

*Kearney, Nebraska*  
*July 23, 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 July 23, 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 and Jonathan Nikkila. Absent: Bob Lammers. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; 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: Shannon Schmidt, Mark Schmidt, Eric Maaske, Jodi Jacobitz, Lowell Nelson, Glen Miller, Curt Wilkerson, Craig Bennett, Gerry O'Rourke, 20 UNK students, 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**

### **MOMENT OF SILENCE**

The Council held a moment of silence.

### **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**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### III. PUBLIC HEARINGS

#### LIQUOR LICENSE FOR COUNTRY INN & SUITES, 105 TALMADGE STREET

Mayor Clouse opened the public hearing on the Application for a Class I-104047 liquor license submitted by Level 5 LLC, dba Country Inn & Suites located at 105 Talmadge Street, consider the manager application for Jodi Jacobitz, and consider Resolution No. 2013-130.

This is a new application submitted by Level 5 LLC, dba Country Inn & Suites for a license to sell alcohol at its facility located at 105 Talmadge Street. The current facility has held a liquor license since 2010. This application is a change in ownership.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicants. There was nothing found in the background that would indicate a problem with compliance with Council policy nor is there any recent history of any issues with any of the corporate stores in Nebraska. The Application for Manager identifies Jodi Jacobitz. Ms. Jacobitz has basically managed this facility for the past five years. Mr. Maaske has submitted the Liquor License Training Compliance form indicating that their employees have been trained and Certificates of Training have been filed with the City.

Jodi Jacobitz presented this matter to the Council. She stated they are in the process of getting a liquor license for Level 5, dba Country Inn & Suites. For the past four years, they provided a guest reception offered Monday through Thursday from 5:00 -7:00 p.m.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2013-130** recommending approval to the Nebraska Liquor Control Commission the Application for a Class I-104047 liquor license submitted by Level 5 LLC, dba Country Inn & Suites located at 105 Talmadge Street and approve the manager application for Jodi Jacobitz,. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

#### **RESOLUTION NO. 2013-130**

WHEREAS, Level 5 LLC, dba Country Inn & Suites has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class I-104047 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to do business at 105 Talmadge Street, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, Level 5 LLC, dba Country Inn & Suites also filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for Corporate Manager of Jodi Jacobitz; and

WHEREAS, a hearing was held relating to said application on July 23, 2013 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance

form indicating all employees have or will complete a state approved alcohol server/seller training program.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class I-104047 (Beer, Wine and Distilled Spirits – On Sale Only) Liquor License to Level 5 LLC, dba Country Inn & Suites located at 105 Talmadge Street, Kearney, Nebraska, and to approve the application for Corporate Manager of Jodi Jacobitz.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to record the Council action favoring the issuance of said license in the Minute Record of the proceedings of the Council.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ORDINANCE NO. 7817 GRANTING CONDITIONAL USE PERMIT TO SHANNON SCHMIDT, 506 EAST 26TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Shannon Schmidt (Applicant) for Joyce Knajdl (Owner) for a Conditional Use Permit to locate a child care center on property zoned District R-3, Urban Residential Multi-Family District (Medium Density) and described as part of Lot 14, Southeast Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (506 East 26th Street) and consider Ordinance No. 7817. Planning Commission recommended approval subject to a maximum of 29 children and six employees; submit a copy of their state license; hours of operation will be 6:30 a.m. until 6:00 p.m. Monday through Friday; the driveway approach from 26th Street will have to be paved within two years; and the permit will need to be renewed in two years with the possibility of a longer renewal period after the first 2-year period.

The current owner of an existing daycare at this location would like to sell her business to Shannon Schmidt. Ms. Schmidt is currently employed at the existing daycare. The current owner applied for a CUP when she first opened her daycare in 1995 but the City Attorney at that time determined that a CUP was not required. Because the business is transferring ownership, now the new owner will have to comply with the current code and apply for a CUP in order to operate her business. Current zoning of the property is R-3. The property across the street to the south is zoned C-3. There are apartments to the west and the north of the property, so it is more of a mixed-use area than a residential neighborhood.

The house where the daycare is located is just used for the daycare; nobody lives in the house. City Code does not distinguish if somebody has to live in the house or not. The City is not aware of any complaints from the neighborhood concerning this location and use back to 1995. The license from the State for this daycare allows a maximum of 29 children. Currently the daycare has 18 children. Current hours of operation are 6:30 a.m. to 6:00 p.m. Monday through Friday. Currently the daycare employs the manager plus four other people. If the daycare were to reach the capacity allowed by the state

license there would be six employees. The employees park in the driveway or directly in front of the daycare. Children are also dropped-off and picked-up in the driveway. The driveway is not paved at this time and Staff noted that paving the driveway may provide better off-street parking for employees. Staff suggested that the applicant may consider paving a 20-foot drive approach between the curb and the sidewalk to allow for a larger pick-up and drop-off area. If the owner wants to widen the driveway a curb cut permit will be required. If the driveway is widened it can go right up to the side property line. Regardless of the width of the drive, the owner must, at a minimum, pave the initial ten feet of the driveway back from the street right-of-way line. Although additional on-street parking is available today on the south side of East 26th Street, should that property be redeveloped on-street parking access would be reduced. The backyard is fenced so the children can play outside in a contained area.

Shannon Schmidt presented this matter to the Council. She stated the daycare is currently open and she is in the process of purchasing the property. She needs a Conditional Use Permit to send to the State showing they are zoned appropriately. She has worked there 15 years.

Council Member Nikkila asked what was the reason for including the paving of the driveway in the Conditional Use Permit. City Manager Michael Morgan stated and Ms. Schmidt agreed, to bring it up to code because the driveway right now is gravel. Council Member Nikkila asked Ms. Schmidt if she agreed with this requirement and Ms. Schmidt replied affirmatively.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Shannon Schmidt (Applicant) for Joyce Knajdl (Owner) for a Conditional Use Permit to locate a child care center on property zoned District R-3, Urban Residential Multi-Family District (Medium Density) and described as part of Lot 14, Southeast Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (506 East 26th Street) and introduced Ordinance No. 7817 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. 7817. 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, Buschkoetter, Lear. Nay: None. Lammers 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. 7817 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7817 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7817 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.

### **REZONING AT 6205 2ND AVENUE**

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

Mayor Clouse opened the public hearing on the Application submitted by Glen Miller (Applicant and Owner) to rezone from District C-2, Community Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6205 2nd Avenue) and consider Ordinance No. 7818. Planning Commission recommended that this rezoning and phased Development Plan package be approved.

The applicant is requesting approval to locate a modular home display lot at 6205 2nd Avenue. Although the current zoning would allow this use, there was some confusion regarding the proper zoning of this parcel. The history of the zoning is presented here to clarify the situation.

In 1991 the property was zoned from AG to CP-3 (now known as C-3/PD) and there are records at City Hall that verify the zoning change. In 2002, when the City adopted the new zoning map, the zoning for this property was changed to C-2 in a "blanket" type rezoning of multiple properties in the north 2nd Avenue commercial corridor. Staff could not find any official documented record that could verify that this property was rezoned to C-2 other than the change to the map. The owner prefers C-3 over C-2 zoning and wants the property to go back to C-3/PD zoning. The City will support the rezoning request and waive all fees for rezoning as the current zoning was done by the City. Both C-2 and C-3 zoning allow this use, but C-2 zoning requires a CUP and C-3 does not. C-3/PD zoning requires development plans to be approved by Planning Commission and City Council due to the PD Overlay.

The developer has prepared a three phased development plan for his proposed modular home dealership on the south half of this property. The current owner will continue to use the north half for other purposes. The phased approach allows the developer to proceed with future phases without coming back through the Commission/Council approval process as long as the approved plans are followed for the future phases. Departure from what is shown on the approved plans may cause the project to be resubmitted for Commission/Council approval of the changes. The site is currently surfaced with loose rock. Commercial zoning requires all parking, access lanes and maneuvering areas for vehicles to be hard-surfaced with Portland cement or asphaltic concrete.

Phase I improvements will include the display home facing west (which will also be used as the office), a two-car garage, concrete parking areas with turnouts, a concrete

sidewalk, a berm with trees, and a free standing sign. If the display home is sold the owner will work out of his house until a new display is delivered.

Phase II improvements will be east of the main display and will include three display homes forming an informal "courtyard" with a continuous sidewalk wrapping around the courtyard to access the displays, a sitting area with canopies, a berm and trees. The center area of the courtyard will be irrigated turf grass.

Phase III improvements would include two more display homes north of Phase I facing south which would be on a gravel base. Over time, the applicant hopes to remove most of the existing gravel in areas where it is not needed and replace these areas with irrigated turf grass.

Street trees must be canopy type trees to meet landscaping requirements, minimum of 2-inch caliper, not ornamentals or conifers. Some ornamental trees or conifers can be added as additional trees for accent or interest if the owner so desires. City staff has allowed the applicant some flexibility in locating the canopy trees to complement his display area as opposed to solely being street trees.

The garage will be placed on a permanent foundation and will not be removed from the site with the modular home. Future modular units will be moved on the site next to the garage and the "gap" between the garage and the modular unit will be finished in a seamless fashion so as to not be noticeable. A building permit is required for the garage, but will not be issued until after the Final Plat is approved and filed. The owner has been issued a letter from the Development Services Department allowing him to proceed with footings and foundation for the garage at his own risk prior to City Council approval.

There will be a detention berm on the northeast corner of the property to collect stormwater. The water will be piped into the existing curb inlet on 1st Street. Stormwater design and calculations will be submitted to the City Engineer as part of the building permit submittal for the garage. Erosion and sediment control measures in accordance with NPDES requirements will need to be installed prior to site grading. Public sidewalks are required by Code along both sides of all streets. The developer is requesting a deviation from this requirement under the PD Overlay since Menards site does not have sidewalks.

Platting and annexation is required as part of the building permit application, which the owner is in the process of doing. These items will be reviewed by the Planning Commission at the July 19 meeting. Everything appears to be in order and staff is recommending approval. Platting will require connection to City services and the developer plans on hooking up to water and sewer. NPPD can provide temporary meters to be installed for the model home(s).

Any work done in the right-of-way will need a permit from the State Department of Roads. The freestanding sign shown on the plans appears to overhang the state right-of-way on 2nd Avenue. It must be set back a minimum of two feet from the right-of-way.

Glen Miller, 1318 Avenue C presented the rezoning to the Council. He stated he had a piece of property that has been zoned for 20 years and the map shows it differently and is wanting to put it back to the way it always has been. City Manager stated this property was done as part of the last Comprehensive Zoning Plan. This is one of a few properties in the City were rezoned and the property owner was not aware that it had been rezoned. So the City has waived the fees and suggested he go through the Planning Commission and get it returned back to the original zoning.

Curt Wilkerson presented the development plans to the Council. He is looking at opening up a retail sales lot for modular housing and basically will be bringing in an initial model home for the office to start with. They have lined out space for five additional models that will be phased in three different phases and it will depend on how quick things move as far as time. They are adding a concrete parking lot and installing landscaping as required for the number of trees needed in the front and in the back.

Council Member Nikkila stated he read in the Planning Commission minutes of not putting in a sidewalk now but does the City have the ability to require it later. City Manager stated the City works with the property owner. Because of the location and not adjacent to any other areas that have sidewalks, it seemed to make sense to forego that requirement and at such time there is a need for sidewalk then the City would go back to the property owner. The property owner has the responsibility to install sidewalk when needed.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Glen Miller (Applicant and Owner) to rezone from District C-2, Community Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6205 2nd Avenue) and introduced Ordinance No. 7818 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. 7818. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers 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. 7818 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7818 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7818 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**DEVELOPMENT PLANS FOR RETAIL SALES CENTER FOR MODULAR HOUSING AT 6205 2ND AVENUE**

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

Mayor Clouse opened the public hearing on the Application submitted by Big Prairie Homes (Applicant) and Glen Miller (Owner) for Planned District Development Plan Approval for the location of a retail sales center for modular housing on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District on property described as part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6205 2nd Avenue) and consider Resolution No. 2013-131. Planning Commission recommended that this rezoning and phased Development Plan package be approved.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-131** approving the Application submitted by Big Prairie Homes (Applicant) and Glen Miller (Owner) for Planned District Development Plan Approval for the location of a retail sales center for modular housing on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District on property described as part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (6205 2nd Avenue). Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

**RESOLUTION NO. 2013-131**

WHEREAS, Big Prairie Homes (Applicant) and Glen Miller (Owner) have applied for Planned District Development Plan Approval for the location of a retail sales center for modular housing on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as a tract of land being the south 243.5 feet of a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at a point 132.0 feet south and 86.06 feet east of the northwest corner of the Southwest Quarter of said Section 24, said point being on the east right-of-way line of Nebraska State Highway No. 10 and the southwest corner of Lot 2, Block One, Ingalls Crossing Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence assuming the south line of said Lot 2 as bearing S89°47'53"E and all bearings contained herein are relative thereto; thence S89°47'53"E on the aforesaid south line a distance of 166.86 feet to the southeast corner of said lot, said point being on the west line of 1st Avenue, a street in the City of Kearney, Buffalo County, Nebraska; thence S00°15'38"W on the aforesaid west line a distance of 487.0 feet to the northeast corner of Lot 1, Block Two, Ingalls Crossing Third

Addition; thence N89°49'51" W on the north line of said Lot 1 a distance of 179.32 feet to the northwest corner of said lot, said point being on the east right-of-way line of Nebraska State Highway No. 10; thence N00°12'16"E on the aforesaid east right-of-way line a distance of 426.41 feet; thence continuing on the aforesaid east right-of-way line S88°23'52"E a distance of 13.22 feet; thence N00°08'31"E a distance of 60.13 feet to the place of beginning, all in Buffalo County, Nebraska (6205 2nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Big Prairie Homes (Applicant) and Glen Miller (Owner) for Planned District Development Plan Approval for the location of a retail sales center for modular housing on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as a tract of land being the south 243.5 feet of a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at a point 132.0 feet south and 86.06 feet east of the northwest corner of the Southwest Quarter of said Section 24, said point being on the east right-of-way line of Nebraska State Highway No. 10 and the southwest corner of Lot 2, Block One, Ingalls Crossing Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence assuming the south line of said Lot 2 as bearing S89°47'53"E and all bearings contained herein are relative thereto; thence S89°47'53"E on the aforesaid south line a distance of 166.86 feet to the southeast corner of said lot, said point being on the west line of 1st Avenue, a street in the City of Kearney, Buffalo County, Nebraska; thence S00°15'38"W on the aforesaid west line a distance of 487.0 feet to the northeast corner of Lot 1, Block Two, Ingalls Crossing Third Addition; thence N89°49'51" W on the north line of said Lot 1 a distance of 179.32 feet to the northwest corner of said lot, said point being on the east right-of-way line of Nebraska State Highway No. 10; thence N00°12'16"E on the aforesaid east right-of-way line a distance of 426.41 feet; thence continuing on the aforesaid east right-of-way line S88°23'52"E a distance of 13.22 feet; thence N00°08'31"E a distance of 60.13 feet to the place of beginning, all in Buffalo County, Nebraska (6205 2nd Avenue) be approved subject to compliance with the following conditions: (1) street trees must be canopy type trees to meet landscaping requirements, minimum of 2-inch caliper, not ornamentals or conifers, however, ornamental trees or conifers can be planted in addition to the street trees if so desired by the owner; (2) stormwater design and calculations will be submitted to the City Engineer as part of the building permit submittal for the garage; (3) erosion and sediment control measures in accordance with NPDES requirements will need to be installed prior to site grading; (4) the freestanding sign shown on the plans must be set back a minimum of two feet from the right-of-way line, a separate sign permit is required for the sign; and (5) future phases two and three may be implemented in the future without additional approvals from the Planning Commission or City Council if the future development is implemented in compliance with the approved Development Plans authorized by this Resolution. Revisions, changes, modifications or other departures from the approved plans will require additional review and approval of Revised Development Plans by the Planning Commission and City Council.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE PART OF ORIGINAL TOWN OF KEARNEY JUNCTION AND FINAL PLAT FOR U.S. BANK SUBDIVISION**

Mayor Clouse stated the public hearing on the Applications submitted by Olsson Associates (Applicant) for U.S. Bank National Association (Owner) for (1) to vacate Lots 115, 116 and the south 32 feet of Lot 117, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7819; and (2) the Final Plat for U.S. Bank Subdivision to the City of Kearney, Buffalo County, Nebraska for property described as Lots 115, 116 and the south 32 feet of Lot 117, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (northeast corner of 1st Avenue and 22nd Street) will be postponed until August 13, 2013.

In accordance with Section 53-103 of the City Code, the final plat must be submitted to the City by noon on July 22, 2013. The final plat was submitted to the City but it was not signed by the parties. Therefore, the matter was postponed.

Moved by Buschkoetter seconded by Clouse to postpone until August 13, 2013 the public hearing on the Applications submitted by Olsson Associates (Applicant) for U.S. Bank National Association (Owner) for (1) to vacate Lots 115, 116 and the south 32 feet of Lot 117, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska; and (2) the Final Plat for U.S. Bank Subdivision to the City of Kearney, Buffalo County, Nebraska for property described as Lots 115, 116 and the south 32 feet of Lot 117, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (northeast corner of 1st Avenue and 22nd Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

**REZONING NORTHWEST CORNER OF COUNTRY CLUB LANE AND 24TH STREET**

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

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for The Buckle, Inc. (Owner) to rezone from District C-3, General Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as being part of Lots 6 and 7 of Tract "G", a subdivision of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street) and consider Ordinance No. 7820. Planning Commission recommended approval recognizing the following: a bufferyard deviation along the west property line; and a landscape deviation recognizing that the existing trees along the west side of Country Club Lane will remain, but the required 10-foot wide landscape strip cannot be met.

The Buckle is proposing a new office building to relocate 100 to 150 staff and allow for future growth on the west side of Country Club Lane, north of Highway 30. Due to the size of the building, the zoning will need to be amended to a PD Overlay District.

Consequently, Development Plans must be reviewed and approved by Planning Commission and City Council.

The current zoning is C-3, General Commercial District. Rezoning to a Planned District Overlay, C-3/PD, is required due to the size of the building exceeding 60,000 square feet of floor area.

The proposed office building contains a total of 79,200 square feet split evenly between two stories of 39,600 square feet each. There is no basement proposed. The height of the proposed building does not exceed the maximum height allowable in this zoning district. 317 parking stalls are required and 362 are provided. The site layout meets the maximum impervious coverage/minimum required green space requirements. The design team is looking at locating the building on the north end of the property with the main entrance off of Country Club Lane instead of Highway 30. Adequate separation of the building from Kearney Canal has been an important consideration in the site development for this project because of subsurface water associated with the canal. To ensure protection from subsurface water a below grade aggregate collection system, a curtainwall, is proposed on the north end and west side of the property and will drain the water into the proposed stormwater management conveyance system. The new office building is located to minimize the distance between new and old buildings and line up drives and pedestrian walks. Vehicular access will be split with one access point from Country Club Lane and one access from Highway 30. There is an existing curb cut at both of these locations. The existing access point and hard surface parking lot on Country Club Lane will remain and be integrated into the overall parking requirements for the new office building. There are presently two curb cuts on the Highway 30 frontage. The easterly curb cut location will be abandoned. The west access point will be developed providing good separation from the intersection at Country Club Lane. By using this arrangement, the Buckle representatives will not need to negotiate a new access point with NDOR.

No widening of Country Club Lane is anticipated since it is a collector street. A traffic signal at Country Club Lane and Highway 30 would be difficult to justify due to it being a "T" intersection and the fact that University Drive is a more likely location for a future signal.

The proposed building will be constructed with pre-cast concrete panels that will be textured to give the appearance of masonry patterns and in some respects may look similar to the new distribution center, but with more articulation and window openings. Renderings of all facades of the proposed building have been submitted. The design team has combined several architectural design elements to meet the intent of the façade offset requirement, including: extruded columns at structure corners and louvered awnings above windows. The building will have a parapet wall but no roof mounted units. The building will be sprinklered. A fire suppression main and fire hydrant is proposed from Country Club Lane for the fire sprinkler system.

There is a loading dock on the south side of the building with only one overhead door. The use of this dock will be limited to about 10 to 15 deliveries a day. Deliveries to this site will be almost entirely limited to panel trucks like UPS or FedEx delivery vans

instead of tractor trailer rigs. The majority of daily deliveries will go to other buildings. There is an outdoor seating patio on the west side of the new building.

The proposed office building will be served by sanitary sewer located along the north side of Highway 30. Municipal water service will be extended from the west side of Country Club Lane.

Stormwater management is required. The owner has indicated that storm water detention will be obtained utilizing oversizing of storm water piping under the parking lot.

A landscape concept plan has been submitted. Existing street trees along the west side of Country Club Lane will remain; however, the required 10-foot wide landscape strip cannot be achieved. A landscape deviation is therefore requested under the PD overlay process. Staff will support this deviation as the existing landscape is well established. A 6-foot wide public sidewalk is proposed along the west side of Country Club Lane to allow for the 2-foot bumper overhang along the existing parking lot. One Planning Commission member expressed some concern that the existing parking lot and landscaping in this area does not comply with current code requirements and questioned whether a deviation is justified? City Planner stated that after discussing the pros and cons of saving the existing development versus redeveloping it, Staff decided that the value of the existing trees and hard surface parking provide significant benefit when compared to the cost of redeveloping the area to bring it into compliance.

The west neighbor has an existing residential use which requires a screen or buffer against commercial use by code requirements in Chapter 48 of the ULDO, "Landscaping and Screening." The Buckle has met with the property owner to the west and he would like the Buckle to remove the trees on the west side of their property and maintain the existing fence as screening, but not plant any additional trees. Both parties have agreed that maintenance of the existing fence is preferable to a landscape buffer. The property owner provided a letter to Planning Commission and City Council expressing his desire to have no trees and keep the current fence. A bufferyard deviation is requested under the PD overlay process.

Street trees are required along Highway 30. The location of these trees is restricted to the north nine feet of the south 22 feet abutting Highway 30 right-of-way due to numerous utility lines in this area. The trees are proposed in groupings. Five percent interior parking lot landscaping is also required and one 2-inch caliper deciduous canopy tree is provided for each island. One of the Planning Commission members questioned why there is no landscape plan included in the Development Plan package as it is clearly a requirement under the PD Overlay? City Planner responded that graphic symbols representing proposed tree locations are shown on the Site Plan to constitute a Landscape "Concept" Plan. The tree symbols are shown in sufficient quantity and locations to meet or exceed the minimum requirements of Chapter 48. A final Landscape Plan with a Landscape Schedule indicating location, quantity, species and sizes of all plant material will be submitted as part of the Building Permit Application. A similar two phase approach with a landscape concept followed by a final landscape plan has recently been used for the HyVee project and the southwest hospital project.

Craig Bennett from Miller & Associates presented this matter to the Council. The reason this matter is before the Council is because the size of the building exceeds the 60,000 square feet so that puts it into a Planned Development Overlay and the size of the building is 79,000 square feet. The location being considered for the Buckle's new corporate building is located west of their existing facility or west or adjacent to Country Club Lane and located North of Highway 30. There is an existing parking lot located on a portion of this property, basically consisting of grass and irrigation and what use to be a parking lot down at the end. The current zoning as C-3 and they are asking for the PD Overlay to be able to build this size of a facility on this sloped lot. The existing contours show a significant amount of grade change from the NPPD tailrace canal which is located on the north side of the property. There is approximately 17 feet of relief across the site and so revisions have been made to accommodate for the subsurface drainage when the canal is full.

They would have a singular access that would be for vehicular travel. They are adding a sidewalk along the east side. One of the other features they have is that they will have a need for pedestrian traffic between the buildings but probably not as much as today. People will be parking in the parking lot associated to the building on either side of the street. The existing crosswalk will be moved to a location which better lines up where there is an existing doorway. There would be handicap stalls along the east side, and the trash collection would be located in the northwest corner. On the south side of the building is a loading dock that would be enclosed. This would bring more of the short straight axle type trailers, not semi-tractor trailers that would bring shipments from the DC building to this floor, merchandising and evaluation. Also located on the south side would be a patio or break area where employees could come out and take a break and utilize some of the south side of the building in cooler, winter condition it would be more advantageous to utilize this.

Currently, the Buckle has two highway accesses approved by the Department of Roads. As their trucks come in and go, they would come in and go out onto the highway and not forcing them to come into Country Club Lane. One other point as they had with their other building, they had some groundwater issues. What they have done to alleviate that is they know the tailrace canal fills somewhere in the middle of April to October which increases the groundwater saturation. They are using as a subsurface cut off is a trench which basically as groundwater migrates through the soil, it will hit this trench and it will be collected in a pipe and taken out through the stormwater, alleviating any subsurface drainage they would have below the building and parking lot.

Council Member Buschkoetter asked would that not drain water out of the tailrace, is there some concern that would take some seepage out of the tailrace to the point where the water rights are not. Mr. Bennett stated any seepage that you would have because of the tailrace would be saturated down into that which is already at a higher elevation. They are actually going to be cutting into that hill and as far as groundwater rights, that water they are transporting through that canal already goes back down in or it is saturating and goes back down into the water table. From a drainage basin, Kearney is in the Platte River basin. Basically, a portion of that would migrate and go back into that basin. It would be picking it up and putting it into the stormwater to convey it to the Platte River basin.

Mayor Clouse asked how much water is being discussed. Mr. Bennett stated they did do geotechnical boring samples throughout this site to identify some of the saturation points that are there. Mayor Clouse asked if a similar design was done on the current building. Mr. Bennett stated similar but not with a drain tile. It is aggregate rock with filter fabric and drain tile that would be vertical from ground to bottom; that is basically collecting it because of the elevation of the stormwater. There is actually a lower drive through there that actually serves as surface, the ground water converts to surface and then is collected so a little bit of a different concept. You would not see this actually go surface, it would all be down below and would never be seen.

Mr. Bennett pointed out the new building will be similar to the DC building – a tilt up concrete where they poured the walls and sand them up, this will be a precast where they will also have texture. So it will not be just a straight model type of walls. The walls will have texture in it to give it relief and character as well making it a very attractive building. Currently, the parking lot is at the right-of-way edge on the existing parking lot. They are looking at either utilizing the parking lot or demolishing it and putting it back at the same location depending on the grades and elevations. There are existing trees that they would like to maintain and by doing that, they are asking for that landscape buffer deviation on the east side. When there is a commercial development and it has a residential even though it is zoned C-3, the City Code requires screening of 20-foot wide evergreen, coniferous or conifer type of screening. They are asking for a deviation in that and Mr. Wagner had provided a letter stating he is in agreement with utilizing his existing concrete fence that he has there as a screening.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Craig Bennett (Applicant) for The Buckle, Inc. (Owner) to rezone from District C-3, General Commercial District to District C-3/PD, General Commercial/Planned Development Overlay District property described as being part of Lots 6 and 7 of Tract "G", a subdivision of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and Lot 2, Stansbury Addition, an addition to the City of Kearney, Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street) and introduced Ordinance No. 7820 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. 7820. 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, Buschkoetter, Lear. Nay: None. Lammers 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. 7820 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7820 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7820 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**DEVELOPMENT PLANS FOR NORTHWEST CORNER OF COUNTRY CLUB LANE AND 24TH STREET**

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

Mayor Clouse opened the public hearing on the Application submitted by Craig Bennett (Applicant) for The Buckle, Inc. (Owner) for Planned District Development Plan Approval for the location of a new corporate building on property to be zoned District C-3/PD, General Commercial District/Planned Development Overlay District on property described as being part of Lots 6 and 7 of Tract "G", a subdivision of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street) and consider Resolution No. 2013-133. Planning Commission recommended approval recognizing the following: a bufferyard deviation along the west property line; and a landscape deviation recognizing that the existing trees along the west side of Country Club Lane will remain, but the required 10-foot wide landscape strip cannot be met.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-133** approving the Application submitted by Craig Bennett (Applicant) for The Buckle, Inc. (Owner) for Planned District Development Plan Approval for the location of a new corporate building on property to be zoned District C-3/PD, General Commercial District/Planned Development Overlay District on property described as being part of Lots 6 and 7 of Tract "G", a subdivision of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

**RESOLUTION NO. 2013-133**

WHEREAS, Craig Bennett (Applicant) for The Buckle, Inc. (Owner) have applied for Planned District Development Plan Approval for the location of a new corporate building on property zoned District C-3/PD, General Commercial District/Planned Development Overlay District and described as a tract of land being part of Lots 6 and 7, Tract "G", a subdivision of part of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: beginning at the southwest corner of said Lot 6 and assuming the south line of said Lot 6 as bearing S89°43'16"W and all other bearing shown hereon relative thereto; thence N00°24'31"W on the west line of said Lot 6 a distance of 167.48 feet; thence

N00°28'49"W continuing on said west line a distance of 383.96 feet to the northwest corner of said Lot 6; thence N87°53'57"E on the north line of said Lot 6 a distance of 327.98 feet to the northeast corner of said Lot 6 and the northwest corner of said Lot 7; thence N89°31'53"E on the north line of said Lot 7 (also the south line of Lot 2, Stansbury Addition, City of Kearney, Buffalo County, Nebraska) a distance of 46.50 feet; thence S02°23'44"E on the boundary line between said Lot 7 and Lot 2 a distance of 104.57 feet; thence N89°33'30"E continuing on said boundary line a distance of 22.06 feet; thence S00°54'30"E on the west right-of-way of Country Club Lane as platted on said City a distance of 440.97 feet to a point on the north right-of-way of U.S. Highway 30; thence S44°12'58"W on said north right-of-way a distance of 21.89 feet; thence S89°34'16"W continuing on said north right-of-way a distance of 388.01 feet to the Point of Beginning, all in Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Craig Bennett (Applicant) for The Buckle, Inc. (Owner) for Planned District Development Plan Approval for the location of a new corporate building on property zoned District C-3/PD, General Commercial District/Planned Development Overlay District and described as a tract of land being part of Lots 6 and 7, Tract "G", a subdivision of part of the Southwest Quarter of Section 34, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: beginning at the southwest corner of said Lot 6 and assuming the south line of said Lot 6 as bearing S89°43'16"W and all other bearing shown hereon relative thereto; thence N00°24'31"W on the west line of said Lot 6 a distance of 167.48 feet; thence N00°28'49"W continuing on said west line a distance of 383.96 feet to the northwest corner of said Lot 6; thence N87°53'57"E on the north line of said Lot 6 a distance of 327.98 feet to the northeast corner of said Lot 6 and the northwest corner of said Lot 7; thence N89°31'53"E on the north line of said Lot 7 (also the south line of Lot 2, Stansbury Addition, City of Kearney, Buffalo County, Nebraska) a distance of 46.50 feet; thence S02°23'44"E on the boundary line between said Lot 7 and Lot 2 a distance of 104.57 feet; thence N89°33'30"E continuing on said boundary line a distance of 22.06 feet; thence S00°54'30"E on the west right-of-way of Country Club Lane as platted on said City a distance of 440.97 feet to a point on the north right-of-way of U.S. Highway 30; thence S44°12'58"W on said north right-of-way a distance of 21.89 feet; thence S89°34'16"W continuing on said north right-of-way a distance of 388.01 feet to the Point of Beginning, all in Buffalo County, Nebraska (northwest corner of Country Club Lane and 24th Street) be approved noting the following: (1) a bufferyard deviation along the west property line; (2) a landscape deviation recognizing that the existing trees along the west side of Country Club Lane will remain, but the required 10-foot wide landscape strip cannot be met.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**LAND USE MAP AMENDMENT EAST OF CHERRY AVENUE, 1300 FEET NORTH AND SOUTH OF 56TH STREET**

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by City of Kearney, Nebraska (Applicant and Owner) for Amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Light Industrial to Business Park property described as tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21, and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street) and consider Resolution No. 2013-134. Planning Commission recommended approval.

The City of Kearney is requesting rezoning from District M-1, Limited Industrial District to District BP, Business Park District, for a tract of land containing approximately 156 acres located east of existing Cherry Avenue on both sides of 56th Street. There are roughly 67 acres located north of 56th Street with the balance to the south. All projects in BP zoning are required to be PD Overlay District by code, so the rezoning is actually M-1 to BP/PD. This rezoning request prompts consideration of the Future Land Use Map which shows the current land use status of this property as "Light Industrial." The map must be amended to "Business Park" to bring it into conformance with the proposed rezoning.

The map amendment and rezoning are being pursued by the City of Kearney as the vision for this area evolves. The Cherry Avenue By-pass will abut this site on the west side, 56th Street is being extended east to provide a new entrance to the Kearney Regional Airport, and part of this land has been selected as the proposed site for the new Central Nebraska Veterans Home. Business Park zoning requires higher quality development standards than industrial zoning and City Staff believes that this rezoning request provides a better development environment given the changing nature of this area.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated this is City property and is currently zoned Limited Industrial and wanting it to be zoned to Business Park. Business Park is what was utilized on the technology park for the data center and it is an appropriate use for Project Honor or the VA facility. 56th Street bisects the property and the road is currently under construction. The north part of this tract is where the VA facility would be placed. The rezoning of this parcel also protects the south side and gets uniformity to both sides of 56th Street.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-134** approving the Application submitted by City of Kearney, Nebraska (Applicant and Owner) for Amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Light Industrial to Business Park property described as tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21, and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo

County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

### **RESOLUTION NO. 2013-134**

WHEREAS, an application for a revision of the Land Use Map of the Comprehensive Plan has been filed in conjunction with and as a requisite part of its application for a change in the zoning for a tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21 and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the southwest corner of the Southwest Quarter of said Section 21 (also the northwest corner of the Northwest Quarter of said Section 28) and assuming the west line of said Southwest Quarter as bearing  $N00^{\circ}31'32''W$  and all other bearings shown hereon relative thereto; thence  $N00^{\circ}31'32''W$  on said west line a distance of 1320.83 feet to the northwest corner of said South Half of the Southwest Quarter; thence  $N89^{\circ}20'42''E$  on the north line of said South Half a distance of 2246.08 feet; thence  $S00^{\circ}34'50''E$  a distance of 281.02 feet to the beginning of a non-tangent curve to the right having a central angle of  $66^{\circ}09'47''$ , a radius of 1147.46 feet, an arc length of 1325.04 feet and a chord bearing  $S26^{\circ}18'52''E$  a distance of 1252.64 feet; thence  $S06^{\circ}46'01''W$  tangent to said curve a distance of 85.90 feet; thence  $508^{\circ}37'14''W$  a distance of 307.37 feet; thence  $S28^{\circ}38'27''W$  a distance of 331.20 feet; thence  $N83^{\circ}11'28''W$  a distance of 129.82 feet; thence  $506^{\circ}44'48''W$  a distance of 569.74 feet to a point on the south line of said North Half of the Northwest Quarter; thence  $S89^{\circ}14'04''W$  on said south line a distance of 2369.32 feet to the Southwest Corner of said North Half; thence  $N00^{\circ}31'27''W$  on the west line of said North Half a distance of 1319.38 feet to the Point of Beginning, containing 155.98 acres, more or less, all in Buffalo County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street) from Light Industrial to Business Park, and

WHEREAS, the said application for change in the Comprehensive Land Use Plan has been approved by the City Planning Commission, after a public hearing properly published and held, and

WHEREAS, the City Council has held a public hearing upon the said revision and voted in favor of a motion to approve the change in the Land Use Plan as requested by the applicant.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the Comprehensive Land Use Plan be and is hereby amended to change from Light Industrial to Business Park the use classification for a tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21 and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the southwest corner of the Southwest Quarter of said Section 21 (also the northwest corner of the Northwest Quarter of said Section 28) and assuming the west line of said Southwest Quarter as bearing  $N00^{\circ}31'32''W$  and all other bearings shown hereon relative thereto; thence  $N00^{\circ}31'32''W$  on said west line a distance of 1320.83 feet to the northwest corner of

said South Half of the Southwest Quarter; thence N89°20'42"E on the north line of said South Half a distance of 2246.08 feet; thence S00°34'50"E a distance of 281.02 feet to the beginning of a non-tangent curve to the right having a central angle of 66°09'47", a radius of 1147.46 feet, an arc length of 1325.04 feet and a chord bearing S26°18'52"E a distance of 1252.64 feet; thence S06°46'01"W tangent to said curve a distance of 85.90 feet; thence 508°37'14"W a distance of 307.37 feet; thence S28°38'27"W a distance of 331.20 feet; thence N83°11'28"W a distance of 129.82 feet; thence 506°44'48"W a distance of 569.74 feet to a point on the south line of said North Half of the Northwest Quarter; thence S89°14'04"W on said south line a distance of 2369.32 feet to the Southwest Corner of said North Half; thence N00°31'27"W on the west line of said North Half a distance of 1319.38 feet to the Point of Beginning, containing 155.98 acres, more or less, all in Buffalo County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street).

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING EAST OF CHERRY AVENUE, 1300 FEET NORTH AND SOUTH OF 56TH STREET**

Public Hearings 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by City of Kearney, Nebraska (Applicant and Owner) to rezone from District M-1, Limited Industrial District to District BP/PD, Business Park/Planned Development Overlay District property described as tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21, and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street) and consider Ordinance No. 7821. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by City of Kearney, Nebraska (Applicant and Owner) to rezone from District M-1, Limited Industrial District to District BP/PD, Business Park/Planned Development Overlay District property described as tract of land located in part of the South Half of the Southwest Quarter and part of the Southwest Quarter of the Southeast Quarter of Section 21, and part of the North Half of the Northwest Quarter and part of the Northwest Quarter of the Northeast Quarter of Section 28, all in Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska (east of Cherry Avenue, 1300 feet north and south of 56th Street) and introduced Ordinance No. 7821 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. 7821. 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, Buschkoetter, Lear. Nay: None. Lammers 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. 7821 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7821 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7821 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. 7821 GRANTING CONDITIONAL USE PERMIT TO TISDALE NEBRASKA/COMMNET WIRELESS, 3406 LAKEVIEW DRIVE**

Mayor Clouse opened the public hearing on the Application for a Conditional Use Permit submitted by Tisdale Nebraska/Commnet Wireless (Applicant) and SBA Communications Corporation (Owner) to co-locate telecommunications equipment for wireless communications as provided in Paragraph H of Section 46-110 "Telecommunications Towers" of Chapter 46 "Supplemental Use Regulations" of the City Code 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. 7822. Staff recommends approval subject to the structural documentation being provided by the applicant.

The applicant is requesting approval of a Conditional Use Permit (CUP) to install telecommunications equipment for Commnet Wireless on the existing telecommunications tower located at 3406 Lakeview Drive. The property is zoned R-1. Because this CUP application is for co-location on an existing tower the application is being expedited directly to the City Council without having to be heard by Planning Commission. This expedited review option is offered in the telecommunications section Chapter 46 of the City Code as an incentive to encourage co-location instead of building additional towers.

In this case, an existing co-locator, Nextel Partners, is terminating the lease on this tower and removing their equipment. Commnet will basically be replacing the Nextel Partners equipment with Commnet equipment, including the use of the existing Nextel shelter at the base of the tower which will now be occupied by Commnet equipment. Staff requested and received the following documentation from the applicant in support of this co-location request. This documentation is included in the information packet:

- Cover letter outlining the proposed equipment change
- CUP Application and fee
- Zoning Exhibits
- Copy of last deed of record.
- Updated structural analysis prepared by a licensed structural engineer.

Lowell Nelson from Tisdale Nebraska/Commnet Wireless presented this matter to the Council. He stated basically what they are doing is removing the existing Nextel antennas; there are nine antennas plus nine runs of coax. They would be installing six panel antennas with one run of 7/8" power and 1/4" fiber down to the Nextel shelter where their materials will be housed. In looking at the structure, there will be virtually no changes except less antennas.

Council Member Buschkoetter asked would that change the weight on the tower. Mr. Nelson stated that would help it because they are removing quite a bit of weight. Council Member Buschkoetter asked about the surface area as well. Mr. Nelson stated yes, they do have a passing structural with its equipment on the tower.

Council Member Nikkila asked if he could tell us more about the company. Mr. Nelson stated they are based out of Castle Rock, Colorado and service mainly rural America. They are building into Nebraska for their own good and there is probably going to be four sites in Kearney that they will be dealing with eventually. His company will provide telephone, data, and voice services.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application for a Conditional Use Permit submitted by Tisdale Nebraska/Commnet Wireless (Applicant) and SBA Communications Corporation (Owner) to co-locate telecommunications equipment for wireless communications as provided in Paragraph H of Section 46-110 "Telecommunications Towers" of Chapter 46 "Supplemental Use Regulations" of the City Code 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. 7822 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. 7822. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers 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. 7822 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7822 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7822 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.

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

Moved by Clouse seconded by Nikkila that Subsections 1 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear. Nay: None. Lammers absent. Motion carried.

1. Approve Minutes of Regular Meeting held July 9, 2013 and Special Meeting held July 11, 2013.

2. Approve the following Claims:

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

1000bulbscom \$208.07 smcs; AT&T \$284.57 smcs; Ace Hardware \$38.36 smcs; Advanced Auto Parts \$52.99 smcs; Agri Service Center \$5,323.47 smcs; Alamar Uniforms \$159.92 smcs; Alfred Benesch \$490.68 co; All Makes Auto \$500.30 smcs; Amazon \$2,913.39 smcs,co; American \$252.19 smcs,co; Amer Fence \$36.00 smcs; Amer First Aid \$398.96 smcs; Amsan \$358.50 smcs; Andersen Self Service \$12.90 smcs; APA-Membership \$845.00 smcs; Apple Market \$18.69 smcs; ARC Services \$425.00 smcs; Ask Supply \$1,153.56 smcs; ATAFacom \$269.66 co; Aurora Coop \$54.40 smcs; Baird Holm \$5,678.75 smcs; Baird Supporting \$421.62 co; Baker & Taylor \$3,903.24 smcs; Bamford \$1,210.79 smcs; Barney Abstract \$1,050.00 smcs; Bauer,L \$75.00 smcs; Baughman,J \$77.55 smcs; Bieber,M \$150.00 smcs; Big Red Auto Group \$360.00 co; Blackburn Mfg \$166.29 smcs; Bluecross Blueshield \$310,235.63 smcs; Bookmark \$282.30 smcs; Boruch,C \$25.00 smcs; Bosselman \$5,018.81 smcs; Brass,L \$50.00 smcs; Broadfoot's \$618.00 smcs; Budden,J \$33.00 smcs; Buffalo Co Sheriff \$126,881.06 smcs; Buffalo Co Treasurer \$12.00 co; Buffalo Outdoor Power \$1,618.11 smcs,co; Buggy Bath Car Wash \$10.00 smcs; Builders \$1,745.48 smcs,co; Cabela's \$424.81 co; Capital Business Systems \$436.88 smcs; Caribou Coffee \$59.88 co; Carquest \$3,575.23 smcs; Casey's \$194.26 smcs; Cash-Wa \$5,692.47 smcs; Cat5ecableguycom \$304.97 co; CBI Malwarebytes \$427.50 co; CDW Gov't \$167.10 co; Cengage Gale \$1,120.51 smcs; Center Point Large Print \$72.06 smcs; Central Auto Electric \$47.96 smcs; Central District Health \$2,958.00 smcs; Central Hydraulics \$695.29 smcs; Central NE Bobcat \$437.99 smcs; Charter \$189.99 smcs; Chesterman \$1,891.95 smcs; Chicken Coop \$40.00 smcs; City of Ky \$26,822.48 smcs,co; Clean Sweep Supply \$45.81 smcs; Clevenger Oil \$457.11 smcs; Coldspring Granite \$216.90

smcs; CompassCom \$50.00 smcs; Consolidated Management \$167.00 smcs; Constantcontactcom \$96.00 smcs; Construction Rental \$1,971.49 smcs,co; Copycat Printing \$2,258.15 smcs; Cordova,T \$1,071.94 smcs; Cornhusker Cleaning \$117.60 smcs; CPS \$771.42 smcs; Crossroads Ford \$540.60 smcs; Culligan \$196.00 smcs; Cullen,M \$112.35 smcs; Cummins Central Power \$1,601.86 smcs; CXTec \$363.97 co; D&S Lighting \$30.20 smcs; Danko Emergency \$435.35 smcs; Dawson PPD \$39,674.28 smcs; Daylight Donuts \$66.60 smcs; Dell \$2,773.74 smcs; Dent Popper \$500.00 smcs; Deterdings \$4,626.43 smcs,co; Diamond Vogel Paing \$29.00 smcs; Dish \$69.65 smcs; Displays2gocom \$359.92 smcs; Dmilaco Sports \$209.98 smcs; Dollar-General \$36.19 smcs; DPC Industries \$6,317.07 smcs; Dutton-Lainson \$54.64 smcs; Eakes \$2,861.23 smcs,co; Earl May \$37.99 smcs; Earthgrains \$41.90 smcs; Embassy Suites \$293.78 smcs; EMC Ins \$264.00 smcs; Emerson Network \$1,653.84 smcs; Engraving Awards \$629.00 smcs; Enns,W \$150.00 smcs; Environmental Express \$75.51 smcs; Fairbanks \$370.28 smcs; Family Practice \$200.00 ps; Farmers Union Coop \$57.00 smcs; Fastenal \$939.63 smcs; Fedex \$234.10 smcs; Fiddelke Heating \$75.00 smcs; Fireguard \$13,612.13 smcs,co; Frontier \$463.85 smcs; Galls \$254.83 smcs; Gangwish Turf \$63.00 smcs; Garrett Tires \$4,580.94 smcs; GD Concrete \$6,370.00 co; Gempler \$53.45 smcs; Golden Rule Creations \$500.50 smcs; Golf Buddy \$213.47 smcs; Google Weatherbug \$2.99 smcs; Gough,P \$120.00 smcs; Government Finance \$225.00 smcs; Graham Tire \$734.80 smcs; Grainger \$4,254.44 smcs; Granite City Tool \$82.34 smcs; Greenparts \$140.08 smcs; Grones Outdoor Power \$65.23 smcs; H&H Distributing \$1,064.55 smcs; Hach \$323.20 smcs; Hausmann Construction \$157.91 smcs; HD Supply \$2,373.26 smcs; Hobby-Lobby \$229.19 smcs; Hogeland,M \$31.00 smcs; Holmes Plumbing \$598.42 smcs,co; Hometown Leasing \$265.92 smcs; Huerta's Upholstery \$25.00 smcs; Huntington,T \$500.00 smcs; Int'l Assn \$259.00 smcs; IPMA \$224.30 smcs; Jack Lederman \$497.30 smcs; James,D \$2,481.30 smcs; Johnson Service \$3,630.00 smcs; Johnson,J \$75.00 smcs; Johnston Supply \$96.92 smcs; Just Blinds \$125.00 smcs; K&F Associates \$554.00 smcs; K&K Parts \$1,770.06 smcs; Kart-Man \$999.00 smcs; Ky Concrete \$10,112.51 co; Ky Crete & Block \$2,516.48 smcs,co; Ky Hub \$419.54 smcs; Ky Power Sports \$190.90 smcs; Ky Towing \$800.00 smcs; Ky Visitors Bureau \$38,631.49 smcs; Ky Warehouse \$46.37 smcs; Ky Winlectric \$104.45 smcs; Ky Winnelson \$60.69 smcs; Killion Motors \$192.13 smcs; Killon,K \$120.00 smcs; Kimball Midwest \$493.54 smcs; Kmart \$15.83 smcs; KOLN \$995.00 smcs; La Quinta \$319.68 smcs; Lambertus,S \$150.00 smcs; Landmark Implement \$858.74 smcs; Laser Technology \$251.00 co; Laserlinkgo \$642.43 smcs; Lawson Products \$124.67 smcs; Lincoln Winwater \$1,372.82 smcs; Loaf N Jug \$96.50 smcs; Luke & Jakes \$32.04 smcs; Magic Cleaing \$5,590.00 smcs; Mail Express \$91.08 smcs; Marlatt Machine Shop \$2,833.28 smcs,co; Matheson Tri-Gas \$165.61 smcs; Matsetccom \$342.00 smcs; Menards \$3,202.87 smcs,co; Middleton Electric \$55.00 smcs; Mid-NE Garage Doors \$150.00 smcs; Mid-State Engineering \$4,186.00 co; Midway Chrysler \$731.09 smcs; Midwest Labs \$5,148.00 smcs; Miller & Associates \$22,312.75 smcs,co; Miller Signs \$1,035.00 smcs; Moonlight Embroidery \$352.00 smcs; Mouser Electronics \$457.73 smcs; Mueller,J \$288.00 smcs; Murphy Tractor \$496.34 smcs; NAFECO \$460.30 co; Nat'l Hole in One \$55.00 smcs; Nat'l Stock Sign \$350.00 smcs; Naval Surface Warfare \$1,800.00 smcs; NCL of Wisconsin \$430.74 smcs; NCS Equipment \$249.90 smcs; NE Dept of Agriculture \$172.75 smcs; NE Dept of Environmental \$16,387.00 smcs; NE Dept of Labor \$100.00 smcs; NE Dept of Revenue \$28,866.00 smcs; NE Library Commission \$6,165.00 smcs; NE Machinery \$2,089.09 smcs; NE Peterbilt \$208.46 smcs; NE Safety & Fire \$175.00 smcs; NE Salt & Grain \$27,421.39 smcs; NE Statewide

Arboretum \$130.00 smcs; NE Truck Center \$1,819.07 smcs; NE Turfgrass \$40.00 smcs; NEland Distributors \$1,303.85 smcs; New World Systems \$2,614.26 co; Neweggcom \$309.45 co; NMC \$154.59 smcs; Northern Safety \$204.55 smcs; Northgate Veterinary \$42.35 smcs; Northwest Electric \$5,493.54 smcs; Northwestern Energy \$744.05 smcs; Nova Fitness \$437.28 ps; NRG Media \$52.00 smcs; NRPA \$75.00 smcs; OCLC \$544.87 smcs; Office Max \$639.66 smcs,co; Office of Water Programs \$294.00 smcs; OfficeNet \$442.64 smcs; O'Reilly Automotive \$443.91 smcs; Orscheln \$2,054.63 smcs; Outdoor Recreation \$249.00 smcs; Owl Systems \$226.73 smcs; Paramount \$179.20 smcs; Party America \$11.33 smcs; PCMG \$155.00 co; Pedalboatcom \$339.28 smcs; PGA Member Info \$481.00 smcs; Platte Valley Comm \$107.08 smcs; Postage Refill \$750.00 smcs; Powell,S \$425.00 smcs; Prestige Group \$100.00 smcs; Presto-X \$329.98 smcs; Provantage \$680.47 smcs,co; Quiet Zone Technologies \$282.08 smcs; Quill \$336.42 smcs; Ready Mixed Concrete \$23,893.64 co; Reams \$3,386.18 smcs,co; Recognition Unltd \$31.72 smcs; Recorded Books \$67.43 smcs; Redman's Shoes \$89.99 smcs; Resource Management \$667.20 smcs; Rheome Tree \$1,265.00 smcs; Rishel,M \$30.00 smcs; RMV Construction \$90,748.80 co; Roark,C \$34.00 smcs; RTI \$1,912.00 smcs; Safelite Autoglass \$100.00 smcs; Sage,P \$53.50 smcs; Sahling Kenworth \$669.23 smcs; Sanitation Products \$2,179.63 smcs; Sapp Brothers \$30,227.71 smcs; Scarlett,J \$30.00 smcs; Schindler Elevator \$937.37 smcs; Schwans Home Service \$2,023.50 smcs; Shea,S \$230.40 smcs; Sherwin Williams \$475.37 smcs; Snow,C \$624.00 smcs; Sonicwall \$219.35 co; Sorensen Group \$17,879.88 co; SOS Portable Toilets \$105.00 smcs; Staehr,K \$55.00 smcs; State of NE Dept of Labor \$1,070.00 ps; Steinbrink Landscaping \$432.90 smcs; Steinke,R \$56.00 smcs; Strategic Materials \$357.74 smcs; Streakwave Wireless \$547.95 co; Sunmart \$49.57 smcs; Super Shine Auto Care \$72.00 smcs; Superior Cooling \$383.16 smcs; Target \$131.49 smcs; Theis,J \$60.00 smcs; Tielke's Sandwiches \$74.35 smcs; Titan Machinery \$221.54 smcs; Titleist \$485.76 smcs; TM Sporting Goods \$39.98 smcs; Tractor-Supply \$801.48 smcs; Tri City Outdoor Power \$289.76 smcs; TruGreen ChemLawn \$165.00 smcs; Umstead,K \$25.00 smcs; UPRR \$2,251.02 smcs,er; Unique Management Serv. \$313.25 smcs; UPS Store \$97.53 smcs; US Airways \$668.10 smcs; US Flagstore \$250.70 smcs; USA Blue Book \$762.90 smcs; USPS \$34.22 smcs; Van Diest Supply \$1,943.85 smcs; Verizon Wireless \$41.23 smcs; Walgreens \$13.02 smcs,co; Wal-mart \$3,818.83 smcs,co; Walters Electric \$3,025.00 smcs; Watchguard Video \$4,020.00 co; Water Environment \$660.00 smcs; WCT Products \$949.00 co; We Care Tree Care \$175.00 co; Wiegand Security \$90.00 smcs; Wilke's True Value \$687.22 smcs; Windowpartscom \$31.98 smcs; Wood,N \$55.00 smcs; WPCI \$478.00 ps; Yanda's Music \$224.25 smcs,co; Yant Equipment \$314.92 smcs; Payroll Ending 7-13-2013 -- \$409,601.70. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Receive recommendations of Planning Commission and set August 13, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2013-135** appointing Marta Moorman and Nicole Mailahn to the Advisory Board of Park & Recreation Commissioners; Leonard Skov to the Airport Advisory Board; Jonathan Brandt, Brett Jacobitz and Steve Lind to the Board of Adjustment; Larry Butler to the Community Redevelopment Authority; Walter Martin and SueZan King to the Downtown Improvement Board; Ken Nikels and Nick Erdman to the

Golf Advisory Board; Maxine Lillis to the Kearney Housing Agency; and Paul Fredrickson, John Lowe and Jason Peck to the Planning Commission.

**RESOLUTION NO. 2013-135**

WHEREAS, Resolution No. 2005-96 calls for Citizen Board/Commission member appointments to be made by resolution submitted by the Mayor to the City Council for final approval; and

WHEREAS, vacancies currently exist on certain Boards/Commissions.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to the designated Boards/Commissions for the term indicated:

**ADVISORY BOARD OF PARK & RECREATION COMMISSIONERS**

Marta Moorman (County appointment) reappointed to July 31, 2018

Nicole Mailahn reappointed to July 31, 2018

**AIRPORT ADVISORY BOARD**

Leonard Skov reappointed to July 31, 2018

**BOARD OF ADJUSTMENT**

Jonathan Brandt reappointed to July 31, 2016

Brett Jacobitz reappointed to July 31, 2016

Steve Lind appointed to succeed Marilyn Lammers to July 31, 2016

**CIVIL SERVICE COMMISSION**

Wayne Olson reappointed to July 31, 2019

**COMMUNITY REDEVELOPMENT AUTHORITY**

Larry Butler reappointed to July 31, 2018

**DOWNTOWN IMPROVEMENT BOARD**

Walter Martin reappointed to July 31, 2018

SueZan King appointed to replace John Roschewski to July 31, 2015

**GOLF ADVISORY BOARD**

Ken Nikels reappointed to July 31, 2017

Nick Erdman appointed to succeed Alex Straatmann to July 31, 2017

**KEARNEY HOUSING AGENCY**

Maxine Lillis reappointed to July 31, 2018

**PLANNING COMMISSION**

Paul Fredrickson reappointed to July 31, 2016

John Lowe reappointed to July 31, 2016

Jason Peck appointed to succeed Steve Homan to July 31, 2016

BE IT FURTHER RESOLVED that this resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 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 KRAVE

Underground located in the Kaufmann Center, 2202 Central Avenue on August 10, 2013 from 5:00 p.m. until 1:00 a.m. for a dance.

6. Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits inside the KRAVE Underground located in the Kaufmann Center, 2202 Central Avenue on August 17, 2013 from 5:00 p.m. until 1:00 a.m. for a dance.

7. Adopt **Resolution No. 2013-136** approving Change Order No. 1 showing an increase in the amount of \$3,025.00 submitted by RMV Construction and approved by Miller & Associates for the 2013 Part 5 Improvements; Interior Renovations at the City of Kearney/Bufalo County Law Enforcement Center.

### **RESOLUTION NO. 2013-136**

WHEREAS, RMV Construction of Kearney, Nebraska has performed services in connection with the 2013 Part 5 Improvements; Interior Renovations at the City of Kearney/Bufalo County Law Enforcement Center, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$3,025.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$301,200.00
Change Order No. 1 (7-23-2013)	<u>+ 3,025.00</u>
Contract Sum to Date	\$304,225.00

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

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

8. Adopt **Resolution No. 2013-137** approving Change Order No. 2 showing an increase in the amount of \$2,852.50 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. 2013-137**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements; Phase 2 – Paving Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 2 showing an increase to the contract sum in the amount of \$2,852.50, 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)	+ 27,602.00
Change Order No. 2 (7-23-2013)	+ <u>2,852.50</u>
Contract Sum to Date	\$713,546.80

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 Exhibits "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**9.** Adopt **Resolution No. 2013-138** authorizing the City Manager, Director of Finance and City Clerk to sign checks, drafts or other withdrawal orders issued against the funds of the City on deposit with designated depositories.

### RESOLUTION NO. 2013-138

WHEREAS, the Mayor and City Council have determined that it is appropriate and proper to designate various banks as depositories for funds of the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the following banks be and are hereby designated as city depository banks:

- Wells Fargo Bank Nebraska, N.A.
- Platte Valley State Bank & Trust Company
- Farmers & Merchants Bank
- US Bank
- Exchange Bank
- Great Western Bank
- Five Points Bank
- Geneva State Bank
- Bank of the West
- State Bank of Riverdale
- FirstTier Bank
- NebraskaLand National Bank

However, such designation as a city depository shall not be exclusive and shall not be determined in any way to constitute a franchise to the exclusion of other designated depositories.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that checks, drafts or other withdrawal orders issued against the funds of the City on deposit with said depositories be signed by any one of the following who now hold offices or positions with the City:

Michael W. Morgan, City Manager  
Wendell R. Wessels, Director of Finance  
Michaelle E. Trembly, City Clerk

BE IT FURTHER RESOLVED that all resolutions and parts of resolutions in conflict herewith are hereby repealed and that Resolution No. 2007-170 is hereby specifically rescinded and repealed.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Approve the Plans and Specifications for the 2013 Part 8 Improvements consisting of Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to 57th Street Place and set the bid opening date for August 15, 2013 at 2:00 p.m.

**11.** Accept the bids received for the purchase of a tractor with cab and loader to be used in Cottonmill Park and award the bid to Fairbanks International of Kearney in the amount of \$44,540.00.

**12.** Approve the Agreement with the Museum of Nebraska Art for the temporary closing of the parking lot located north of MONA from 6:00 a.m. on April 2, 2014 through April 7, 2014; temporary closing of the parking stalls along the east side of Central Avenue between 24th Street and 25th Street on April 4 and 5, 2014 beginning 4:00 p.m. until 11:00 p.m. each day; temporary closing of the parking stalls along the north side of 24th Street between Central Avenue and Avenue A on April 4 and 5, 2014 from p.m. until 11:00 p.m. each day.

**13.** Adopt **Resolution No. 2013-139** approving the Central Nebraska Race for the Cure scheduled for September 28, 2013 at 7:30 a.m. for the temporary closing of the north lane of westbound Highway 30 from 9th Avenue west to University Drive, University Drive from Highway 30 northeasterly to 9th Avenue, and 9th Avenue from University Drive to Highway 30.

#### **RESOLUTION NO. 2013-139**

WHEREAS, the City of Kearney has received and approved an application to conduct a race on September 28, 2013 beginning at 7:30 a.m. and ending at 10:30 a.m.; and

WHEREAS, the route for the race will begin on the UNK Campus, east on 26th Street to 9th Avenue, south on 9th Avenue to Highway 30, west on Highway 30 to University Drive, northeasterly on University Drive to 9th Avenue, south on 9th Avenue to Highway 30, west on Highway 30 and ending on 15th Avenue; and

WHEREAS, with the passage of LB 589, the City of Kearney accepts the duties of protecting the public from damage, injury, or death on September 28, 2013 beginning at 7:30 a.m. and ending at 10:30 a.m.; and

WHEREAS, the City of Kearney will assume control of the state highway property, more specifically, the north lane of westbound Highway 30 on September 28, 2013 from 7:30 a.m. and ending at 10:30 a.m. and relinquish control of such state highway property to the state; and

WHEREAS, the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said race; and

WHEREAS, the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said race.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, to approve the race scheduled for September 28, 2013 beginning at 7:30 a.m. and ending at 10:30 a.m. and that the City accepts the duties of protecting the public from damage, injury, or death associated with said race.

BE IT FURTHER RESOLVED that the City of Kearney will assume control of the state highway property, more specifically, the north lane of westbound Highway 30, on September 28, 2013 from 7:30 a.m. and ending at 10:30 a.m. and that after such time the City will relinquish control of such state highway property to the state.

BE IT FURTHER RESOLVED that the City of Kearney accepts the duty to protect the State from damage to its property that may occur arising out of the said race.

BE IT FURTHER RESOLVED that the City of Kearney agrees to indemnify, defend, and hold harmless the State of Nebraska Department of Roads from all claims, demands, actions, damages, and liability, including reasonable attorney's fees that may arise as a result of the said race.

PASSED AND APPROVED THIS 23RD DAY OF JULY, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

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 in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on August 17, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

15. Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on August 24, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

16. 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 an area designated as Demo Arena located north of the Exposition Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on August 25, 2013 from 12:00 p.m. until 12:00 a.m. for a beer garden.

**V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **SKEETER BARNES LIQUOR LICENSE MANAGER APPLICATION**

Mayor Clouse opened for discussion the manager application for Glyn Lacy submitted by Kearney BBQ Co., dba Skeeter Barnes in connection with their Class I-55865 liquor license located at 516 2nd Avenue South.

There was no representation on this matter.

Moved by Clouse seconded by Nikkila to postpone until August 13, 2013 the manager application for Glyn Lacy submitted by Kearney BBQ Co., dba Skeeter Barnes in connection with their Class I-55865 liquor license located at 516 2nd Avenue South. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila. Nay: None. Lammers absent. Motion carried.

### **OPEN ACCOUNT CLAIM**

There were no Open Account Claims.

## **VII. REPORTS**

City Manager Michael Morgan updated the Council on the swan at Yanney Park. The City has had that swan for several years. Staff will continue to monitor that situation and error on the side of caution before the swan is returned to the Park. Staff has been in contact with the Omaha Zoo and the swan is doing well. In early September there will be an opportunity for, as the City has done for several years, the babies to be sold and at that point it is likely the swan will return. Part of the agitation of the male swan is the protection of the babies which are really no longer babies and can live on their own at this point but staff will continue to monitor that.

Mayor Clouse stated he has received several calls on the swan. The plan is to bring Ike (the swan) back to the park. City Manager stated staff is a little frustrated. Staff has cared for Ike for seven years, and has spent considerable time with him over the winter up close and personal and at Yanney and they monitor him very closely. City staff knows what they are doing. The City has a Fish and Wildlife Biology major actually graduate from UNK on the staff at Yanney Park and continue to be in contact with the zoo. It is fairly easy to say just return the swan; however, there was an incident which raised questions. It is the same type of incident that cities across the country face when they have swans in local lakes and ponds. They can get very aggressive and ask the public to not harass and not throw rocks and agitate the swans which have created some of the problem. This is not for the first year that Ike has been removed. The swans are more aggressive when they are with their babies.

Options are to eliminate swans entirely but the citizens really enjoy them and the babies. Swans also do a great job with geese which is a primary reason why they are there; however, they do get more aggressive when their babies are around. The last incident was significant enough and documented that it was appropriate to error on the side of public caution and depending on what his behavior is, he may return and he may

not and may have to relocate him. Tina, who is the female swan, we would relocate them together. Clearly, Ike and Tina have been together for some time and we would relocate them together if we end up having to relocate Ike to different location. We will continue to communicate with the zoo in Omaha as to what needs to happen but the rumors of his demise are preceded I would say, greatly exaggerated as well as the mother who is taking great care. Council Member Lear stated obviously staff is doing everything it can to protect the interests of Ike and Tina as well as the public interest.

2nd Avenue is getting closer to being completed. It will be open before the official opening which is in late August. They are excited about the LED street signs. That is something the community has really embraced since the City has been adding them over the past several years and there would be several intersections on 2nd that will have those and of course updated signals and lighting in the median. That protection is turning out very well and will be glad to get it opened all the lanes here shortly.

Council Member Buschkoetter stated another great Cruise Nite. It was a great experience on what Brad Kernick and the rest of the crew do. It is a wonderful event for this community; there are certain elements that are not but overall it is a great event and a great opportunity for the City to show off the downtown area. Council Member Lear stated it is a great event for the community obviously puts a lot of additional stress on our law enforcement community and so thanks to them for all the extra time and hours and all the extra resources that are brought into this community to assist with that – State Patrol and other law enforcement Agencies.

**VIII. ADJOURN**

Moved by Nikkila seconded by Lear that Council adjourn at 7:40 p.m. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Buschkoetter. Nay: None. Lammers absent. Motion carried.

**ATTEST:**

*Michaëlle E. Trembly*  
**MICHAËLLE E. TREMBLY**  
**CITY CLERK**

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

