

Kearney, Nebraska
June 11, 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 June 11, 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, Bob Lammers and Jonathan Nikkila. Absent: Bruce Lear. 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: Chris Riha, Marvion Reichert, Craig Bennett, Jane Musil, Donna Murphy, Karen Worman, Mike Klaus, 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

SILENT PRAYER

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.

ORAL COMMUNICATIONS – POLICE DEPARTMENT VOLUNTEER PROGRAM

Records Supervisor Jane Musil from the Kearney Police Department recognized the following chaplains: Robert Fitzgerald, John Gosswein, Jerry Ness, Bobby Payne, Dean Pofahl, Marvin Valdois. The following senior volunteers were recognized: Jerry Bittman, who is new this year, Iola and Myron Fougerson-husband and wife, Elaine Knaus, Milt Kotrc, Mary Kulhanek, Aaron Lackey, Donna Murphy and Ruth Sajevic. Donna Murphy stated the senior volunteer program began at the Police Department in 1994. They have volunteered several thousands of hours over the years. This year they volunteered

1,585 hours which amount to \$19,020. Some of the duties they do include: data entry of parking tickets, reports in numerical order, filing, and parking ticket postcards.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

FINAL PLAT FOR KEARNEY EAST VIAERO SUBDIVISION; SOUTH OF UNION PACIFIC RAILROAD AND WEST OF CHERRY AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Cabela's, Inc. (Owner) for the Final Plat for Kearney East Viaero Subdivision, a subdivision being part of the South Half of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Union Pacific Railroad and west of Cherry Avenue) and to consider Resolution No. 2013-101. Planning Commission recommended approval of the final plat.

Viaero Wireless has been working with the City to locate a 120-foot tall telecommunications tower east of town near the industrial tracts. Several options for siting the tower were discussed at multiple DRT meetings. The selected site is located south of Cabela's on the south side of the Union Pacific Railroad tracks and on the west side of existing Cherry Avenue. There is a small triangular parcel of land that is owned by Cabela's and was separated from the rest of the site when the highway and the railroad were built long ago. Cabela's has no use for the site. The property is described by metes and bounds only, so a subdivision is required. The property is zoned M-2 and no rezoning is required, but a Conditional Use Permit (CUP) is required. The following comments are provided to summarize the project.

- The tower location is in close proximity to the Airport and the runway approach zone. City Code requires an approval letter from FAA as part of the CUP application and the applicant has provided the letter. There was discussion about lighting the tower or painting the tower to enhance visibility but the FAA does not require either.
- Viaero contacted the County to make sure the access driveway location is acceptable. The County referred them to the City since the property is in City limits. The City does not have a problem with the access location. This will not be a shared access.
- After the new East Kearney Bypass is completed in its offset location from existing Cherry Avenue, the new highway will become Nebraska State Highway 10 and old Cherry Avenue will become a local access road.
- Old Cherry Avenue will be closed where it crosses the UP Railroad and a turnaround will be constructed on the south side of the tracks. Consequently, access to the Viaero site will be from the south.

- City services are available, but the developer is not requesting water and sewer service.
- Electric service is provided by NPPD. Only need 100 amp service but will wire for 200 amp based on Viaero's request.
- Capacity for co-locators will be provided as required by Code.
- Landscaping is required for telecommunications towers. Generally some evergreen trees such as pines or spruces around the base of the tower are acceptable. A landscape plan is required as part of the CUP application but was not submitted.

Mr. Riha asked the Planning Commission if they want Viaero to plant trees or can they put up a decorative fence in lieu of the trees? Viaero would rather put up a fence instead of planting trees because then they would not have to worry about getting water to the trees. The Code does say that a decorative fence is an alternative if the Planning Commission and the Council believe that it adequately screens the tower. The City Planner had recommended landscaping and provided a mark-up showing some trees on the east and west sides of the site. The Commissioners agreed that landscaping is preferred over fencing. Viaero will install a security fence regardless of having a decorative fence or landscaping since all of Viaero's sites have a security fence around them. The Planning Commission motion for approval of the CUP is subject to providing three trees on the northwest side of the property; the wood fence is optional. The Commissioners further specified trees that would be hardy and at maturity, would stand at least 20 feet tall and they must be 5 to 6 feet tall at the time of planting. The City Planner suggested Colorado Blue Spruce, Austrian Pine or Concolor Fir; any of those varieties are going to get 30 to 40 feet tall and 15 to 20 feet wide.

As in the past with other Viaero installations, a complete and thorough package of information has been provided that addresses all the CUP requirements for this development. The addition of this tower to the Viaero network will provide improved cellular service for Viaero customers in the industrial area, including Cabela's, Eaton, Baldwin, other businesses in the area and the Airport.

Chris Riha from Viaero Wireless presented this matter to the Council. He stated Viaero Wireless is proposing a telecommunications tower site south of Highway 30 south of Union Pacific Railroad tracks just on the west side of the existing Cherry Avenue. It is a triangle shaped lot and it is currently owned by Cabelas. They have a real estate contract that is contingent on local, state, federal governmental approval. He provided a simulation picture taken from the existing Cherry Avenue looking west for 120-foot lattice tower with an aggregate building, a back-up generator that will be fueled with 1,000 gallon propane tank that will be buried. They will have access to the site right off of the old Cherry Avenue. He met with NDOR to make sure Viaero was not going to interfere with their development plans along with any others that the railroad might have for another spur. He met with the airport personnel and they have FAA approval. They will basically set this tower 120 feet off of the NPPD's transmission line that is on the west side of Cherry Avenue. A driveway will be on the south side of their lot going into their chain link secured fence. They are trying to improve this area of town for frequency strength; it will have building penetration to not only Cabela's but also Eaton's, Baldwins, DeKalb, and Monsanto.

They are trying to eliminate or get by with less landscaping for the mere fact that it is in an M-2 zone. They proposed to Planning Commission to put up a decorative fence such as the wooden fence they have on its west retail stores site by the west campus and basically they did not approve that. They are still recommending landscaping on the west side since that is the side to be observed from the new Cherry Avenue overpass. Viaero wanted to go with the wooden fence decorative fence instead just for the mere fact that to get the three trees up and going for a year will take quite a bit of water and man power. City Manager Michael Morgan stated City Code is not discretionary on that it is specific which is why Planning Commission ruled against that.

Council Member Lammers stated the tower is relatively close to the airbase and there are height restrictions. He asked if Viaero was as close to the boundary as they can be in that direction. Mr. Riha stated if they go any further east they will be at the landing and takeoff zones and their approach zones. There was an old landing strip that ran from northeast to southwest but that does not exist anymore.

Council Member Nikkila asked if this was replacing an existing tower. Mr. Riha stated this is a new tower. The closest tower they have is in the Buffalo County fairgrounds. And that does pretty well; gives them good frequency strength for that area but they want better strength to get into some of those manufacturing buildings. Another nice thing about this project is Cabela's does not have a use for this little triangle property so they have been really to get along with and to negotiate.

Council Member Lammers asked if there was room for others to co-locate. Mr. Riha stated yes there is room and by code there has to be two others to co-locate in that. They can extend the chain link fence to add another aggregate building. This will also help Viaero get the town 4-G ready.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-101** approving the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Cabela's, Inc. (Owner) for the Final Plat for Kearney East Viaero Subdivision, a subdivision being part of the South Half of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Union Pacific Railroad and west of Cherry Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-101

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Kearney East Viaero Subdivision of Buffalo County, Nebraska for a tract of land being part of the South Half of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M, Buffalo County, Nebraska, lying south of the Union Pacific Railroad right-of-way and more particularly described as follows: beginning at the southeast corner of said South Half of the South Half of the Northeast Quarter of Section 32 and the east line of said Northeast Quarter as bearing S00°41'34"E and all bearings contained herein are

relative thereto; thence S89°41'34"W on the south line of said Northeast Quarter a distance of 303.76 feet to the south right-of-way line of the Union Pacific Railroad; thence N72°48'13"E on said south right-of-way line a distance of 316.80 feet to the east line of said Northeast Quarter; thence S00°41'34"E on said east line a distance of 92.07 feet to the Point of Beginning, containing 0.32 acres more or less, of which 0.07 acres more or less are being used for County Road purposes along the east side, 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.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ORDINANCE NO. 7811 – CONDITIONAL USE PERMIT TO VIAERO WIRELESS AND CABELA’S; SOUTH OF UNION PACIFIC RAILROAD AND WEST OF CHERRY AVENUE

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

Mayor Clouse opened the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Cabela’s, Inc. (Owner) for a Conditional Use Permit to locate telecommunications tower site on property zoned District M-2, General Industrial District and described as a tract of land being part of the South Half of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Union Pacific Railroad and west of Cherry Avenue) and to consider Ordinance No. 7811. Planning Commission recommended approval subject to providing a Landscape Plan showing at least three conifer-type trees on the northwest side of the property; the wood screening fence is optional. The trees will be hardy, and at maturity will stand at least 20 feet tall, and they must be 5 to 6 feet tall at the time of planting.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by NE Colorado Cellular, Inc., dba Viaero Wireless (Applicant) and Cabela’s, Inc. (Owner) for a Conditional Use Permit to locate telecommunications tower site on property zoned District M-2, General Industrial District and described as a tract of land being part of the South Half of the South Half of the Northeast Quarter of Section 32, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (south of Union Pacific Railroad and west of Cherry Avenue) subject to providing a Landscape Plan showing at least three conifer-type trees on the northwest side of the property; the wood screening fence is optional. The trees will be hardy, and at maturity will stand at least 20 feet tall, and they must be 5 to 6 feet tall at the time of planting and introduced Ordinance No.

7811 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 Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7811. 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. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7811 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7811 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7811 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 YOUNES CENTER SECOND ADDITION; SOUTH OF TALMADGE STREET EAST OF 10TH AVENUE

Public Hearings 3 and 4 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for MJ Developments, LLC (Owner) for the Final Plat for Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street east of 10th Avenue) and to consider Resolution No. 2013-102. Planning Commission recommended approval.

The applicant is requesting approval of the Final Plat for a subdivision to be known as Younes Center Second Addition as well as annexation of the property containing 40.28 acres. The Preliminary Plat was approved by Planning Commission on May 17, 2013. This parcel of land is located between Talmadge Street and Interstate 80, west of the Younes motel campus. This parcel is primarily water as it contains the existing sandpit lake that many local people refer to as "The DX Pits." The Owner has been working with City staff to find a way to extend Talmadge Street further west. The Planning Commission and City Council have discussed the importance of this roadway extension for several years. At the current time, Talmadge Street provides the sole access point to the Younes motel campus and a second access point is needed, especially for emergency vehicle response, but also as a general circulation improvement in this area.

There has been some misunderstanding of comments made at the Planning Commission meeting in regards to the Talmadge Street extension. Some people seem to think that Talmadge Street will be extended to Kea West soon, possibly even this construction year. This is not the case. The long-range plan is to extend Talmadge Street incrementally to the west to eventually tie into Kea West Avenue. There is no set time frame or deadline for the completion of Talmadge Street to Kea West Avenue. City staff, the Younes partners and the Buffalo County Highway Department have been working together to develop a plan to extend Talmadge Street. The first leg of the roadway extension will push Talmadge Street paving approximately 535 feet west of the current terminus. The platting of this subdivision is a key factor enabling the paving extension.

The City has retained a consultant to develop plans for the street extension. Necessary right-of-way, 66-feet in width, will be negotiated in the future with property owners further west based on the final plans. The majority of the street as it extends west will initially be all-weather gravel surfaced, but will eventually be paved to City standards, over time, as sections of the street become annexed in the future. Once again, please note; at this point there is no set timeline for the phasing or completion of the road improvements extending Talmadge Street out to Kea West Avenue, however progress is being made.

In order to create improvement districts for paving, the property in question is required by State law to be located within the corporate boundary of the City. Therefore, this property is being placed in a subdivision and annexed into the city limits. Improvement districts for paving, municipal water, and sanitary sewer can then be created for the 535 foot long extension of Talmadge Street. Money generated from Tax Increment Financing (TIF) by the Community Redevelopment Authority (CRA) will be used to pay for a portion of the improvements for this section of the roadway. Twenty percent (20%) of all future TIF dollars generated in the Younes campus will be reserved for additional Talmadge Street improvements.

Craig Bennett from Miller & Associates presented this matter to the Council. The purpose of this plat is primarily for the purpose of annexing in Talmadge Street. He provided a drawing that showed the future connection or potential location of Talmadge Street and this extension so this is part of a bigger project to extend some of the paving on Talmadge Street located along the north side of this proposed subdivision. The property is currently zoned C-2/PD and so the purpose of this subdivision is to create a plat by which they can annex this into the City limits and do improvements on Talmadge Street. So while they are improving Talmadge Street they will also be improving that infrastructure for water and sanitary sewer. This final plat is a 1-lot subdivision and is approximately 40 acres.

Karen Woerman, 1712 West 14th Street Place, asked if they have a plan for what the development is going to be of that area. Mayor Clouse stated at this stage there is no requirement, this is just the preliminary. Mr. Bennett stated at this particular time it is more of a procedural process; just the plat and no planned development at this particular time. Ms. Woerman stated she did not know if it was just residential or more motels.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-102** approving the Application submitted by Craig Bennett (Applicant) for MJ Developments, LLC (Owner) for the Final Plat for Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street east of 10th Avenue). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-102

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the northwest corner of Lot 1, Interstate Fifth Addition to the City of Kearney, Buffalo County, Nebraska, and assuming the west line of said Lot 1 as bearing S02°39'31"W and all other bearings shown hereon relative thereto; thence S02°39'31"W on said west line a distance of 916.79 feet to the southwest corner of said Lot 1; thence N88°31'49"E on the south line of said Lot 1 and the south line of Lot 2, Block One, Interstate Third Addition to said City (also the south line of said Section 11 and the north line of said Section 14) a distance of 685.60 feet to a point on the West line of Lot 1, Block Two, of said Interstate Third Addition; thence S14°04'16"W on said West line a distance of 392.12 feet to a point on the Northerly right-of-way of Interstate Highway No. 80; thence west-southwesterly along said northerly right-of-way and a non-tangent curve to the right, having a central angle of 21°01'32", a radius of 854.90 feet, an arc length of 313.72 feet and a chord bearing of S82°02'17"W with a distance of 311.96 feet; thence N87°15'58"W continuing on said northerly right-of-way tangent to said curve a distance of 623.57 feet; thence N85°36'43"W continuing on said northerly right-of-way a distance of 794.15 feet to a point on the west line of said Northeast Quarter; thence N01°08'38"W on said west line a distance of 286.84 feet to the northwest corner of said Northeast Quarter, said point also being the southwest corner of said Government Lot 6; thence N00°24'29"E on the west line of said Government Lot a distance of 999.10 feet to a point on the southerly right-of-way of Talmadge Street as platted in said City; thence S87°20'25"E on said southerly right-of-way a distance of 1175.99 feet to the Point of Beginning, containing 40.28 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 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 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION OF YOUNES CENTER SECOND ADDITION; SOUTH OF TALMADGE STREET EAST OF 10TH AVENUE

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for MJ Developments, LLC (Owner) for the annexation of Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street east of 10th Avenue) and to consider Resolution No. 2013-103. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-103** approving the Application submitted by Craig Bennett (Applicant) for MJ Developments, LLC (Owner) for the annexation of Younes Center Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (south of Talmadge Street east of 10th Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-103

WHEREAS, an Application has been submitted by Craig Bennett (Applicant) for MJ Developments, LLC (Owner) for the inclusion of Younes Center Second Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of Government Lot 6 in Section 11, and part of the North Half of the Northeast Quarter of Section 14, all in Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the northwest corner of Lot 1, Interstate Fifth Addition to the City of Kearney, Buffalo County, Nebraska, and assuming the west line of said Lot 1 as bearing S02°39'31"W and all other bearings shown hereon relative thereto; thence S02°39'31"W on said west line a distance of 916.79 feet to the southwest corner of said Lot 1; thence N88°31'49"E on the south line of said Lot 1 and the south line of Lot 2, Block One, Interstate Third Addition to said City (also the south line of said Section 11 and the north line of said Section 14) a distance of 685.60 feet to a point on the West line of Lot 1, Block Two, of said Interstate Third Addition; thence S14°04'16"W on said West line a

distance of 392.12 feet to a point on the Northerly right-of-way of Interstate Highway No. 80; thence west-southwesterly along said northerly right-of-way and a non-tangent curve to the right, having a central angle of 21°01'32", a radius of 854.90 feet, an arc length of 313.72 feet and a chord bearing of S82°02'17"W with a distance of 311.96 feet; thence N87°15'58"W continuing on said northerly right-of-way tangent to said curve a distance of 623.57 feet; thence N85°36'43"W continuing on said northerly right-of-way a distance of 794.15 feet to a point on the west line of said Northeast Quarter; thence N01°08'38"W on said west line a distance of 286.84 feet to the northwest corner of said Northeast Quarter, said point also being the southwest corner of said Government Lot 6; thence N00°24'29"E on the west line of said Government Lot a distance of 999.10 feet to a point on the southerly right-of-way of Talmadge Street as platted in said City; thence S87°20'25"E on said southerly right-of-way a distance of 1175.99 feet to the Point of Beginning, containing 40.28 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on May 17, 2013 on the inclusion of Younes Center Second Addition 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 Younes Center Second Addition, 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 June 11, 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 Younes Center Second Addition 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 Younes Center Second Addition 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 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

VACATE LOT 9, GRANDVIEW ESTATES TENTH AND FINAL PLAT FOR GRANDVIEW ESTATES ELEVENTH

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for The School District of the City of Kearney, Buffalo County, Nebraska (Owner) for the following: (1) to vacate Lot 9, Grandview Estates Tenth Addition to the City of Kearney, Buffalo County, Nebraska and to consider Ordinance No. 7812; and (2) the Final Plat for Grandview Estates Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being a part of the

North Half of the Southwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (46th Street Place west of Avenue R) and to consider Resolution No. 2013-104. Planning Commission recommend approval.

Kearney Public Schools is seeking approval to plat eight single-family lots on a cul-de-sac street east of Sunrise Middle School. The parcel is located north of East 45th Street, west of East 46th Street Place and Avenue R. The overall parcel is 330 feet x 400 feet or 2.75 acres and is zoned appropriately as R-1. These lots will be used by the Construction Technology class at Kearney High School to build the houses.

The overall parcel was previously platted as one large lot, Lot 9 of Grandview Estates Tenth Addition, which must be vacated to allow the proposed eight-lot subdivision. These lots will mirror the lots directly to the north which are Lots 1-8, Grandview Estates Tenth. The lots were preliminary platted previously on July 20, 2007 by the Planning Commission. Only a final plat is required now.

City utilities are available. An 8-inch City water main is available in Avenue R. An 8-inch City sanitary sewer main is also available in Avenue R. Proposed public improvements will be constructed by improvement districts.

A 10-foot storm sewer main easement along the east side of the lot just west of Avenue R and south of 46th Street Place is shown on the plat in order to obtain the required 10-foot separation between the existing water main and the proposed storm sewer main.

Storm water management is required. The property drains west to east to existing inlets in the Avenue R right-of-way. There is a 20-foot platted drainage easement on the north side of the development. There is a 24-inch RCP pipe on the south side of the lot across from 45th Street Place.

Craig Bennett from Miller & Associates presented this matter to the Council. He was representing the School District for the City of Kearney. This area is located in the northeastern part of Kearney, with Sunrise Middle School nearby. On the east side is Avenue R; 46th Street Place when extended in this plat will go into this parcel. This parcel is only 3 acres and is currently zoned R-1 and they are not asking for rezoning of this property, R-1 is appropriate. There is a vacation required which is Lot 9. Originally when this was platted it looked very similar to adjacent property which the school has built houses. It currently has water infrastructure available to it. It has sanitary sewer also available which would be extended in as well as storm water. There is a detention cell that was created with the overall platting process so there is no on-site detention required for this 3-acre subdivision. This will be an 8-lot subdivision, looks very similar to what you would see on the north side.

Council Member Nikkila stated that he believed this is a neat program and was glad they are continuing it.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing and introduced Ordinance No. 7812 on the application to vacate Lot 9, Grandview Estates Tenth Addition to the City of Kearney,

Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7812. 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. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7812 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7812 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7812 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 Clouse seconded by Lammers to adopt **Resolution No. 2013-104** approving the Final Plat for Grandview Estates Eleventh, an addition to the City of Kearney, Buffalo County, Nebraska for property described as a tract of land being a part of the North Half of the Southwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (46th Street Place west of Avenue R). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-104

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Grandview Estates Eleventh, a tract of land being a part of the North Half of the Southwest Quarter of Section 30, Township 9 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska Lot 9, now vacated Grandview Estates Tenth, an Addition to the City of Kearney, Buffalo County, Nebraska, more particularly described as follows: Beginning at the northeast corner of Lot 10, Grandview Estates Tenth, an Addition to the City of Kearney, Buffalo County, Nebraska, and assuming the north line of said Lot 10 as bearing S89°27'23"W and all other bearings shown hereon relative thereto; thence S89°27'23"W on said north line a distance of 400.00 feet to a point on the east line of Lot 11 and also the north line of Lot 10 (formerly the southwest corner of vacated Lot 9) in said Grandview Estates Tenth; thence N00°25'38"W on the east line of said Lot 11 a distance of 330.01 feet to the southwest corner of Lot 5 in said Grandview Estates Tenth; thence N89°27'37"E on the south line of said Lot 5 and Lots 6 through Lot 8 inclusive a distance of 400.03 feet to the southeast corner of said Lot 8 said point also being on the west right-of-way line

Avenue "R" as platted in said City; thence S00°25'23"E on said west right-of-way line a distance of 329.99 feet to the Point of Beginning, containing 3.03 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 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 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

SANITARY SEWER EASEMENT AND UTILITY EASEMENT; SOUTH OF 39TH STREET AND EAST OF BOX BUTTE AVENUE

Mayor Clouse opened the public hearing on the proposed acquisition for a Permanent Sanitary Sewer Main Easement for the westerly 15 feet of Lot 1, Northeast Industrial Sixth Subdivision, Buffalo County, Nebraska and a Permanent Utility Easement for the easterly 10 feet of the westerly 25 feet of Lot 1, Northeast Industrial Sixth Subdivision, Buffalo County, Nebraska (south of 39th Street and east of Box Butte Avenue) and consider Resolution No. 2013-105.

Director of Utilities Kirk Stocker presented this matter to the Council. At the April 9, 2013 City Council meeting, the Council approved the Development Plans for Lot 1, Northeast Industrial Sixth Subdivision, and at the May 14, 2013 Council meeting, the Council approved the Development Agreement for the property.

Lot 1, Northeast Industrial Sixth Subdivision is located on the south side of 39th Street and east of proposed Box Butte Avenue across from the Kearney Area Recycling Center.

City water and paving need to be constructed in Box Butte Avenue to allow the property to develop. The property will pump wastewater to a gravity sewer main located west of the Recycling Center. The Owners, through the Development Agreement, agreed to the following:

- To annexation in the future.
- To pay for their share of a water main and paving to be constructed in Box Butte Avenue.
- To grant the City a Permanent Sanitary Sewer and Utility Easement to allow for a gravity sewer main to be constructed in the future.
- To waive their right to protest improvement districts abutting their property.

The Owners have signed the Permanent Sanitary Sewer and Utility Easement. However, before the City can accept the easement, the City Council must conduct a public hearing on the matter. Nebraska Revised Statute 18-1775 requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and a public hearing.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-105** approving the proposed acquisition for a Permanent Sanitary Sewer Main Easement for the westerly 15 feet of Lot 1, Northeast Industrial Sixth Subdivision, Buffalo County, Nebraska and a Permanent Utility Easement for the easterly 10 feet of the westerly 25 feet of Lot 1, Northeast Industrial Sixth Subdivision, Buffalo County, Nebraska (south of 39th Street and east of Box Butte Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-105

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 Permanent Utility Easement and voted in favor to proceed with the acquisition; and

WHEREAS, 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, Sally J. Dubbs, Co-Trustee of the Sally J. Dubbs Revocable Living Trust, dated June 20, 2012, have granted to the City of Kearney, Nebraska a Permanent Sanitary Sewer Main Easement and a Permanent Utility Easement as follows:

PERMANENT SANITARY SEWER MAIN EASEMENT

A tract of land described as the westerly 15 feet of 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.

PERMANENT UTILITY EASEMENT

A tract of land described as the easterly 10 feet of the westerly 25 feet of 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.

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 Permanent Utility Easement granted by 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, Sally J. Dubbs, Co-Trustee of the Sally J. Dubbs Revocable Living Trust, dated June 20, 2012 to the City of Kearney be and is hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

IV. CONSENT AGENDA

Moved by Nikkila seconded by Buschkoetter that Subsections 1 through 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

1. Approve Minutes of Regular Meeting held May 28, 2013.
2. Approve the following Claims:

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

3M \$13,763.30 smcs; AAT \$9,931.98 smcs; Achterberg,A \$37.24 smcs; Acklie,K \$31.25 smcs; Air Cleaning Technologies \$295.00 smcs; Alamar Uniforms \$14,034.79 smcs; American First Aid \$287.46 smcs; Anderson Ford Lincoln \$55,124.00 co; Ask Supply \$435.00 smcs; Baker & Taylor Books \$4,229.11 smcs; Ballou,B \$175.00 smcs; Bamford \$1,040.19 smcs; Blessing \$192,029.69 co; Bluecross Blueshield \$212,216.92 smcs; Bolling,H \$31.95 smcs; Borer,H \$21.38 smcs; Bosselman \$33,346.62 smcs; Broadfoot's \$455.00 smcs; Brown Transfer \$107.12 smcs; Buckle \$911.00 smcs; Buffalo Co Treasurer \$1,237.66 co; Buffalo Co. Register Deeds \$186.00 smcs; Builders Warehouse \$2,626.66 smcs,co; Capital Business Systems \$169.93 smcs; Capstone Press \$19.98 smcs; Carlson,B \$25.43 smcs; Cash Wa \$5,090.65 smcs; Casper/Natrona Co. \$800.00 smcs; Charter \$422.09 smcs; Chesterman \$157.95 smcs; Chief \$125.33 smcs; City of Ky \$6,333.15 smcs,co; CNA Surety \$40.00 smcs; Collison,G \$75.00 smcs; Concierge Marketing \$42.45 smcs; Consolidated Management \$69.75 smcs; Construction Rental \$121.00 co; Copycat Printing \$50.00 smcs; Crane River Theater \$250.00 smcs; Crouch Recreational \$6,281.00 co; Cutter & Buck \$1,144.15 smcs; Dakan,M \$47.84 smcs; Depository Trust Comp. \$207,564.37 ds; Dish \$73.99 smcs; DPC Industries \$6,337.62 smcs; Drake,M \$35.00 smcs; Eakes \$928.64 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$386.71 smcs; Engineered Systems \$1,571.93 smcs; Eppers,J \$40.26 smcs; Family Practice \$301.00 ps; Fiddelke \$642.05 co; Fischer,U \$48.26 smcs; Footjoy \$574.98 smcs; Furby's Plumbing \$485.59 smcs; Gale \$667.39 smcs; Gangwish Turf \$43.20 smcs; Gary Thompson Agency \$46.00 smcs; GE Money Bank \$3,971.15 smcs; Gear for Sports \$596.78 smcs; Glatter,D \$35.00 smcs; Goloto,D \$13.88 smcs; Green,C \$59.27 smcs; Gudgel,T \$34.84 smcs;

H&H Distributing \$1,691.56 smcs; Hanson,A \$11.81 smcs; Hartman,J \$8.19 smcs; Hest,C \$5.44 smcs; Holiday Inn \$231.00 smcs; Hometown Leasing \$207.71 smcs; Hornady \$2,856.00 smcs; Hotsy \$18.01 smcs; ISG Infrasys \$90.00 smcs; Jack Lederman \$22.14 smcs; JJ Keller & Associates \$699.00 smcs; Johnstone Supply \$112.87 smcs; Jones,A \$95.00 smcs; Jump A Roo \$850.00 smcs; Karr, Cody \$15.59 smcs; Kart-Mart \$998.00 smcs; Ky Crete & Block \$145.60 smcs,co; Ky Hub \$305.00 smcs; Ky Realty \$21.20 smcs; Ky Vistors Bureau \$80,605.03 smcs; Kelly Electric \$225.00 co; King,S \$77.45 smcs; Krull Insurance \$1,950.00 smcs; Lambertus,S \$150.00 smcs; Larson,L \$360.00 smcs; Larue Distributing \$83.60 smcs; Laser Art Design \$271.80 smcs; Laue,M \$39.49 smcs; LCL Truck Equip \$4,683.00 co; LECC \$200.00 smcs; Ledroit,N \$1.88 smcs; Lewis,J \$37.22 smcs; Lincoln Winwater \$2,319.14 smcs; Loewenstein LLC \$42.69 smcs; Lowe,R \$116.27 smcs; Magic Cleaning \$1,440.00 smcs; Mail Express \$5,084.02 smcs; Marlatt Machine Shop \$3,843.07 smcs,co; Matheson Tri-Gas \$44.73 smcs; MDI \$2,388.27 smcs; Menards \$6,699.19 smcs; Metal Doors \$390.91 smcs; Microfilm Imaging \$335.19 smcs; Midlands Contracting \$13,488.42 co; Mid-NE Lubricants \$198.72 smcs; Midwest Mailing \$204.78 smcs; Milcon Environmental \$4,880.81 smcs; Miller & Associates \$4,138.10 co; Miller,A \$400.00 smcs; Miller,C \$13.77 smcs; Morpho Trak \$9,210.00 smcs; MPH Industries \$338.84 co; Municipal Supply \$115.90 smcs; National Alliance for Youth \$300.00 smcs; NE Dept Environmental \$273,740.94 smcs,ds; NE Public Health \$743.00 smcs; NE Salt & Grain \$960.06 smcs; NE Truck Center \$142,620.00 co; NE/DOL Boiler Inspection \$72.00 smcs; Nebraskaland Distributors \$1,628.30 smcs; New World Systems \$2,146.09 smcs; NLETC \$80.00 smcs; NMC Exchange \$189,075.00 co; Northwestern Energy \$3,797.90 smcs; NP Realty \$544.00 co; O'Keefe Elevator \$912.97 smcs; Olive Software \$100.00 smcs; Orduna,A \$11.62 smcs; Overhead Door \$875.00 smcs; Panowicz,C \$10.90 smcs; Paramount \$136.37 smcs; Pep Co. \$50.00 smcs; Pioneer Manufacturing \$87.90 smcs; Presto-X \$298.54 smcs; Random House \$22.50 smcs; Ready Mixed Concrete \$2,146.25 co; Recorded Books \$1,038.88 smcs; Research Tech. \$520.00 smcs; Rothenberger,A \$44.79 smcs; Sam's Club Direct \$1,316.06 smcs; Scarlett,J \$20.00 smcs; Sepers,C \$90.04 smcs; Shopper, the \$1,327.96 smcs; Sid Dillon \$38,750.00 co; Slagle,J \$27.68 smcs; Sokolowski,K \$20.72 smcs; Sporting Edge \$2,587.00 smcs; Springer Roofing \$1,250.00 smcs; Starostka,D \$50.30 smcs; State of NE/AS Central \$3,741.94 smcs,co; Steinbrink Landscaping \$18,909.42 smcs,co; Strategic Insights \$675.00 smcs; Sun Development \$20.55 smcs; Sun Life Financial \$62,641.14 smcs; Tacha,J \$50.00 smcs; Teahon,K \$6.10 smcs; Theis,J \$30.00 smcs; Tielke's Sandwiches \$107.04 smcs; Titleist \$3,795.64 smcs; Tour Edge \$1,240.00 smcs; Toyne \$69.70 smcs; Tracy,Z \$15.13 smcs; Trade Well Pallet \$2,860.00 smcs; Tri-Cities Group \$371.50 smcs; Turfwerks \$2,635.39 smcs; Uldrich,M \$31.00 smcs; Van Diest \$9,803.16 smcs; Vanderlinde,E \$34.04 smcs; Vasquez,C \$40.00 smcs; Verizon Wireless \$1,092.41 smcs; Village Uniform \$545.25 smcs; Waggoner Plumbing \$49.92 smcs; Wald & Co. \$13,000.00 smcs; Walters Electric \$3,963.73 smcs; Warren-T Plumbing \$474.92 smcs; Warrington,D \$390.50 smcs; Weins,R \$100.00 smcs; Whelen Engineering \$200.00 smcs; Payroll Ending 6-1-2013 -- \$404,152.91. 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. 2013-106 approving Change Order No. 1 showing an increase in the amount of \$158,361.73 and Change Order No. 2 showing in increase in

the amount of \$1,840.00 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2012-954 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue; Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue.

RESOLUTION NO. 2013-106

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2012-954 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue; Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$158,361.73, as shown on Exhibit "A" and Change Order No. 2 showing an increase in the amount of \$1,840.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference as follows:

| | |
|--------------------------------|-------------------|
| Original Contract Sum | \$492,366.19 |
| Change Order No. 1 (6-11-2013) | +158,361.73 |
| Change Order No. 2 (6-11-2013) | <u>+ 1,840.00</u> |
| Contract Sum To Date | \$652,567.92 |

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Change Order Nos. 1 and 2, as shown on Exhibits "A" and "B", be and are hereby accepted and approved.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

4. Adopt Resolution No. 2013-107 approving Change Order No. 1 showing an increase in the amount of \$27,602.00 submitted by Blessing, LLC and approved by Miller & Associates for 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. 2013-107

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with 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, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$27,602.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference as follows:

| | |
|--------------------------------|--------------------|
| Original Contract Sum | \$683,092.30 |
| Change Order No. 1 (6-11-2013) | <u>+ 27,602.00</u> |
| Contract Sum To Date | \$710,694.30 |

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

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
 MICHAELLE E. TREMBLY
 CITY CLERK

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

5. 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 Museum of Nebraska Art, 2401 Central Avenue on July 27, 2013 from 6:30 p.m. until 10:00 p.m. for a reception.

6. Adopt **Resolution No. 2013-108** approving Change Order No. 1 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 9 Improvements; CDGB Sidewalks in the Emerson School Area.

RESOLUTION NO. 2013-108

WHEREAS, Blessing, LLC of Kearney, Nebraska was the successful bidder for the 2012 Part 9 Improvements; CDGB Sidewalks in the Emerson School Area; and

WHEREAS, the Department of Housing and Urban Development has modified the regulations for engineering and other professional services on Community Development Block Grants; and

WHEREAS, the Nebraska Department of Economic Development, on behalf of HUD, has notified the City of Kearney of this change and recommend that services be contracted under a lump sum and hourly "Not To Exceed" for CDBG projects; and

WHEREAS, Blessing, LLC of Kearney, Nebraska and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 changing the Contract Documents as follows:

- deleting Pages SGCGR-13 through SGCGR-16 from the bidding documents and in the Agreement between Owner and Contractor, and
- adding Pages SGCGR-13^R through SGCGR-19^R

as shown on Exhibit "A" attached hereto and made a part hereof by reference as follows:

| | |
|-----------------------|--------------|
| Original Contract Sum | \$290,885.23 |
|-----------------------|--------------|

Merriweather Mobile Home Village, 914 West 17th Street
Van Vleet Trailer Court, 550 30th Avenue
Woodriver Valley Mobile Home Park, 865 West 78th Street

9. Approve the recommendation from the Development Services Division on extending the current license for the following manufactured home courts:

Cornhusker Mobile Home Park, 1115 Avenue C
Cottonmill Mobile Home Court, 3635 Cottonmill Avenue
East Lawn Mobile Homes Estates, 2900, 3010 Grand Avenue
Schnase Trailer Court, 1284 62nd Avenue
Sunset View Mobile Home Court, 4664 West Highway 30
Valley View Mobile Home Court, 2701 Grand Avenue
Westside Trailer Court, 1282 62nd Avenue

10. Adopt **Resolution No. 2013-110** accepting the bids received for the 2013 Airport Asphalt Pavement Improvements and award the bid to JIL Asphalt from Grand Island, Nebraska in the amount of \$58,428.25 for Bid A (Asphalt) and to Blessing Construction in the amount of \$70,876.00 for Bid B (Concrete).

RESOLUTION NO. 2013-110

WHEREAS, the City of Kearney has reviewed the sealed bids which were opened on June 4, 2013 at 2:00 p.m. for the 2013 Airport Asphalt Pavement Improvements; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost for Bid A (Concrete) was \$98,045.00 and for Bid B (Asphalt) was \$60,878.50 for the said project; and

WHEREAS, the City has recommended the bid offered by Blessing Construction of Kearney, Nebraska in the amount of \$70,876.00 for Bid A (Concrete) be accepted as the lowest responsible bid for 2013 Airport Asphalt Pavement Improvements; and

WHEREAS, the City has recommended the bid offered by JIL Asphalt of Grand Island, Nebraska in the amount of \$58,428.25 for Bid B (Asphalt) be accepted as the lowest responsible bid for 2013 Airport Asphalt Pavement Improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that Blessing Construction be and is the lowest responsible bidder for Bid A (Concrete) of the 2013 Airport Asphalt Pavement Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Blessing Construction in the amount of \$70,876.00 be and is hereby accepted.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City Engineer's recommendation is hereby accepted and approved, that JIL Asphalt be and is the lowest responsible bidder for Bid B (Asphalt) of the 2013 Airport Asphalt Pavement Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of JIL Asphalt in the amount of \$58,428.25 be and is hereby accepted.

BE IT FURTHER RESOLVED the City Engineer's Opinion of Probable Construction Cost for Bid A (Concrete) in the amount of \$98,045.00 and for Bid B (Asphalt) in the amount of \$60,878.50 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 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

11. Approve the Agreement submitted by the Central Nebraska Auto Club to temporarily block off Central Avenue from 25th Street to North Railroad Street, 24th Street from 1st Avenue to Avenue A, 23rd Street from 1st Avenue to Avenue A, 21st Street from 1st Avenue to Avenue A, the parking lot located west of Cunningham's Journal, the parking lot located behind City Hall, and the parking lot located north of MONA in conjunction with Cruise Nite 2013 on July 20, 2013. Parking on these public properties will be prohibited on July 20, 2013 beginning at 2:00 a.m.

12. Approve the request to temporarily close the parking lot located north of the Museum of Nebraska Art on June 21, 2013 from 6:00 a.m. until 10:00 a.m. for a fundraiser to benefit the Alzheimer's Association.

13. 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 Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on July 20, 2013 from 12:00 p.m. until 12:00 a.m. for a reunion.

14. 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 inside the Exposition Building and in an area what is designated on the diagram as a beer garden, demo arena and rodeo arena which is all adjacent to the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on July 25, 26, 27, 2013 from 12:00 p.m. until 1:00 a.m. and July 28, 2013 from 12:00 p.m. until 10:00 p.m. for the Buffalo County Fair.

15. Adopt **Resolution No. 2013-111** approving the Sidewalk Café License between the City of Kearney and Brick Street Enterprises, LLC, dba Tru Café located at 2100 Central Avenue.

RESOLUTION NO. 2013-111

WHEREAS, the owners of Tru Café in downtown Kearney have requested the City consider an agreement to allow them to open up a sidewalk café area adjacent to their business located at 2100 Central Avenue; and

WHEREAS, a Sidewalk Café License has been prepared by the City Attorney setting forth the terms and conditions for the use of the City sidewalk.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Sidewalk Café License between the City of Kearney and Brick Street Enterprises, LLC, dba Tru Café for use of the City sidewalk adjacent to their

business located at 2100 Central Avenue be and is hereby approved. The Sidewalk Café License, marked as Exhibit "A" is attached hereto and made a part hereof be reference.

BE IT FURTHER RESOLVED that the Mayor be and is hereby authorized and directed to execute the Sidewalk Café License on behalf of the City of Kearney.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

16. Adopt Resolution No. 2013-112 approving the Interlocal Agreement between the City of Kearney and Buffalo County, Nebraska pertaining to the construction of Avenue M paving from 275 feet north of 1st Street to 11th Street.

RESOLUTION NO. 2013-112

WHEREAS, the City of Kearney and Buffalo County, Nebraska desire to improve Avenue M from 11th Street to 1st Street; and

WHEREAS, the City of Kearney and Buffalo County, Nebraska will enter into an Interlocal Agreement that will address the financing of the relocation and construction costs.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be and is hereby authorized and directed to execute the Interlocal Agreement on behalf of the City of Kearney. A copy of the Agreement, marked as Exhibit "A" is attached hereto and made a part hereof be reference.

PASSED AND APPROVED THIS 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

17. Approve Resolution No. 2012-179A amending the resolution to correct the legal description on the final plat and Subdivision Agreement for Kearney Plaza Villas, an addition to the City of Kearney, Buffalo County, Nebraska (south of West Lincoln Park, west of Plaza Boulevard, north of LaCrosse Drive).

RESOLUTION NO. 2012-179A

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Kearney Plaza Villas, an addition to the City of Kearney, Buffalo County, Nebraska for Lots 1through 13, Tiffany Square Addition, an addition to the City of Kearney, Buffalo County, Nebraska, now vacated, and Lots 1 through 48, inclusive and Common Lot 49, Tiffany Square Second Addition, being a replat of Lot 14, Tiffany Square Addition, an addition to the City of Kearney, Buffalo County, Nebraska, now vacated with said Lot 14, Tiffany Square Addition, an addition to the City of Kearney, Buffalo County, Nebraska, also now vacated, all being part of the Southwest Quarter of the Northwest Quarter of Section 3, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows:

Referring to the Northeast Corner of the Southwest Quarter of the Northwest Quarter of Section 3 and assuming the North line of the Southwest Quarter of the Northwest Quarter of Section 3 as bearing S87°50'W and all bearings contained herein are relative thereto; thence on the North line of the Southwest Quarter of the Northwest Quarter of Section 3, S87°50'W a distance of 524.8 feet to the ACTUAL PLACE OF BEGINNING, and point being the Northeast Corner of Common Lot 49, in said Tiffany Square Second Addition; thence continuing on the North line of the Southwest Quarter of the Northwest Quarter of said Section 3 and on the North line of said Common Lot 49, Tiffany Square Second Addition, S87°50'W a distance of 400.0 feet to the Northwest Corner of said Common Lot 49, Tiffany Square Second Addition; thence leaving the North line of the Southwest Quarter of the Northwest Quarter of said Section 3, S00°04'W and on the West line of said Common Lot 49, Tiffany Square Second Addition a distance of 248.5 feet to the Southwest Corner of said Common Lot 49, Tiffany Square Second Addition; thence on the South line of said Common Lot 49, Tiffany Square Second Addition, S89°56'E a distance of 212.0 feet to the Southwest Corner of Lot 13, in said Tiffany Square Addition; thence on the South line of said Lot 13, Tiffany Square Addition, S89°56'E a distance of 168.4 feet to a point of curvature; thence continuing on the South line of said Lot 13, Tiffany Square Addition and on a 260.0 foot radius curve to the right forming a central angle of 06°41'59" an arc distance of 30.40 feet to the Southeast Corner of said Lot 13, Tiffany Square Addition; thence leaving said curve, non-tangent, N02°10'W and on the east line of said Lot 13, Tiffany Square Addition and on the East line of said Common Lot 49, Tiffany Square Second Addition a distance of 266.23 feet to the place of beginning, containing 2.39 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 11TH DAY OF JUNE, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7813 VACATE LOT 14, TIFFANY SQUARE ADDITION

In September 2012 the Planning Commission recommended approval for the development of a senior housing project on the south side of West Lincoln Way Park. The project was granted final approval by the City Council on October 9, 2012. At that time several existing lots of record were vacated to accommodate the proposed housing project, including Lots 1 through 13 of Tiffany Square Addition and Lots 1 through 49 of Tiffany Square Second Addition. Apparently Lot 14 of Tiffany Square Addition should have also been included in the vacation but was not part of the vacation description provided to the City.

The Buffalo County Register of Deeds noticed this error and is withholding the filing of the Final Plat until Lot 14 of Tiffany Square Addition is vacated. In essence, this vacation request is a "house-keeping" issue to allow the Final Plat to be filed. A revised Resolution No. 2012-179A must also be approved by Council as it amends the legal description on the Final Plat and in the Subdivision Agreement for Kearney Plaza Villas to bring everything into compliance.

Council Member Buschkoetter introduced Ordinance No. 7813, being Subsection 1 of Agenda Item V vacating Lot 14, Tiffany Square Addition, an addition to the City of Kearney, Buffalo County, Nebraska (north of LaCrosse Drive, south of West Lincoln Way Park), 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 Clouse 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, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7813 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7813 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7813 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

OPEN ACCOUNT CLAIMS

There were no Open Account Claims.

VII. REPORTS

Council members thanked the City staff, Buffalo County, and Darren Robinson with the Economic Development Council for all the work done in putting the proposal together for Project Honor.

Mayor Clouse commended the Park & Recreation Department for the way the parks look.

VIII. ADJOURN

Moved by Buschkoetter seconded by Lammers that Council adjourn at 7:29 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**