

Kearney, Nebraska
August 13, 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 August 13, 2013, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager; Kirk Stocker, Director of Utilities; Dan Lynch, Chief of Police; and Shawna Erbsen, Administrative Services Director were also present. Some of the citizens present in the audience included: Steve Homan, Ben Hirschfeld, Kristi Hirschfeld, Craig Bennett, Kent Cordes, Andrew Bartling, Doug Stevenson, John Shafer, Glyn Lacy, Glen Miller, Kelly Rapp, Laureen Stryker-Rapp, Tom Anderson, Randy May, Lisa May, Trenton Snow, April Baer, Steve Altmaier from KGFW Radio, Adam Konruff from Kearney Hub.

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

I. ROUTINE BUSINESS

INVOCATION/SILENCE

A representative from the Kearney Ministerial Association provided the Invocation.

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.

RECOGNITION – OUTGOING BOARD MEMBERS

Mayor Clouse and Council Members recognized the following outgoing Board members by presenting them with a plaque: Marilyn Lammers for 15 years of service on the Board of Adjustment; Steve Homan for 12 years of service on the Planning Commission; Alex Straatmann for 5 years of service on the Golf Advisory Board; and John Roschewski for 3 years of service on the Downtown Improvement Board.

ORAL COMMUNICATIONS

There was no Oral Communications.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

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

Moved by Lammers seconded by Nikkila to remove from the table Public Hearing 1 pertaining to property located at the northeast corner of 1st Avenue and 22nd Street. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

Mayor Clouse opened 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) and consider Resolution No. 2013-132. Planning Commission recommended approval.

The applicant is requesting approval of a subdivision plat to separate the existing bank building, drive-thru lanes, and associated parking from other adjacent buildings that are also under the same ownership. The existing lot configuration must be vacated in order to replat the property.

Lots 115, 116, and the south 32 feet of Lot 117, Original Town of Kearney Junction are to be vacated to allow the property to be replatted into a two lot subdivision to be known as US Bank Subdivision.

The Final Plat of US Bank Subdivision contains two lots. Lot 1 consists of just over 10,000 square feet of lot area and contains the existing bank building, drive-thru lanes, and associated parking. Lot 2 consists of about 7,000 square feet and contains the adjacent buildings to the north and east, an accountant's office and a law firm respectively. Apparently, the bank representatives want to ensure exclusive use of the parking and site amenities associated with the bank so they created the separation into two distinct parcels.

Doug Stevenson from Olsson Associates presented this matter to the Council. They are subdividing this into two parcels. There is the main bank and then basically following the curve line of the parking lot and separating the back building that is located east and north. They will have a parking lot agreement between the two owners for its use.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing and introduced Ordinance No. 7819 vacating 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 moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7819. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion 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. 7819 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7819 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7819 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2013-132** approving 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, Lammers. Nay: None. Motion carried.

RESOLUTION NO. 2013-132

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of U.S. Bank Subdivision to the City of Kearney, Buffalo County, Nebraska, a tract of land being Lots 115, 116 and the south 32 feet of Lot 117, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (now vacated) located in the Northwest Quarter of the Northwest Quarter of Section 1, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all

purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

KEARNEY HABITAT FOR HUMANITY LAND USE MAP AMENDMENT; EAST OF AVENUE M AND 17TH STREET

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Kearney Area Habitat for Humanity (Applicant) and Joseph Sobotka, Richard and Gwendolyn Luth (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 2 to Low Density Residential property described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street) and consider Resolution No. 2013-140. Planning Commission recommended approval.

Kearney Area Habitat for Humanity is requesting rezoning from District M-1, Limited Industrial District to District R-1, Urban Single-Family Residential District, for a tract of land containing approximately five acres located east of Avenue M on both sides of 17th Street which is platted, but has never been constructed. The legal description is Lots 1 and 2, Luth and Sobotka Industrial Park. This rezoning request prompts consideration of the Future Land Use Map which shows the current land use status of this property as "Mixed Use 2." The map must be amended to "Low Density Residential" to bring it into conformance with the proposed rezoning.

This property is being rezoned for a Habitat for Humanity subdivision which will be forthcoming.

Craig Bennett from Miller & Associates presented this matter to the Council. He is representing Mr. Sobotka on behalf of Habitat for Humanity. It is on the eastern side of town, south of the railroad tracks and is currently zoned M-1, it is hinged on the north, east, south and west by M-1 and they are requesting R-1.

Mayor Clouse stated there is a need for Habitat Homes so this certainly fits that need. Mr. Bennett stated they will have their own subdivision rather than infield.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-140** approving the Application submitted by Kearney Area Habitat for

Humanity (Applicant) and Joseph Sobotka, Richard and Gwendolyn Luth (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 2 to Low Density Residential property described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2013-140

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 described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street) from Mixed Use 2 to Low Density Residential, 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 Mixed Use 2 to Low Density Residential the use classification for a tract of land described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street)

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

KEARNEY HABITAT FOR HUMANITY REZONING EAST OF AVENUE M AND 17TH STREET

Public Hearings 2 and 3 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Kearney Area Habitat for Humanity (Applicant) and Joseph Sobotka, Richard and Gwendolyn Luth (Owner) to rezone from District M-1, Limited Industrial District to District R-1, Urban Residential Single-Family District (Low Density) property described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street) and consider Ordinance No. 7823. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by Kearney Area Habitat for Humanity (Applicant) and Joseph Sobotka, Richard and Gwendolyn

Luth (Owner) to rezone from District M-1, Limited Industrial District to District R-1, Urban Residential Single-Family District (Low Density) property described as Lots 1 and 2, Luth and Sobotka Industrial Park, a subdivision to the City of Kearney, Buffalo County, Nebraska (east of Avenue M and 17th Street) and introduced Ordinance No. 7823 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. 7823. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion 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. 7823 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7823 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7823 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.

VACATE PORTION OF COTTAGE ADDITION AND RAINBOW ADDITION AND FINAL PLAT FOR TAYLOR ADDITION

Mayor Clouse stated the public hearing on the Applications submitted by Buffalo Surveying (Applicant) for Marvin Taylor and Bryan and Susan Slater (Owner) to (1) vacate property described as Lots 4 through 12, inclusive, Lots 63 through 71, inclusive, Lots 78 through 86, inclusive, Lots 137 through 145, inclusive, Lots 152 through 160, inclusive, and Lot 267, all in Cottage Addition, together with part of Lot 1, Rainbow Acres Addition; and (2) the Final Plat and Subdivision Agreement for Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 4 through 12, inclusive, Lots 63 through 71, inclusive, Lots 78 through 86, inclusive, Lots 137 through 145, inclusive, Lots 152 through 160, inclusive, and Lot 267, all in Cottage Addition to the City of Kearney, Buffalo County, Nebraska, together with that part of Lot 1, Rainbow Acres Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 16th Street and Avenue M) will be postponed until August 27, 2013.

In accordance with Section 53-103 of the City Code, the final plat must be submitted to the City by noon on August 12, 2013. Mitch Humphrey contacted the City on August 9 and stated they were not ready. Therefore, Mitch Humphrey requested to postpone until the next meeting.

Moved by Lear seconded by Buschkoetter to postpone until August 27, 2013 the hearing on the Applications submitted by Buffalo Surveying (Applicant) for Marvin Taylor and Bryan and Susan Slater (Owner) to (1) vacate property described as Lots 4 through 12, inclusive, Lots 63 through 71, inclusive, Lots 78 through 86, inclusive, Lots 137 through 145, inclusive, Lots 152 through 160, inclusive, and Lot 267, all in Cottage Addition, together with part of Lot 1, Rainbow Acres Addition; and (2) the Final Plat and Subdivision Agreement for Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as Lots 4 through 12, inclusive, Lots 63 through 71, inclusive, Lots 78 through 86, inclusive, Lots 137 through 145, inclusive, Lots 152 through 160, inclusive, and Lot 267, all in Cottage Addition to the City of Kearney, Buffalo County, Nebraska, together with that part of Lot 1, Rainbow Acres Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 16th Street and Avenue M). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

FINAL PLAT FOR NORTHGATE ADDITION; EAST SIDE OF 2ND AVENUE WEST OF MENARDS

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Glen and Diane Miller (Owner) for the Final Plat for Northgate Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as 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 (east side of 2nd Avenue west of Menards) and consider Resolution No. 2013-142. Planning Commission recommended approval

The applicant is requesting approval for a two-lot subdivision at 6205 2nd Avenue. Recently, development plans for a modular home display and sales lot at this location were presented and approved by Council.

The applicant has prepared a Preliminary and Final Plat for this property to be known as Northgate Addition. The size of the total tract of land is 1.99 acres. Both the Preliminary and Final Plat consist of two lots with the overall tract split almost evenly between the north lot (Lot 1 with 0.99 acres) and the south lot (Lot 2 with 1.00 acres). The Preliminary Plat was approved by Planning Commission on July 19, 2013.

Platting of this subdivision requires 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).

This property is surrounded by incorporated land and can be served with public infrastructure. In accordance with the annexation policy approved by City Council a few years ago, no "islands" of un-annexed land are to remain as such. Therefore, this property will be annexed into the city limits by final plat as "an addition to the City of Kearney."

Trenton Snow presented this matter to the Council. He stated this property is up by Menards right along 2nd Avenue. It was previously used as a car lot and the City just recently approved a Conditional Use Permit for the mobile homes on Lot 2. This will legally separate these two parcels. It currently has City sewer/water available and since it is contiguous to the City of Kearney, it will also be annexed.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-142** approving the Application submitted by Trenton Snow (Applicant) for Glen and Diane Miller (Owner) for the Final Plat for Northgate Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as 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 (east side of 2nd Avenue west of Menards). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2013-142

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of "Northgate Addition" of Buffalo County, Nebraska for 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 First 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, containing 1.99 acres, more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

Nebraska.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

ANNEXATION: EAST SIDE OF 2ND AVENUE WEST OF MENARDS

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

Mayor Clouse opened the public hearing on the Application submitted by Trenton Snow (Applicant) for Glen and Diane Miller (Owner) for the annexation of Northgate Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as 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 (east side of 2nd Avenue west of Menards) and consider Resolution No. 2013-143. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-143** approving the Application submitted by Trenton Snow (Applicant) for Glen and Diane Miller (Owner) for the annexation of Northgate Addition, an addition to the City of Kearney, Buffalo County, Nebraska for property described as 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 (east side of 2nd Avenue, west of Menards). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

RESOLUTION NO. 2013-143

WHEREAS, an Application has been submitted by Trenton Snow (Applicant) for Glen and Diane Miller (Owner) for the inclusion of Northgate Addition, an addition within the corporate boundaries of the City of Kearney said property described as 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 First 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, containing 1.99 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on July 19, 2013 on the inclusion of Northgate Addition within the corporate limits and recommended the Kearney City Council approve said application; and

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

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on August 13, 2013 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

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

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

REZONING AT 5904 2ND AVENUE

Public Hearings 7, 8 and 9 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Cottonwood Veterinary Clinic (Owner) to rezone from District C-2/PD, Community Commercial/Planned Development Overlay District to District C-3/PD, General Commercial/Planned Development Overlay District property described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) and consider Ordinance No. 7825. Planning Commission recommended approval.

The applicant is requesting approval to construct a second free-standing building to house boarding kennels for dogs and cats on the lot that contains the existing Cottonwood Vet Clinic. This property is currently zoned C-2/PD and the second building was shown on the original set of Development Plans in 2001. Generally, revisions and resubmittal of Development Plans is not required if the project is built as it is represented on the plans. In this case, the proposed building is almost twice as large as the original plans depicted and is located closer to the public street. Therefore, staff has directed the applicant to submit revised plans for the Planning Commission and City Council to review.

The new building will contain, among other things, 60 plus kennel cages for dog and cat boarding. Kennels are not an allowable use in C-2 zoning so the applicant is requesting to rezone the property. Kennels are considered a Conditional Use in C-3 zones so the applicant is requesting rezoning from C-2/PD to C-3/PD and a Conditional Use Permit (CUP).

Rezoning from C-2/PD to C-3/PD will allow the applicant to construct the boarding kennel building as long as a Conditional Use Permit is also authorized by the City Council since "kennels" are a conditional use instead of being allowed "by right." The applicant is requesting three zoning deviations under the PD Overlay since kennels are also regulated in Chapter 46, "Supplemental Use Regulations" with the following requirements which cannot be met on this site:

- Minimum lot size is two acres. This lot is 1.64 acres.
- No building or dog runs nearer than 100 feet to any property line. The proposed building is about ten feet at its closest point to the south property line that abuts the Slumberland Furniture store. The owner of the vet clinic is also one of the owners of the furniture store and they have no problem with the placement of the proposed building.
- No building or dog runs nearer than 500 feet to any residential use or district. There are some existing condominiums south of this site within 500 feet; however, the Children's Museum is between the two properties.

The Developer has prepared a revised set of Development Plans that depict the proposed building south of the existing veterinary clinic. Staff has reviewed the plans and offers the following comments:

- a) The proposed boarding facility is 78 feet by 120 feet or 9,360 square feet.
- b) The existing parking lots will be expanded both on the north (plus 9 stalls) and east (plus 3 stalls) sides.
- c) One of the existing pine trees along the frontage road will be removed to accommodate the building. Replacement trees that are a canopy type shade tree will be planted.
- d) There are three outdoor exercise pens on the southwest corner of the building. Staff requested screening of this with an opaque fence and a mixture of conifer trees and deciduous canopy trees to provide some shade from the western sun exposure. A Landscape Plan has been prepared. The plan includes a 6-foot high fence on the property line and another fence set inside the property line a distance of 25 feet with the tree plantings in the buffer area between the two fences. Additional landscaping is proposed on the front side of the building.
- e) All disturbed areas will be planted with turf grass sod and the existing irrigation system will be modified accordingly.
- f) The detention cells that were constructed with the original clinic are almost large enough to take care of the new building as well. The detention system is only 0.02 acres shy of meeting the volume requirements and the engineer will make some site adjustments to insure that the detention capacity is increased to meet the required volume.
- g) No public sidewalk is required along the frontage road.
- h) The 35 percent enhanced masonry materials on street facing facades will be exceeded as the east and north facades will be a combination of split-face block wainscoting and EFIS from the ground all the way up to the roof. The other two sides will be metal panels and the roof will be standing-seam metal.

Staff recommends that the following conditions be attached to this CUP:

- 1) Hours allowing dogs or cats to be in the outdoor exercise areas shall be limited to 6:00 a.m. to 8:00 p.m.
- 2) The outdoor exercise pens shall be screened with a combination of a minimum 6-foot high opaque fence and landscape plantings including evergreen and deciduous trees, quantity, location and sizes as depicted on the Landscape Plan included in the Revised Development Plan package.
- 3) The time duration for this CUP is perpetual.

Kent Cordes from Miller & Associates presented this matter to the Council. There is currently an existing vet clinic on the site and they are proposing to add an additional building with the boarding facility on the southeast corner part of the lot. With regard to the landscape plan, they will lose one existing pine tree in this area, and will add some deciduous trees and conifers on the western side of the site to provide a buffer to future development that might occur on that west side of the facility. They are requesting to rezone to C-3/PD and asking for a Conditional Use Permit to allow the kennels in that area. It is obvious they are closer than 100 feet to the property line. In looking at the 500-foot radius map they do intersect some residential use in the area. The owners have talked to the adjacent businesses including many of the owners of the duplexes in this area; everyone they have talked to have been in favor of the project and have no oppositions. They are asking for rezoning from C-2/PD to C-3/PD and for the Conditional Use Permit to allow the deviation on those items.

Council member Buschkoetter asked about the 500-foot radius that goes to the west; is that approximately how far it would be, a block into the residential area. Mr. Cordes stated this area actually is zoned commercial, the areas to the west is a little bit of R-3/PD, you get a little corner 100 feet by 150 feet of this R-3/PD and then the duplexes which are residential use in commercial zone.

Council member Nikkila asked about how almost no boarding kennels in Kearney fit the rules that Kearney has. Assistant City Manager Suzanne Brodine stated the majority of the kennels that are in Kearney today were constructed prior to the current code. This is one of the reasons why staff worked with the developer to create some of the deviations with the additional screening and the fencing to make a compromise there between the old code and what is being presented today.

Mayor Clouse asked if the dogs are primarily outside and barking is it staffed so they could pull them in if the dog just keeps going nuts. Mr. Cordes stated he believed that was true. Mayor Clouse stated the reason he asked that is when you are over at Meadowlark, sometimes it just gets crazy when those dogs start going off when you are on the golf course. Someone sitting in their backyard that would be crazy and that would be the only thing that someone is there to calm them down or keep them quiet

Kristi Hirschfeld, 5912 2nd Avenue West, stated the reason for that big indoor play area is so the animals will be inside. The dogs should be inside more than currently at their clinic. They will be inside playing and just be outside on their own to go to the bathroom and come back inside. So they will not be left outside.

Council Member Buschkoetter stated if you have barking dogs that would not be good for business; in terms of somebody trying to drop off their dog if they get that sense from outside.

Ms. Hirschfeld stated they did talk to the neighbors. There was one of the duplex/condo owners that was out of town but they talked to all of them and they all said they did not currently hear the dogs barking and were all on board with the facility.

There was no one present in opposition to this hearing.

Moved by Nikkila to close the public hearing on the Application submitted by Miller & Associates (Applicant) for Cottonwood Veterinary Clinic (Owner) to rezone from District C-2/PD, Community Commercial/Planned Development Overlay District to District C-3/PD, General Commercial/Planned Development Overlay District property described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) and introduced Ordinance No. 7825 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7825. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7825 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7825 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7825 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 5904 2ND AVENUE

Public Hearings 7, 8 and 9 were discussed together but voted on separately. Planning Commission recommended approval allowing the following deviations: (1) a deviation from the minimum required lots size of 2 acres with the proposed lot size of 1.64 acres; (2) to allow the proposed building to be nearer than the 100 foot minimum setback to any property line; and (3) to allow the proposed building to be nearer than the 500 foot setback to any residential use or district.

Mayor Clouse opened the public hearing on the Application submitted by BD Construction (Applicant) for Cottonwood Veterinary Clinic (Owner) for Revised Planned District Development Plan Approval for the construction of a new boarding facility on property to be zoned to District C-3/PD, General Commercial/Planned Development Overlay District on property described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) and consider Resolution No. 2013-144. Planning Commission recommended approval but City staff did not support the rezoning.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-144** approving the Application submitted by BD Construction (Applicant) for Cottonwood Veterinary Clinic (Owner) for Revised Planned District Development Plan Approval for the construction of a new boarding facility on property to be zoned to District C-3/PD, General Commercial/Planned Development Overlay District on property described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) allowing the deviations as set forth in the resolution. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

RESOLUTION NO. 2013-144

WHEREAS, BD Construction (Applicant) for Cottonwood Veterinary Clinic (Owner) have applied for Revised Planned District Development Plan Approval to locate a kennel within a boarding facility on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of BD Construction (Applicant) for Cottonwood Veterinary Clinic (Owner) for Planned District Development Plan Approval to locate a kennel within a boarding facility on property zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) be approved allowing the following deviations pertaining to Supplemental Use Regulations for kennels: (1) a deviation from the minimum required lots size of 2 acres with the proposed lot size of 1.64 acres; (2) to allow the proposed building to be nearer than the 100 foot minimum setback to any property line; and (3) to allow the proposed building to be nearer than the 500 foot setback to any residential use or district.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

CONDITIONAL USE PERMIT FOR 5904 2ND AVENUE

Public Hearings 7, 8 and 9 were discussed together but voted on separately. Planning Commission recommended approval subject to the following conditions being a part of the CUP: (1) hours allowing dogs or cats to be in the outdoor exercise areas shall be limited to 6:00 a.m. to 8:00 p.m.; (2) time duration is perpetual; and (3) the outdoor exercise pens shall be screened with a combination of a minimum 6-foot high opaque fence and landscape plantings including evergreen and deciduous trees, quantity, location and sizes as depicted on the Landscape Plan included in the Revised Development Plan package.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Cottonwood Veterinary Clinic (Owner) for a Conditional Use Permit to locate a kennel within a boarding facility on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) and consider Ordinance No. 7826. Planning Commission recommended approval but City staff did not support the rezoning.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Miller & Associates (Applicant) for Cottonwood Veterinary Clinic (Owner) for a Conditional Use Permit to locate a kennel within a boarding facility on property to be zoned District C-3/PD, General Commercial/Planned Development Overlay District and described as Lot 2 of Block Two, North Acre Fifth, an addition to the City of Kearney, Buffalo County, Nebraska (5904 2nd Avenue) and introduced Ordinance No. 7826 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 Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7826. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion 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. 7826 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7826 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7826 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.

LAND USE MAP AMENDMENT FOR SOUTH OF 11TH STREET, EAST OF 15TH AVENUE

Public Hearings 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) and Kelly Rapp and Laureen Striker-Rapp (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Medium Density Residential property described as Lots 1, 2, 3, 4 of Block One, Park View Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 11th Street, east of 15th Avenue) and consider Resolution No. 2013-145. Planning Commission recommended approval but City staff requested denial.

The applicant is requesting rezoning from R-1, Urban Single-Family Residential District to R-2, Urban Mixed-Use Residential District, for a tract of land containing approximately 2.35 acres located on the east side of 15th Avenue directly across from the new Kenwood School. This rezoning request prompts consideration of the Future Land Use Map which shows the current land use status of this property as "Low Density Residential." The map must be amended to "Medium Density Residential" to bring it into conformance with the proposed R-2 rezoning request.

The developer owns vacant Lots 1, 2, 3, 4 of Park View Estates which were originally platted as single-family lots. Because the lots are large, they would like to build four duplexes instead for a total of eight living units. During discussions with DRT staff, the developer expressed concerns regarding an existing gas line and believed that duplexes would fit better. The gas line affects parts of three lots, but only one lot in a significant way. To staff, the lots appear to be buildable as single-family and driveways can be built over the gas line. Several single-family homes have been constructed next to the gas line easement to the east of this property.

Three DRT meetings have been held to discuss this project, one in 2012 and two more this year. Staff has concerns regarding the increase in traffic generated from duplex rentals compared to the traffic generated from existing platted single family lots. Traffic generation is a safety concern because of the close proximity to the new Kenwood Elementary School. Staff will not support R-2 zoning at this location or on 16th Avenue because of these concerns. Staff has consistently expressed opposition to an increase in density at this location. 15th Avenue is one of the drop-off/pick-up corridors for the school which makes the situation even more of a concern for the safety of the children.

In summary, Staff did not support any of the proposals considered for this rezoning for the following reasons.

- Proximity of Kenwood Elementary creates significant traffic issues on this street, 15th Avenue, and on surrounding streets, including stacking and pedestrian crossings.
- Duplexes would double the number of curb cuts, reducing available on-street parking used for school stacking.

- Duplexes would potentially double the number of cars associated with the four lots, further reducing on street parking while generating more traffic.
- Remainder of the subdivision is R-1, R-2 doubles lot density.
- Creates additional traffic, and associated vision concerns, close to intersection of 11th Street and 15th Avenue
- Rapp's stated the builder, Tami Moore, would own and manage these units and thereby controlling the tenants (e.g. no college students) and the traffic generated. There is no guarantee that Ms. Moore will have control of these units forever and the City has no way to influence the tenants or owners.

The developer, Tami Moore with Moore Construction and the land owners Kelly and Laureen Rapp, have partnered together for many years and have built quality homes in this area of town. Their commitment to the community and the quality of their product are unquestionable. Tami Moore has submitted a written response to the City's concerns which is attached for your review. There may be areas that are well suited for duplex or even multi-family apartments in this area of town, but staff believes that these lots are not appropriate given the proximity to the school and the associated traffic congestion.

Craig Bennett from Miller & Associates presented this matter to the Council. Currently the property is platted and in the City limits and they are requesting it be rezoned from R-1 to R-2. This property is adjacent to 11th Street on the north side and looking at the development on the 11th Street corridor, it is buffered with a lot of R-2 on either side with R-1 transitioning into single family. The Kenwood School is located south and west of their proposed area. Mr. Rapp has developed around 111 residential lots in this neighborhood and he has more to go west of this area up to the tailrace canal and south as well. Currently, the frontage along 15th Avenue consists of about 513 feet. The lots in the subdivision average 75 feet so in looking at that in terms of a normal layout, the lot frontage will be equivalent to about six to seven lots. Currently, they show four lots in this area and there is a high pressured gas line that goes through there. The owners want to develop some duplexes and one tri-plex. If looking at a duplex on all four, this would be 8 units and they are looking at combining Lots 1 and 2 and putting three on there. Initially, they came through with a plan that would show a duplex on each lot which would have had access onto 11th Street and that is not desirable having a driveway on an arterial street. So they came back and proposed putting a tri-plex there. There is currently no driveway access on the west side of 15th Avenue but in this particular layout or configuration there would be a nice buffer, a green space buffer between 11th Street and the first corner of the tri-plex unit.

Council member Buschkoetter asked about the traffic patterns and parking with the elementary school being there. Mr. Bennett stated from a traffic standpoint, basically have a collector street but from a circulation point, 16th Avenue and 15th Avenue were designed on either side of the elementary school to have both loading and unloading on each side of the school, somewhat different than most schools having two separate drop-off accesses either side of that. For the school year, there would possibly be people leaving home approximately the same time you might see people coming to drop off their kids so from that particular standpoint some of the traffic patterns you see exist typically have been along 16th Avenue coming in that direction and dropping off and often times even on pickup what they have observed is traffic leaving on 8th Street and

filtering back out through other residential parts of the neighborhood. In the afternoon session when you go to pick up kids, typically you would not see people interacting unless they were on a shift job where they would have but they would not be interacting in those same corridors. The difference that you would see here maybe in this development as opposed to some of the other elementary schools is that they do have accesses on both sides of the street and the traffic patterns people learn to adjust.

Council Member Buschkoetter stated and at those schools it is circular where you drop off on one side and you almost go around the building and go the other, there you would have half the traffic but you would be going both directions is that somewhat accurate with the two drop off sides from each side. Mr. Bennett stated essentially the way they are loading and unloading zone are set up is you can you pull in in one direction and you leave out in another, same thing on 15th Avenue.

Mayor Clouse asked as to why that road was curved coming back around. Mr. Bennett stated it had to line up with 15th Avenue. They did not have the required separation; they only have 115-foot lots on the north side to the alley and they could not meet the minimum street jog separation otherwise it would have had to not exist and then come over to 16th Avenue.

Council member Nikkila asked when they originally laid out this development seeing the lots how they were going to work out why this was not part of the original plan so the people that bought in the neighborhood knew that there was going to be future duplexes. Mr. Bennett stated the desired development layout would have been to keep the same consistency; obviously, that was not utilized with the diverse shape and they wanted to create some separation for some larger lots that might help buffer that 11th Street corridor. There has also been some interest in a need that people want to have duplexes or some type of multi-family in close proximity to a school and they are trying to accommodate that in this area.

Council member Buschkoetter stated one of his major concerns is that it has been zoned R-1 for quite a period of time and it has built up around there as R-1. People built their homes expecting it to stay R-1 and then to change it to R-2 to accommodate duplexes or potential four-plexes would be a totally different situation. It is a little bit different than changing something to R-2 during a conceptual phase and there are drawings for a subdivision, and then decide to change the subdivision and nobody has built there yet, is a totally different situation.

Council member Buschkoetter questioned whether there was going to be enough parking that they would not be using a lot of off-street parking. Is it going to be more off street parking the way it is designed. Mr. Bennett stated this meets the requirement. According to code, at minimum the off-street parking you have the availability for two stalls per unit in a garage and you also have that same flexibility for outside stalls on the driveway which meets the requirements for the two parking stalls for residential units.

Council member Buschkoetter stated he understood what the minimum is but the reality is that people do not stack generally in their driveway. Again that would be a consideration in that neighborhood next to a school is the extra cars parked on the street in terms of worry about the traffic. Mr. Bennett replied they believe the way it is

currently laid out that it will provide the adequate parking that is needed for these homes.

John Shafer, 1306 14th Avenue, stated he has lived in the area for over 30 years. Since the expansion of west 11th Street into four lane traffic, it is almost like a thoroughfare going through the southwest part of Kearney. With the addition of Yanney Park and the Senior Center there is numerous times where people are coming and going not just only 30 minutes a day but eight hours a day because the area in southwest Kearney is being used quite efficiently. But with more traffic going to single family housing to the duplexes is going to add more and more problems. There is also a new hospital, a new medical center and again within just viewing areas of the Kenwood Elementary. Then there is a possibility of a new high school continuing on down that road which again is going to start adding even more traffic on west 11th Street. The problem he sees when they stated there is one way in and another way out is completely false. The wrong reason is because people do come in from the south for the most part and then perhaps go into the driveway but both sides of the streets of 15th Avenue and 16th Avenue are completely jammed pack with cars both in the morning and at night. He stated further that probably 80 percent of that traffic heads back to the north towards 11th Street which is very difficult to get on if you want to turn to the west.

Tom Anderson, 1004 13th Avenue, stated his primary concern is not so much about the rezoning but more about the drainage of water which would be the southernmost property is a natural low spot for this area and with the school being built up causes concerns. So his primary concern along the eastern site for these developed properties is once these properties are developed they have a functional and adequate drainage plan and to get the water out of the area without flooding the adjacent property. He also voiced concern on the parking. He questioned if there is any requirement for residential housing to park in there parking lot and assumed they can park in the street which might provide a traffic issue. He had spoken with the developer about the drainage and he mentioned that measures would be taken to provide a 6-inch deep, 8-foot wide drainage path, but his primary concern again is the no low spot for that water to go.

Randy May, 1008 13th Avenue, stated his property is most affected and has similar concerns that Mr. Anderson previously mentioned. The property has been developed with homes to a certain point and it just ends where the storm drainage ends. And after that is this proposal being considered. They constantly have high weeds behind his fence. It is a natural low spot but once the water comes down that field and that field is already angled, maybe during development they could fix some of these problems but it comes as far as 15-20 feet into his backyard and their entire garden is under water. There is just nowhere for the water to go other than their yards. He talked to someone from NDEQ and Mr. May submitted an article about storm water and how it needs to be disposed of in residential areas.

Mr. Bennett stated these proposed lots have a storm water management plan which is part of a public works plan that denotes the rear yards on each person's property as the storm water management channel. In the phase which was last built, the conveyance channel is located along the rear yards of those lots lines, it goes to what most people would probably call a ditch but it is a storm water detention cell, the same was created on this phase. The challenge is that people build gardens, or outhouses, or they fill their

lots when they do develop it and they block or impede the drainage that is in that defined drainage way along the back of their lots. Mr. Rapp contacted him and they sat down and discussed how he could improve drainage to help the lots that are already there. So they laid out the drainage and the public work plan shows that there will be drainage coming along the backside and it goes to a detention cell located south of 8th Street which is currently constructed there. That detention cell if it gets impeded on either side of the lot line by someone building it up, it will stack water and so they want to increase the width of that channel.

Mayor Clouse asked what happens to those homes that are built to the south of that if he increases it on these lots what is the impact on those homes that are already built. Mr. Bennett stated it is a defined drainage way through here to the south side of 8th Street and it happens on any of these subdivisions if one person comes in. This is why the City requires a public works plan so they have the authority to say this is a storm water drainage channel, you need to move it or excavate it because you are causing flooding. It is meant to be the rear yard drainage for half of the houses that drain to the back and then convey it from north to south.

Council Member Lear stated there has been a fair amount of problems in that area with drainage water and asked Mr. Bennett if he knew if the City went in and force drainage way issues to improve water flow. Mr. Bennett could not answer that question but stated years ago when they started doing public works plans, it had to detail out where the drainage would be and the required amount of detention was for the sole purpose that it gave the City authority to be able to enforce that.

Council Member Buschkoetter stated the detention cell is a mile long and an inch deep. Mr. Bennett stated basically it is a linear detention cell. Most people might think of it as a ditch but it really has restrictions in terms of what comes into it and how it goes out and how long it detains it based on a 10-year storm and that exists both along this side and the along the west side of the driveway that actually goes to Rapp's house.

Council Member Nikkila asked does the issue of what we are facing whether it is R-1 or R-2 impact how the drainage issues decided. Mr. Bennett stated no but wanted to address that. In looking at these four lots, and instead of having four lots in there, and if he put what he could have for frontage, 75 foot, there could basically be six or maybe seven houses. That would be a greater increase run off then what he would have if he had four lots or even the duplexes and the tri-plex scenario.

Mr. Bennett further stated their intent is not to have traffic conflicts. Mr. Rapp did take the time to talk to the adjacent land owners prior to Planning Commission as well. He had favorable responses but had some drainage concern.

Mayor Clouse asked how does the school drain since it is a huge piece of property. Mr. Bennett stated the school actually has their own engineering firm and architectural firm that designed and provided onsite detention within swales that are located along the south side for the increased impervious runoff that they have for that. It drains to the south and then picks up in the underground storm water conveyance system dumps into the detention cell.

Mayor Clouse asked if the amount of water that Mr. Anderson presented is not coming from school property. Mr. Bennett stated no, and pointed out that Mr. May had talked about the drainage is from west to east across his property always has been and so if you have increase runoff or if you have runoff coming onto your property you need to continue to have that so that is why he wanted to create a collection swale on the back of those lots and then convey it south to the detention cell.

Council Member Lear stated one of the ways he views rezoning issues particularly when going from a lower density zone to a higher density zone, the burden of proof is on the applicant as to why this is appropriate particularly if there is any neighborhood opposition to it. Mr. Bennett stated it is not desirable to build a single family home along an arterial street. Currently, there are four lots that are abutting a school that has three months out of the year that is not open and has many holidays and times off too and there is some peak times. Outside of that it is almost you don't have a neighbor to your west along these lots. So this is different than a normal R-1 so those four lots going to seven lots, he look at is as not really being the same as what you could see in this area if there were single family homes on the other side of 15th Avenue, you would have a lot of lots all the way along there that would have interaction all day long 12 months out of the year.

Council Member Lear stated the property to the west is not zoned and located along an arterial. In looking at those areas to the west of here then the burden of proof shifts and somebody would have to prove to him why it would not be appropriate for that area to have high density housing development on it; be it apartment buildings or duplexes, etc. This property we are talking about is already zoned to a lower density which is his concern on this project. Mr. Bennett stated when this was platted at 17th Avenue this was platted as being a collector street for a viaduct that would be proposed to go over the railroad tracks knowing that transportation and right-of-way widths had to be defined so that 17th Avenue would be considered a collector street and in that master planning 17th Avenue also had to come down to 8th Street and 8th Street is meant to circulate so putting higher density use along a collector street seems to be what would not be desirable and that is why in the preliminary plat it showed larger single family homes here because they did not want as many driveway conflicts with the collector street of 17th Avenue and 8th Street.

Council Member Lear stated that could have been accomplished with apartment complexes that had limited curb cuts. Mr. Bennett stated that was correct; however, as far as part of the master planning was to back up next to the tail race canal and have a good view of the park. They desired to have that as single family homes that would be larger lots. They are constrained by 17th Avenue and 8th Street being defined as collector streets.

City Manager Michael Morgan stated another consideration would be parking restrictions on this street in front. Council Member Lammers stated if the driveways were a little wider they would be less likely to park on the street but did not know what the design would look like. Mr. Bennett stated that is something they would be willing to entertain that being an accommodation.

City Manager asked if the drainage conveyance is an easement and if property owners would know it exists. Mr. Bennett confirmed it was an easement, it is on the plat, and a part of the public works plan. City Manager stated the challenge is how does the property owner really ever know that. Mr. Bennett stated often times an owner buys a lot and they do not know they have an easement.

City Manager stated Council has a condition can always add conditions as well. For instance you could add conditions if you felt that you wanted to proceed with approval of the rezoning you could add additional considerations that the revised drainage plan must be submitted and reviewed by staff and meet certain criteria.

City Manager stated City staff does not normally go back and look in backyards regarding the issue of conveyance of easements. Council Member Lear asked what would trigger the City to do that. Assuming how that process would work is you would have neighborhood complaint, somebody would come to the City and say you need to evaluate this, does it meet the drainage plan that was established for that neighborhood. If in fact the property in question or properties in question did not meet the drainage plan then it would be in the City's purview to compel enforcement of that drainage plan on the property. City Manager stated it would be; he was not sure the City has done that. Council Member Lear stated he has never heard of the City doing that but that would be the process.

Kelly Rapp, 1000 West 11th Street, stated he understood the drainage concerns and his plan is to cut an 8-foot wide drain and make it about six inches deep so it is a little bit of a collector and obviously maintain the grade. This was the drain that the City approved and is well aware that he needs to make sure that he has this drain established well.

Council Member Buschkoetter asked Mr. Rapp if he would have a problem if there was the requirement to have a revised drainage plan that the City staff would approve. Mr. Rapp stated he would not have a problem with that because he is going to do it whether or not it was a requirement. He has built 113 homes down there and wants to continue to be successful.

Mayor Clouse questioned if it would be an issue if there was no parking from the south end of Lot 4 to 11th Street. Mr. Rapp stated he would not have a problem with that at all.

Tom Anderson suggested making that no parking between 7:30-9:00 a.m. and 3:30-5:00 p.m. Mr. John Shafer voiced a concern with putting no off-street parking at certain hours because there are so many different activities going on in that area and anytime you put a stipulation especially at certain hours you are going to run into more problems than you are trying to take care of. Randy May commented on the parking that if they made a lot of restrictions around the schools people would start parking in their neighborhoods.

Council Member Nikkila commented that they are going to start hearing the word traffic a lot about that neighborhood as development continues and did not believe they can use traffic as a reason to slow down development in that part of town. Whether the bond issue passes or not people are going to be building out in that area west of 17th

Avenue. Towards the issue at hand, the Council should be differential to developers because they put their money on the line to do good things for Kearney. However, once you zone something, he views zoning almost like protecting private property rights and the people who sit behind that house whether you think their arguments are reasonable or not for why they opposed the rezoning. It is their view that it limits their value of property and believes it has to be taken seriously under consideration which is why he is not supportive of rezoning.

Council Member Lammers stated he was not influenced by the traffic situation either because traffic is going to be regardless of the zoning. The drainage is a totally different issue. He is concerned about the zoning for the reason people built all those houses in there planning to have the R-1 zoning.

Council Member Buschkoetter stated his biggest concern has been traffic but it does not matter what is done with this property today; it is not going to change any traffic on 11th Street. The traffic on 15th Avenue also concerned him. To him the biggest issue is the drainage and that is going to have to be addressed regardless of what type of units are there and he believes that R-2 can be a system that will fit in that area with the number of units being proposed.

Mayor Clouse stated he has always been hesitant to change zoning from R-1 to R-2. Most of the comments that he has received and in some of the opposition most of it had to deal with traffic but now this is the first time tonight to hear about the drainage issues. With the developers addressing it, he did not have a problem with the plan as it is laid out and did not have a problem with the R-2 buffer as long as those parking issues and the drainage issues are addressed.

Lisa May, 1008 13th Avenue, stated an important point that needs to be made is they originally were single family homes now they want to go to a multiple family units. When Kelly Rapp originally came and talked to them she questioned why they were going from a single family to a multiple family home and his reasoning was because of the way the lots are laid out, certain floor plans would not work on the lot, certain designs for homes. He did not think they would sell or have a hard time selling to people but from what I am hearing from these duplexes there is going to be no problem whatsoever of them ever being empty and they will always be full. So she does not understand if they are always going to be full as duplexes then they should remain as single family homes.

Moved by Nikkila seconded by Lear to close the hearing and deny **Resolution No. 2013-145** on the Application submitted by Miller & Associates (Applicant) and Kelly Rapp and Laureen Striker-Rapp (Owner) for an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Low Density Residential to Medium Density Residential property described as Lots 1, 2, 3, 4 of Block One, Park View Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 11th Street, east of 15th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: Buschkoetter. Motion carried.

REZONING SOUTH OF 11TH STREET, EAST OF 15TH AVENUE

Public Hearings 10 and 11 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Kelly Rapp and Laureen Striker-Rapp (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as Lots 1, 2, 3, 4 of Block One, Park View Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 11th Street, east of 15th Avenue) and consider Ordinance No. 7827.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Lammers to close the public hearing and deny Ordinance No. 7827 on the Application submitted by Miller & Associates (Applicant) for Kelly Rapp and Laureen Striker-Rapp (Owner) to rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as Lots 1, 2, 3, 4 of Block One, Park View Estates Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (south of 11th Street, east of 15th Avenue). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: Buschkoetter. Motion carried. Ordinance was read by number.

IV. CONSENT AGENDA

Mayor Clouse stated that Subsection 7 of the Consent Agenda needed to be corrected. The amount awarded to Midlands Contracting for Bid A should be \$1,141,528.00.

Moved by Lammers seconded by Nikkila that Subsections 1 through 15 of Consent Agenda Item IV be approved with the correction to Item 7. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Special Meeting held July 17, 2013 and Minutes of Regular Meeting held July 23, 2013.

2. Approve the following Claims:

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

Adamson,T \$8.00 smcs; Alamar \$808.73 smcs; Alfred Benesch \$2,561.06 co; All Makes Auto Supply \$705.02 smcs; Alpha Xi Delta \$120.00 smcs; Altmaier,J \$0.99 smcs; Ambroz,J \$28.75 smcs; Amer Fence \$2,060.00 smcs; Amer First Aid \$209.49 smcs; Amer Patriot Pictures \$19.99 smcs; Anderson Bros \$1,917.49 smcs; Anderson,M \$10,000.00 co; Ash,A \$30.14 smcs; Ask Supply \$1,071.10 smcs; Aurora Coop \$3,627.30 smcs; Baird Holm \$800.00 smcs; Baker & Taylor \$3,888.92 smcs; Bamford \$3,173.06 smcs; Baughman,J \$66.55 smcs; Bells Construction \$1,080.00 co; Blakley,M

\$300.00 smcs; Blevins,D \$225.00 smcs; Bluecross Blueshield \$32,866.72 smcs; Bosselman \$32,854.09 smcs; Brisbin,H \$31.00 smcs ;Broadfoot's \$1,125.50 smcs; Brockmeier,T \$80.00 smcs; Bruha,S \$620.00 smcs; Buffalo Co Reg Deeds \$58.00 smcs; Buffalo Outdoor Power \$91.85 smcs; Builders Warehouse \$287.15 smcs,co; Burcah,C \$20.18 smcs; Capital Business Systems \$169.93 smcs; Cash-Wa \$9,028.75 smcs; Central NE Bobcat \$1,123.04 smcs; Central Piping \$110.00 smcs; Central States Wire \$3,011.18 smcs; Centurion Holding \$427.55 smcs; Charlesworth & Assoc. \$1,550.00 smcs; Charter \$485.25 smcs; Chesterman \$1,987.00 smcs; Chief Supply \$507.90 smcs; City of Ky \$375458.37 ps,smcs,co; Clevenger,S \$80.00 smcs; Coburn,B \$250.00 smcs; Colling,G \$200.00 smcs; Community Action Partner \$1,784.76 smcs; CompassCom \$50.00 smcs; Consec Life Ins \$19.00 ps; Consolidated Management \$273.75 smcs; Construction Rental \$35.00 smcs; Copycat Printing \$319.49 smcs; Cowpoke \$33.49 smcs; Credit Mgmt Services \$177.95 ps; Creighton University \$140.00 smcs; Crumm,M \$40.00 smcs; Dawson PPD \$3,526.41 smcs; De La Motte,A \$30.99 smcs; Delahunty,J \$112.28 smcs; Dell \$4,030.25 smcs; Demco \$78.34 smcs; Deterdings \$1,621.54 smcs; DHHS, Licensure Unit \$110.00 smcs; Dish \$133.98 Dowhy Towing \$1,000.00 smcs; DPC Industries \$11,743.72 smcs; Dutton-Lainson \$130.85 smcs; Eakes \$4,428.10 smcs,ps; Eirich,T \$50.00 smcs; Elliott Equipment \$2,053.49 smcs; Ellis,D \$23.74 smcs; EMC Ins \$3,019.62 smcs; Englert,J \$27.03 smcs; Eustis Body Shop \$400.00 smcs; Feld Fire \$450.00 smcs; Fiddelke \$71.00 smcs; Fireguard \$9,012.19 smcs,co; Fitzgerald,C \$50.00 smcs; Footjoy \$390.10 smcs; Frerichs,C \$2.97 smcs; Frontier \$9,006.13 smcs; Gale \$275.89 smcs; Gamma Sports \$111.95 smcs; Gangwish \$131.40 smcs; Garrett Tires \$1,069.54 smcs; GE Money Bank \$187.60 smcs; Godfrey,E \$24.81 smcs; Govt Finance \$50.00 smcs; Great Plains Safety \$600.00 smcs; GW Brown Co \$125.00 smcs; H&H Distributing \$2,245.20 smcs; Hampton,B \$28.75 smcs; Hanika,M \$146.93 smcs; Harley Davidson \$246.53 smcs; Harshbarger,K \$172.70 smcs; Hasegawa,B \$24.21 smcs; Hatch,L \$9.91 smcs; Hay,A \$17.40 smcs; HD Supply \$5,596.10 smcs; Heiliger,J \$5.72 smcs; Hensley,S \$9.81 smcs; Hird,J \$21.05 smcs; Holbein,D \$8.84 smcs; Holmes Plbg \$11.36 smcs; Hometown Leasing \$237.20 co; Hornady \$295.00 smcs; Howe,M \$34.00 smcs; Hyde,I \$9.06 smcs; ICMA RC \$7,877.78 ps; IRS \$275,677.46 ps; IPMA \$379.00 smcs; Isaac,B \$106.99 smcs ;Jack Lederman \$2,668.46 smcs; Jacobsen,L \$6.92 smcs; James,D \$570.00 smcs; James,E \$6.07 smcs; JNE \$172.19 smcs; Johnson,L \$50.00 smcs; K&K Parts \$1,257.10 smcs; Kaski,J \$80.00 smcs ;Ky Ag & Auto \$1,447.86 smcs; Ky Area Builders \$360.00 smcs; Ky Clinic \$524.00 ps; Ky Comm. Found \$2,750.00 smcs; Ky Concrete \$15,620.50 smcs,co; Ky Crete \$2,041.29 smcs,co; Ky Hub \$1,496.96 smcs; Ky Noon Rotary \$110.00 smcs; Ky Powersports \$12,175.54 co; Ky United Way \$610.04 ps; Ky Visitors Bureau \$50,132.79 smcs; Kellogg Community College \$3,300.00 smcs; Kemmet,G \$1,200.00 smcs; Ketteler,L \$200.00 smcs; Klesath,J \$20.72 smcs; Knoedler,L \$25.97 smcs; Koch,J \$18.16 smcs; KOLN \$445.00 smcs; Konica Minolta \$2,535.52 smcs; Koperski,M \$43.03 smcs; Krull Ins \$1,950.00 smcs; Kucera Painting \$1,200.00 smcs; Kulhman,J \$15.59 smcs; Larue Distributing \$133.83 smcs; LCL Equipment \$1,055.14 smcs; Levanders Body Shop \$100.00 smcs; Lichtenberger,J \$15.09 smcs; Lincoln Winwater Works \$4,257.43 smcs; Lindner,S \$108.91 smcs; Lockmobile \$11.40 smcs; Magic Cleaning \$3,010.00 smcs; Mail Express \$6,548.39 smcs; Marlatt Machine Shop \$235.74 smcs; Matheson Tri-Gas \$123.72 smcs; Maul,E \$548.50 smcs; McCarty,D \$19.70 smcs; Meier,B \$310.00 smcs; Mellen & Associates \$250.00 co; Merryman Performing Arts \$331.00 smcs; Mertens,A \$3.14 smcs; Methe,B \$32.34 smcs; Metlife \$7,760.22 ps; Microfilm Imaging \$10,852.00 smcs; Mid America

Signal \$174.00 smcs; Middleton Electric \$55.00 smcs; Mid-NE Aggregate \$347.40 co; Mid-State Engineering \$1,280.00 co; Midwest Turf \$74.11 smcs; Miller & Associates \$112.50 co; Miller,A \$11.66 smcs; Miracle Recreation \$1,960.43 co; Morgan,M \$59.03 smcs; Mueller,J \$240.00 smcs; Municipal Emergency \$14.03 smcs; Municipal Supply \$15,619.81 smcs; Murray,H \$50.00 smcs; Napa Auto Parts \$199.14 co; Navigator Motorcoaches \$460.00 smcs; NE Amateur Softball \$100.00 smcs; NE Child Support \$4,569.32 ps; NE Dept of Motor Vehicles \$6.60 co; NE Dept of Revenue \$37,130.50 ps; NE Dept of Roads \$1,511,838.05 co; NE Golf & Turf \$450.00 smcs; NE Golf Assn \$3,990.12 smcs; NE Law Enforcement \$250.00 smcs; NE Library Assn \$640.00 smcs; NE Public Health \$2,314.00 smcs; NE Safety & Fire \$95.00 smcs; NE Salt & Grain \$40,555.01 smcs; Neal,B \$100.00 smcs; NEland Distributors \$2,843.11 smcs; Newman Traffic Signs \$57.86 smcs; Noffke,M \$548.50 smcs; Noller Electric \$1,038.19 smcs; Northwest Electric \$24.21 smcs; Northwestern Energy \$4,531.37 smcs; NP Realty \$376.00 co; NRG Media \$65.00 smcs; O'Hara Lindsay & Assoc \$3,000.00 smcs; O'Keefe Elevator \$635.84 smcs; One Call Concepts \$525.90 smcs; O'Neill Wood Resources \$14,145.00 smcs; O'Reilly Automotive \$106.19 smcs; Ortega,J \$26.60 smcs; Ortmeier,K \$16.16 smcs; Outdoor Recreation \$201.00 co; Overhead Door \$1,885.00 smcs; Paramount Linen \$525.33 smcs; Pat's Plbg \$105.00 smcs; Patterson,B \$206.06 smcs; Payflex Systems \$544.00 smcs,ps; Payton,D \$305.00 smcs; Pep Co. \$56.34 smcs; Pitney Bowes \$60.00 smcs; Placious,C \$17.40 smcs; Platte Valley Comm \$438.90 smcs; Platte Valley Labs \$62.75 smcs; Presto-X \$451.34 smcs; Prime Communications \$3,045.00 co; Quality Memorials \$300.00 smcs; Quill \$259.75 smcs; Random House \$363.00 smcs; Ready Mixed Concrete \$21,872.39 co; Recorded Books \$946.59 smcs; Reinke's \$150.44 smcs; Rheome Tree \$990.00 smcs; Riverside Mfg \$968.44 ps; Roper Radiator \$75.00 smcs; Sapp Bros \$8,136.00 smcs; Schierling,M \$45.17 smcs; School District #7 \$877.70 smcs; Seneca Co \$87,347.70 co; Sensus \$212.50 smcs; Sherwin Williams \$634.45 smcs; Shotkoski Services \$150.00 smcs; Siddons-Martin \$2,995.93 smcs; Snap On Tools \$14.75 smcs; Snodgrass,K \$16.83 smcs; Springer Roofing \$325.00 smcs; SPS VAR \$11,320.00 smcs; State of NE/AS Central \$3,816.06 smcs,co; Steele,K \$80.00 smcs; Steinbrink Landscaping \$350.00 smcs; Sun Life Financial \$62,306.22 smcs; Sungard Public Sector \$13,000.00 co; Sutphen \$1,400.00 smcs; Tacha,J \$50.00 smcs; Talbott Bros \$1,416.00 smcs; Ternus,S \$10.90 smcs; Theis,J \$30.00 smcs; Thome,B \$172.70 smcs; Thompson,D \$548.50 smcs; Thompson,J \$548.50 smcs; Tielke's Sandwiches \$159.15 smcs; Titleist \$3,037.77 smcs; Trade Well Pallet \$3,000.00 smcs; Tri-County Glass \$20.00 smcs; Trost,D \$66.00 smcs; Turfwerks \$279.36 smcs; Turner Body Shop \$1,026.00 smcs; Tye & Rademacher \$11,242.55 smcs; Union Bank & Trust \$114,620.78 ps; UNK \$251.01 smcs; Urwiller,K \$103.27 smcs; Vasquez,C \$40.00 smcs; Verizon Wireless \$1,060.38 smcs; Village Uniform \$578.77 smcs; Vogelsberg,A \$25.46 smcs; Warren-T Plbg \$1,398.98 smcs; Watchguard Video \$329.00 co; Weides,T \$100.00 smcs; Wessels,W \$55.76 smcs; Wilkins Hinrichs Stober \$4,071.71 co; Willson,S \$31.18 smcs; World Trade Press \$840.00 smcs; Zimco Supply \$645.00 smcs; Payroll Ending 07-27-2013 -- \$410,245.87. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Adopt Resolution No. 2013-146 approving Change Order No. 1 showing an increase in the amount of \$1,250.00, Application and Certificate for Payment No. 1-Final in the amount of \$35,325.00, and accept the Certificate of Substantial Completion

submitted by GD Concrete Construction and approved by Miller & Associates for the 2013 Part 6 Improvements; Cemetery Road Improvements.

RESOLUTION NO. 2013-146

WHEREAS, GD Concrete Construction of Overton, Nebraska has performed services in connection with the 2013 Part 6 Improvements; Cemetery Road Improvements, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 1 showing an increase in the amount of \$1,250.00, as shown on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, GD Concrete Construction and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 1-Final in the amount of \$35,325.00, as shown on Exhibit "B" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$34,075.00
Change Order No. 1 (8-13-2013)	+ 1,250.00
Contract Sum To Date	35,325.00
Gross Amount Due	35,325.00
Retainage	.00
Amount Due to Date	35,325.00
Less Previous Certificates for Payment	.00
Current Payment Due	\$35,325.00

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

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

4. Adopt **Resolution No. 2013-147** amending the Contingent Fee Auditing Agreement between the City of Kearney and Allixa Consulting, Inc. to expand the list of companies that would be subject to the audit of telecommunication occupation taxes.

RESOLUTION NO. 2013-147

WHEREAS, on July 9, 2013 the City Council adopted Resolution No. 2013-129 authorizing the City Manager to execute the Contingent Fee Professional Services Agreement between the City of Kearney and Allixa Consulting, Inc. to review telecommunication companies records and determine whether or not the correct amount of occupation tax has been paid; and

WHEREAS, the City has determined to expand the list of companies that would be subject to the audit and have amended the exhibit to the Agreement to add additional companies and the remainder of the Agreement will remain in effect as originally approved.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the City Manager is authorized and directed to execute the Contingent Fee Professional Services Agreement between the City of Kearney and Allixa Consulting, Inc. which expanded the list of companies that would be subject to the audit and have amended the exhibit to the Agreement to add additional companies. The Contingent Fee Professional Services Agreement, marked as Exhibit "1", is attached hereto and made a part hereof by reference.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2013-148** accepting the water main with a fire hydrant infrastructure constructed for Lot 2 of Block Three, Windsor Estates Seventh Addition (412 West 48th Street).

RESOLUTION NO. 2013-148

WHEREAS, on the 24th day of April, 2012 the President and Council of the City of Kearney, Nebraska passed and approved Resolution No. 2012-63 authorizing the President of the Council to execute the Developer Constructed Infrastructure Agreement between the City of Kearney and Johnson Imperial Home Co. to construct a water main and install a fire hydrant for Lot 2, Block Three, Windsor Estates Seventh Addition (412 West 48th Street); and

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

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

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

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the public improvements constructed under, and in accordance with, Article 13 "Developer Constructed Infrastructure" of Chapter 9 "Public Works" of the Code of the City of Kearney for Lot 2, Block Three, Windsor Estates Seventh Addition (412 West 48th Street) and that the said public improvements be and are hereby accepted.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

6. Approve the Plans and Specifications for the 2013 Part 3 Improvements consisting of Paving Improvement District No. 2012-957 for Emerald Drive and its extension beginning at the west line of Tahoe Drive and terminating at a point 250 feet east of the centerline of Ontario Road; Paving Improvement District No. 2012-958 for Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Paving Improvement District No. 2012-959 for Winnipeg Road beginning at the south line of Emerald Drive and terminating at a point 293 feet southwesterly; Paving Improvement District No. 2012-960 for Tahoe Drive beginning at the south line of Emerald Drive and terminating at a point 241 feet southwesterly; Water District No. 2012-568 in Emerald Drive and its extension beginning at the East line of Winnipeg Road and terminating at a point 250 feet East of the centerline line of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating at the north line of Huron Drive; Sanitary Sewer District No. 2012-507 in Emerald Drive and its extension beginning at the west line of Winnipeg Road and terminating at a point 250 feet east of the centerline of Ontario Road, and all of Ontario Road beginning at the south line of Emerald Drive and terminating 349 feet southerly and set the bid opening date for September 3, 2013 at 2:00 p.m.

7. Adopt **Resolution No. 2013-149** accepting the bids received for the 2013 Part 1 Improvements consisting of Paving Improvement District No. 2012-962, Water District No. 2013-570, Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition and award the bid to Midlands Contracting in the amount of \$141,528.00 for Bid A (water and sanitary sewer) and to Paulsen Inc. in the amount of \$1,327,913.75 for Bid B (paving).

RESOLUTION NO. 2013-149

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on August 7, 2013 at 2:00 p.m. for the 2013 Part 1 Improvements consisting of Paving Improvement District No. 2012-962, Water District No. 2013-570, Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of

Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition; and

WHEREAS, the Engineers Opinion of Probable Construction Cost for Bid A (Sewer/Water) was \$1,359,940.00 and for Bid B (Paving) was \$1,577,341.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Midlands Contracting, Inc. of Kearney, Nebraska in the amount of \$1,141,528.00 be accepted as the lowest responsible bid for 2013 Part 1 Improvements – Bid A consisting of Water District No. 2013-570, Sanitary Sewer District No. 2013-508 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition; and

WHEREAS, the said engineers have recommended the bid offered by Paulsen, Inc. of Cozad, Nebraska in the amount of \$1,327,913.75 be accepted as the lowest responsible bid for 2013 Part 1 Improvements – Bid B consisting of Paving Improvement District No. 2012-962 for 50th Street from 11th Avenue to 17th Avenue, 51st Street Place from 15th Avenue Place to 16th Avenue Place, all of 14th Avenue Place, all of 15th Avenue Place, all of 16th Avenue Place, all of Loveland Drive all in Fountain Hills Fifth Addition, 11th Avenue from 48th Street north to the north lot line of Lot 10 of Block 3, Fountain Hills Third Addition; Sanitary Sewer Connection District No. 2013-1 beginning at the intersection of the centerlines of 16th Avenue Place and 51st Street Place as platted in Fountain Hills Fifth Addition west to the west line of 17th Avenue, thence north to the northeast corner of Lot 1, Smith Addition; and Sanitary Sewer Connection District No. 2013-2 in a sanitary sewer easement located in part of Outlot A, Fountain Hills Sixth Addition; and part of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska; and 11th Avenue as platted in Fountain Hills Second Addition.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the engineers recommendation is hereby accepted and approved, that Midlands Contracting, Inc. be and is the lowest responsible bidder for the 2013 Part 1 Improvements – Bid A (Sewer/Water) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Midlands Contracting, Inc. in the amount of \$1,141,528.00 be and is hereby accepted.

BE IT FURTHER RESOLVED by the President and City Council of the City of Kearney, Nebraska that the engineers recommendation is hereby accepted and approved, that Paulsen, Inc. be and is the lowest responsible bidder for the 2013 Part 1 Improvements – Bid B (Paving) to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Paulsen, Inc. in the amount of \$1,327,913.75 be and is hereby accepted.

BE IT FURTHER RESOLVED the City Engineers Opinion of Probable Construction Cost for Bid A (Sewer/Water) in the amount of \$1,359,940.00 and for Bid B (Paving) in the amount of \$1,577,341.00 be and is hereby accepted.

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

8. Adopt **Resolution No. 2013-150** accepting the bids received for the 2013 Part 4 Improvements consisting of Paving Improvement District No. 2013-963, Sanitary Sewer District No. 2013-509 for Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, Water District No. 2013-572 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and award the bid to Dan Roeder Concrete in the amount of \$477,203.80.

RESOLUTION NO. 2013-150

WHEREAS, Miller & Associates and the City of Kearney have reviewed the sealed bids which were opened on August 6, 2013 at 2:00 p.m. for the 2013 Part 4 Improvements consisting of Paving Improvement District No. 2013-963, Sanitary Sewer District No. 2013-509 for Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, Water District No. 2013-572 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet; and

WHEREAS, the Engineers Opinion of Probable Construction Cost was \$502,533.65 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the amount of \$477,203.80 be accepted as the lowest responsible bid for 2013 Part 4 Improvements; and

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete be and is the lowest responsible bidder for 2013 Part 4 Improvements to be constructed in accordance with the plans and specifications on file with the City Clerk and that the bid of Dan Roeder Concrete in the amount of \$477,203.80 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineers Opinion of Probable Construction Cost in the amount of \$502,533.65 and is hereby accepted.

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

9. Adopt **Resolution No. 2013-151** approving Change Order No. 1 showing an increase in the amount of \$65,990.00 submitted by JIL Asphalt for the 2013 Airport Asphalt Pavement Improvements.

RESOLUTION NO. 2013-151

WHEREAS, JIL Asphalt Paving Co., of Grand Island, Nebraska has performed services in connection with the 2013 Airport Asphalt Pavement Improvements, Bid B (Asphalt) and have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$65,990.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$58,428.25
Change Order No. 1 (8-13-2013)	+ 65,990.00
Contract Sum to Date	<u>\$124,418.25</u>

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 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

10. Approve the recommendation from the Development Services Division on the annual renewal of the following manufactured home court licenses until May 31, 2014: Cornhusker Mobile Home Park, 1115 Avenue C; Cottonmill Mobile Home Court, 3635 Cottonmill Avenue; East Lawn Mobile Homes Estates, 2900, 3010 Grand Avenue; Schnase Trailer Court, 1284 62nd Avenue; Sunset View Mobile Home Court, 4664 West Highway 30; Valley View Mobile Home Court, 2701 Grand Avenue; Westside Trailer Court, 1282 62nd Avenue

11. Adopt **Resolution No. 2013-152** accepting the proposals received for the Wildlife Hazard Assessment for the Kearney Regional Airport and award the bid to Gander Island Consulting Services from Aberdeen, South Dakota in the amount of \$61,850 subject to approval by the F.A.A. and the Nebraska Department of Aeronautics.

RESOLUTION NO. 2013-152

WHEREAS, Title 14 CFR Part 139.337(b) requires that the Kearney Regional Airport provide for a wildlife hazard assessment when an air carrier experiences a multiple wildlife strike, engine ingestion, or substantial damage from striking wildlife; and

WHEREAS, the Kearney Regional Airport has not had an event triggering the requirement for a Wildlife Hazard Assessment; however, the FAA has recently adopted

a policy to place the highest priority on AIP funding for a Wildlife Hazard Assessment at Part 139 certificated airports that have not had a Wildlife Hazard Assessment.; and

WHEREAS, the Wildlife Hazard Assessment must be conducted by a qualified wildlife biologist; and

WHEREAS, the City prepared and submitted the Request for Proposals, and on April 16, 2013 the City received six proposals; and

WHEREAS, this information was submitted to the FAA and they would like the City to proceed forward on accepting the lowest responsible bidder subject to FAA and the Nebraska Department of Aeronautics approval; and

WHEREAS, after reviewing the proposals received, the City is recommending accepting the proposal submitted by Gander Island Consulting Services from Aberdeen, South Dakota in the amount of \$61,850.00.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the City's recommendation is hereby accepted and approved, that Gander Island Consulting Services be and is the lowest responsible bidder and that the proposal submitted by of Gander Island Consulting Services from Aberdeen, South Dakota in the amount of \$61,850.00 be and is hereby accepted.

BE IT FURTHER RESOLVED that acceptance of this proposal is subject to approval by the F.A.A. and the Nebraska Department of Aeronautics.

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

12. 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 at The World Theatre located at 2318 Central Avenue on September 1, 2013 from 6:00 p.m. until 11:00 p.m. for a reception.

13. 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 at Alumni House located at 2222 9th Avenue on September 13, 2013 from 6:30 p.m. until 11:00 p.m. for a reception.

14. Approve the Plans and Specifications for the 2013 Part 11 Improvements consisting of Water District No. 2013-571 in Box Butte Avenue from 39th Street south to the south line of Northeast Industrial Second Subdivision and Northeast Industrial Sixth Subdivision and paving said street.

15. Adopt **Resolution No. 2013-153** renewing the Water Tower Lease between the City of Kearney and Cabela's.

RESOLUTION NO. 2013-153

WHEREAS, the City of Kearney has leased the water tower located at the Kearney Cabela's Retail Store location for the past several years; and

WHEREAS, the City entered into a Lease with Cabela's to use the water tower as a part of the City's water distribution system so that Kearney has extra capacity and redundancy in its system; the said Lease will expire on October 31, 2013; and

WHEREAS, City staff has negotiated a renewal of this Lease for an additional ten years beginning on November 1, 2013, and continuing until October 31, 2023.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Cabela's Water Tower Lease, marked as Exhibit "A", attached hereto and made a part hereof by reference, be and is hereby approved.

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

PASSED AND APPROVED THIS 13TH DAY OF AUGUST, 2013.

ATTEST:
MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

ORDINANCE NO. 7828 VACATE PORTION OF AVENUE R, AVENUE S AND 35TH STREET

The applicant is requesting vacation of portions of three streets as they abut the area surrounding his property east of the Buffalo County Fairgrounds. These streets have been platted in the past but never constructed. These streets do not go anywhere or serve any purpose due to the surrounding constraints including the Fairgrounds to the west and the Burlington Northern Rail spur to the west. Avenue R north of 34th Street runs into the Burlington Northern spur after one block and consequently goes nowhere. Avenue S north of 35th Street has already had the east half vacated. The west half of Avenue S from 35th Street north to the north side of Tract A will consequently be vacated. 35th Street between Avenues R and S will serve no purpose if Avenues R and S are vacated, so it too shall be vacated. When the streets are vacated one-half of the right-of-way is transferred to the abutting owner on that side of the street and the other half goes to the owner on the opposite side of the street. There are actually three property owners involved that abut the various streets, the applicant, his father-in-law, and the City of Kearney. All three owners have signed the petition to vacate.

All of the utility companies have reviewed and approved the vacation of these street right-of-ways. No easements need to be established. Planning Commission recommended approval.

Council Member Nikkila introduced Ordinance No. 7828, being Subsection 1 of Agenda Item V to vacate all that part of Avenue "R" from the north line of 34th Street north to the easterly right-of-way line of the Omaha and Republican Valley Railroad now the Union Pacific Railroad; AND all that part of 35th Street from the east line of Avenue "R" east to the centerline of Avenue "S"; AND all that part of the west half of Avenue "S" from the north line of 35th Street north to the south line of 36th Street (now vacated), all located in the City of Kearney, Buffalo County, Nebraska (1712 East 34th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon

reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7828 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7828 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7828 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. 7829 – VACATE EASEMENT IN NORTHRIDGE RETIREMENT SUBDIVISION

The applicant is requesting vacation of a platted 20-foot wide utility easement that runs north-south along the west property line of Ridgeview Apartments; the new apartments proposed just north of Northridge Retirement Home. This property is described as part of Lot 1 and part of Lot 2, Northridge Retirement Subdivision.

The easement location hinders the ability of the developer to construct detached garage buildings along the west property line. The developer has purchased additional land to the west to allow a new 10-foot utility easement to be dedicated just west of the existing easement to be vacated. In this manner any required utilities can still be installed along the west property line behind the garages. There are no existing utilities in the easement to be vacated. All the utility companies have reviewed the vacation request and signed off for approval. Planning Commission recommended approval.

Council Member Nikkila introduced Ordinance No. 7829, being Subsection 2 of Agenda Item V to vacate a strip of land being 20.0 feet in width being part of Lot 1 and part of Lot 2, Block 1, Northridge Retirement Subdivision (1714 West 56th Street), and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said

motion was declared passed and adopted. City Clerk read Ordinance No. 7829 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7829 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7829 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. 7814A AMENDING LEGAL DESCRIPTION FOR PAVING IMPROVEMENT DISTRICT NO. 2013-963

On July 9, 2013 the City Council approved Ordinance Nos. 7814, 7815 and 7816 creating paving, water and sanitary sewer districts for Talmadge Street and 6th Avenue. When the City went to file the ordinances with the Register of Deeds, she determined the legal needed to be revised. Therefore, these ordinances amend the previous ordinances to reflect the wording necessary to file the ordinances.

Council Member Nikkila introduced Ordinance No. 7814A, being Subsection 3 of Agenda Item V amending the legal description for Paving Improvement District No. 2013-963 for Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7814A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7814A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7814A 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. 7815A AMENDING LEGAL DESCRIPTION FOR WATER DISTRICT NO. 2013-572

On July 9, 2013 the City Council approved Ordinance Nos. 7814, 7815 and 7816 creating paving, water and sanitary sewer districts for Talmadge Street and 6th Avenue. When the City went to file the ordinances with the Register of Deeds, she determined the legal needed to be revised. Therefore, these ordinances amend the previous ordinances to reflect the wording necessary to file the ordinances.

Council Member Nikkila introduced Ordinance No. 7815A, being Subsection 4 of Agenda Item V amending the legal description for Water District No. 2013-572 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7815A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7815A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7815A 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. 7816A AMENDING LEGAL DESCRIPTION FOR SANITARY SEWER DISTRICT NO. 2013-509

On July 9, 2013 the City Council approved Ordinance Nos. 7814, 7815 and 7816 creating paving, water and sanitary sewer districts for Talmadge Street and 6th Avenue. When the City went to file the ordinances with the Register of Deeds, she determined the legal needed to be revised. Therefore, these ordinances amend the previous ordinances to reflect the wording necessary to file the ordinances.

Council Member Nikkila introduced Ordinance No. 7816A, being Subsection 5 of Agenda Item V amending the legal description for Sanitary Sewer District No. 2013-509 in Talmadge Street from the west line of 6th Avenue west a distance of 532.09 feet and for 6th Avenue from the north line of Talmadge Street north a distance of 366.09 feet, and moved that the statutory rules requiring ordinances to be read by title on three

different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7816A by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7816A be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Buschkoetter, Lear, Lammers. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7816A is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

VI. REGULAR AGENDA

SKEETER BARNES LIQUOR LICENSE MANAGER APPLICATION

Moved by Buschkoetter seconded by Clouse to remove from the table 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, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

Glyn Lacy presented this matter to the Council. He is president of the company and also the manager of the corporation and in charge of the day to day operations. They started the responsible beverage training process that the City now mandates about two years ago. It is very useful and is glad the City has adopted that program as far as training. Most of the employees they have are under 21 and the program does a very nice job of giving the employee a skill set which to work and things to look for and the way to handle issues with someone that may come inebriated.

Mayor Clouse stated the manager application is in his name but he already has a manager here. Mr. Lacy stated he also has a manager here in Kearney all the time.

Council Member Lear asked what is the company's policy on selling to minors, if an employee is found guilty to selling to a minor. Mr. Lacy stated the employee is fired.

Moved by Clouse seconded by Lammers to approve 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, Lammers. Nay: None. Motion carried.

OPEN ACCOUNT CLAIM TO NPPD - \$108,232.98

Moved by Lammers seconded by Nikkila that the Open Account Claim in the amount of \$108,232.98 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Clouse abstained. Motion carried.

VII. REPORTS

CLOSED SESSION

Moved by Clouse seconded by Lammers that Council adjourn into closed session at 8:43 p.m. for the protection of the public interest to discuss possible litigation. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

Mayor Clouse restated the purpose for the closed session is for the protection of the public interest to discuss possible litigation. According to law, the Council has the option to reconvene back into open session and may take any formal action it deems appropriate.

Moved by Clouse seconded by Lammers that Council reconvene in regular session at 9:25 p.m. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

VIII. ADJOURN

Moved by Clouse seconded by Lear that Council adjourn at 9:25 p.m. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

ATTEST:

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

**MICHAELLE E. TREMBLY
CITY CLERK**