17th Avenue into the City limits be placed on third and final reading by title only. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

City Clerk read Ordinance No. 7798 by title.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7798 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 No. 7798 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.

NEBRASKA POWER REVIEW BOARD FOR PRINCE OF PEACE CATHOLIC CHURCH

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

Vice-President Buschkoetter opened for discussion Resolution No. 2013-81 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 to include the annexed land described as part of Lot 1, Bent Bar C Subdivision East, a subdivision being part of the Southwest Quarter of the Southeast Quarter and part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter all located in Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2407 West 56th 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.

Tonight the Council passed Ordinance No. 7798 annexing the following tracts of land to be included within the corporate limits: 5110, 5120, 5308, 5410, 5514 17th Avenue, 2407 West 56th Street, 5710 19th Avenue, and the northwest corner of 56th Street and 17th Avenue. The majority of the properties is being served by NPPD with the exception of the Prince of Peace Catholic Church. NPPD will need to apply to the Nebraska Power Review Board for an order amending its existing retail service area to include this 21.17-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.

The City currently receives 12% electrical lease payment from NPPD pursuant to the Professional Retail Operations Agreement. Electrical services provided within the newly annexed land will be subject to the 12% electrical lease payments.

Moved by Lammers seconded by Nikkila to adopt **Resolution No. 2013-81** 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 to include the annexed land described as part of Lot 1, Bent Bar C Subdivision East, a subdivision being part of the Southwest Quarter of the Southeast Quarter and part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter all located in Section 22, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (2407 West 56th Street). Roll call resulted as follows: Aye: Buschkoetter, Lammers, Lear, Nikkila. Nay: None. Clouse abstaining. Motion carried.

RESOLUTION NO. 2013-81

WHEREAS, on May 14, 2013 the Kearney City Council passed and approved Ordinance No. 7798 including within the corporate boundaries of the City of Kearney said property described as a tract of land being part Lot 1, Bent Bar C Subdivision East, a subdivision being part of the Southwest Quarter of the Southeast Quarter and part of the Southeast Quarter of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter and all located in Section 22, Township 9 North, Range 16 West of the 6th Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Referring to the Southwest corner of the Southeast Quarter in said Section 22, said point also being the Southeast corner of the Southwest Quarter and assuming the line common to said Southeast Quarter and Southwest Quarter as bearing N00°26'26"W and all bearings contained herein are relative thereto; thence N00°26'26"W and on said common line a distance of 347.65 feet to the ACTUAL PLACE OF BEGINNING; thence S89°20'35"W parallel with the south line of said Southwest Quarter a distance of 577.38 feet; thence N00°20'34"W a distance of 150.0 feet; thence N89°20'35"E parallel with said south line a distance of 150.0 feet; thence N00°20'34"W a distance of 164.53 feet; thence N29°34'31"W a distance of 291.41 feet;

thence N30°59'20"W a distance of 160.43 feet; thence N59°00'40"E a distance of 14.89 feet to the point of curvature; thence on a 570.0 foot radius curve to the right, forming a central angle of 07°43'01" a distance of 76.77 feet; thence leaving said curve S23°16'22"E a distance of 151.46 feet; thence N80°27'41"E a distance of 209.18 feet; thence S80°12'08"E a distance of 308.33 feet to said common line; thence S80°12'08"E continuing on the aforesaid line a distance of 317.28 feet; thence N09°47'52"E a distance of 150.0 feet; thence S80°12'08"E a distance of 20.42 feet to the point of curvature; thence on a 280.0 foot radius curve to the left, forming a central angle of 12°08'35" a distance of 59.34 feet; thence leaving said curve S02°20'43"E a distance of 144.37 feet; thence S89°49'17"E a distance of 125.21 feet, thence N67°48'25"E a distance of 165.08 feet; thence S00°29'09"E a distance of 120.2 feet; thence S05°16'33" E a distance of 166.2 feet; thence S01°46'31"E a distance of 229.65 feet; thence S05°19'56"E a distance of 142.7 feet; thence S12°48'55"E a distance of 137.89 feet; thence S00°20'34"E a distance of 65.62 feet to a point on the east line of said Lot 1, Bent Bar C Subdivision East; thence S52°30'55"E on said east line a distance of 36.35 feet to the north right-of-way line of 56th Street, a street in Buffalo County, Nebraska; thence S86°11'51"W on said north right-of-way line a distance of 168.4 feet; thence S89°19'58"W continuing on said north right-of-way line and parallel with the south line of said Southeast Quarter a distance of 291.13 feet to the west line of said Bent Bar C Subdivision East; thence S00°40'02"E continuing on said north right-of-way line and on said west line a distance of 0.63 feet; thence S89°19'58"W continuing on said north right-of-way line a distance of 124.2 feet; thence N34°12'57"W a distance of 369.9 feet to the place of beginning, containing 21.17 acres, more or less, Buffalo County, Nebraska (2407 West 56th 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 14TH DAY OF MAY, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

RANDY BUSCHKOETTER
VICE-PRESIDENT OF THE COUNCIL

OPEN ACCOUNT CLAIMS

There were no Open Account Claims.

VII. REPORTS

Council Member Lammers stated he toured of Brigham Lofts before the meeting. They are very nice addition for low income housing in Kearney. There are fourteen apartments ranging from one bedroom to two bedroom and priced reasonably for the lower income applicants. Currently, they are more than enough applicants than the number of apartments available. He was very impressed and nice facility.

Council Member Buschkoetter stated John McBride announced his retirement from UNK. He has been a tremendous asset and partner with a lot of projects that he has been able to oversee. One that the City worked on more than anything else was dealing with Memorial Field and the improvements there and John's done an admirable job and certainly wish him the best of health and best of luck in the future.

Mayor Clouse stated that Kearney continues to have a lot of conferences and conventions; he just came from an event that has been in Lincoln for 55 years. It was at the Younes Convention Center and will be there for the next three years and several hundred people were there. When a person sees Kearney's sales tax, and you see the things happening in this community with our convention and Visitors Bureau, everything is alive and well in Kearney.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 7:27 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK