

*Kearney, Nebraska  
August 27, 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 27, 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; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Director of Administrative Services were also present. Some of the citizens present in the audience included: Jan Rodehorst, Mitch Humphrey, representatives from Kearney Whitewater Group, 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/MOMENT OF SILENCE**

The Council held a moment of silence.

### **PLEDGE OF ALLEGIANCE**

Two Boy Scouts from Troop 158 led the Council members and audience in the Pledge of Allegiance.

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

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

Moved by Lammers seconded by Nikkila to remove from the table Public Hearing 1 pertaining to property located south of 16th Street and Avenue M. 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 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 to consider Ordinance No. 7824; 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) and to consider Resolution No. 2013-141. Planning Commission recommended approval subject to approval of the stormwater detention calculations by the Public Works Department.

The applicant is requesting approval to subdivide approximately 14.25 acres located on the east side of Avenue M between 14th Street if extended east and 16th Street on the north. There are actually three parties working together towards developing property in this area. Marvin Taylor owns the bulk of the property and would like to subdivide it into 23 single family lots along with a larger lot for a church site and one Outlot. Members of the Family of Christ Lutheran Church are interested in building a new church on the larger lot, approximately 5.8 acres in size. Construction on the Church site will not commence for another year or two, but the Church representatives would like to purchase the property as soon as they practically can accomplish it. The Slater family owns the property south of 14th Street extended east which is about 9.72 acres and is included in the Preliminary Plat. This project does not require rezoning as the property is currently zoned R-1, Urban Single-Family Residential District. Churches are an allowable use in R-1 zoning. A portion of this property must be vacated and a Preliminary and Final Plat have been prepared.

Forty-five previously platted residential lots in Cottage Addition along with part of Lot 1, Rainbow Acres Addition must be vacated to replat this property as Taylor Addition. The lots to be vacated in Cottage Addition are Lots 4-12, 63-71, 78-86, 137-145, 152-160, and Lot 267. A small roughly triangular piece of land at the northeast corner of Lot 1, Rainbow Acres Addition is proposed for vacation as part of a land swap to improve the proposed 14th Street alignment coming east from Avenue M. The Slater family will gain a small triangular piece of land on the northwest corner of their property in exchange for the triangular piece they are vacating on the northeast corner. This land swap will allow 14th Street to line up at Avenue M with existing 14th Street to the west and then curve

south to align the centerline of the street on the property line shared between Taylor and Slater.

A Preliminary Plat that encompasses both the Taylor and Slater properties was approved by the Planning Commission on July 19, 2013. The Preliminary Plat contains 52 proposed single-family lots and the larger church lot for a total of 23.97 acres, more or less. The Final Plat of Taylor Addition is limited to the Taylor property north of 14th Street with the exception of Outlot B which is the sliver of land that the Slater's will gain through the land swap. Outlot B is shown as a part of Lot 13, Block 2 on the proposed Preliminary Plat. An Infrastructure Feasibility Plan (formerly referred to as a Public Works Plan) has been prepared for this subdivision demonstrating the feasibility of providing public infrastructure to the site and the proposed lots. A Subdivision Agreement has also been prepared. Staff has held several DRT meetings and has reviewed the subdivision submittal. Staff offers the following comments regarding this subdivision proposal:

1) The best way to serve this entire area with sanitary sewer is to extend sewer north from the existing sewer main in 11th Street within the proposed Avenue O street alignment so that everything gravity drains to the south. In order for this to happen, easements must be created across the gas company property that abuts 11th Street and is not part of this subdivision. Gas company representatives have given a preliminary indication that they would allow a sanitary sewer easement to traverse the property but no easement has been finalized to date. From the gas company property the sewer would need to continue north through the Slater property and the Slaters likewise do not wish to plat any easements at this time. Proposed location for future easements and street right-of-way that will accommodate future sewer is shown on the Preliminary Plat.

2) The cost of installing the water, sewer and pavement south in Avenue O and also east-west in proposed 14th Street has not been resolved at this time either. The Slaters do not wish to incur any development cost until sometime in the future. This is why their property is included in the Preliminary Plat but not the Final Plat. There is, however, the small sliver of land that the Slaters gained through the land swap that abuts the south side of proposed 14th Street. This property accounts for approximately 260 lineal feet of the proposed street frontage. 14th Street will not be constructed until the church develops their property and City water and sanitary sewer can be extended. The Church would like to build a portion of 14th Street from Avenue M east to provide a second access into their property. No site plans have been prepared to know how many lineal feet of street will need to be built. The Public Works Department will require some minimum distance back from the street intersection to allow for vehicle stacking and safety, but without a site layout that depicts the internal circulation pattern on church property it is difficult to know what the minimum distance will be. City Code requires all improvements to be installed for the entire length of any given lot before a building permit is issued for that lot. In this case, it is likely that only a portion of the required public improvements will be installed in the 14th Street and Avenue O right-of-way at the time the church will be ready to request a building permit, because future phases will allow for completion of the remaining improvements. This deviation is recognized in the Subdivision Agreement.

3) A phased approach is proposed in order to allow subdivision of part of the property while reserving other parts of the property for future development allowing time to work out the details of financing improvements, securing easements and similar

matters. An Infrastructure Feasibility Plan has been prepared that demonstrates the feasibility of extending paving, water and sanitary sewer south from 16th Street in proposed Avenue O terminating at the south end of proposed Lot 8, Block 1. Extension of this street further south, as shown on the Preliminary Plat can occur in a future phase. The Church can take access to the large lot (Lot 13, Block 2) from Avenue O and 23 additional single-family lots are shown on the Final Plat. Six lots front on 16th Street, (there is an existing house on proposed Lot 5, Block 2). Lots 1 through 6, Block 2, Taylor Addition can develop as soon as the plat is filed. Six additional lots front on the west side of Avenue O and 11 lots are shown on the east side of Avenue O. The southernmost three lots on the east side of Avenue O which are Lots 9, 10, and 11, Block 1, are not buildable lots at this time. The sanitary sewer is not deep enough to serve basements on these lots. Paving will not be constructed in front of Lots 8, 9 or 10 with this phase because they cannot be developed at this time. The developer has four options in regards to developing these three lots.

a. Wait until the sanitary sewer in 11th Street can be extended north in the future, then pave the additional frontage on Avenue O.

b. Pave the additional frontage on Avenue O now and construct homes slab-on-grade, without basements.

c. Pave the additional frontage on Avenue O now and import enough fill to raise the lots considerably; however, the lots may then look strange compared to the surrounding neighborhood.

d. Pave the additional frontage on Avenue O now and install sewage ejector pumps in the basements of these three homes to pump the sewage from the basement into the sewer line.

4) Extending 14th Street east from Avenue M was discussed previously. A temporary all weather crushed rock or crushed concrete cul-de-sac will be required where 14th Street terminates and where Avenue O terminates. The temporary cul-de-sacs will be removed when the streets are extended in future phases.

5) Stormwater management is required. On site detention is provided for all of the lots including the church. The concept plan was approved by the City Engineer. The Public Works Department would like to have the calculations prior to the City Council meeting. The storm drainage plan is based on detaining the water in the stormwater detention cell shown on the church lot before outfalling into the City's 6 x 10 drainage structure in Avenue M. This drainage structure is already at or over capacity which causes concern from City Staff; however, there are not any other viable options at this time. With the development of the second phase of the subdivision, storm drainage must be routed to the south to avoid adding more water to the Avenue M structure. This will require storm sewer easements in the future. The Church representatives understand that ongoing perpetual maintenance of the detention cell will be the responsibility of the Church.

6) A subdivision agreement will be required and will include the standard requirements contained in most subdivision agreements along with the following: The Owner will agree that;

- Water and paving in Avenue O will be built from 16th Street southward to the south line of Lot 8, Block One.

- Sanitary sewer in Avenue O will be built from 16th Street southward to the north line of Lot 8, Block One.

- Construction of water, sanitary sewer and paving in 14th Street and in Avenue O, abutting Lots 9, 10 and 11, Block One, will be delayed until the sanitary

sewer main is constructed from 11th Street northward or possibly in 14th Street from the east.

- Owner will not protest water, sanitary sewer or paving improvement districts and their assessments for 14th Street and in Avenue O abutting Lots 9, 10 and 11, Block One in the future, except that the Slaters retain all of their rights to protest current and future improvement districts and are not obligated to participate in any of the costs incurred in this initial phase.

- The City will not issue a building permit for Lots 9 and 10, Block One, unless the sanitary sewer, water and paving are extended in Avenue O abutting those lots and the dwellings are raised with earth fill, utilize sewer grinder or ejection pumps or are constructed as slab on grade and without basements due to the shallow sewer in Avenue O abutting those lots or until the sanitary sewer is constructed from 11th Street northward or possibly in 14th Street from the east, in the future, at an elevation that allows for basements.

- The City will not issue a building permit for Lot 11, Block One until all of the public improvements are constructed including water, sanitary sewer and paving along all sides of the lot.

7) The proposed subdivision is located in CRA Area 7. Some discussion was held regarding the possibility of Tax Increment Financing (TIF) assistance with the project. A residential project such as this does not generally build-out quick enough to provide a sufficient increment for recapture of the increment (tax difference between undeveloped and developed). No further discussion regarding CRA involvement has ensued.

Mitch Humphrey from Buffalo Surveying presented this matter. This is a project that was started a number of years ago. They have discovered there were numerous obstacles including accessibility to sewer, storm water drainage, and water line issues. He thanked City staff for their efforts to make this project happen. This site is located south of 16th Street which is on the north side of the Taylor land and to the east of Avenue M. The Slaters were asked to participate with the development of a little bit of their property where 14th Street would extend across the north edge of their property or along the south side of the Taylor property. They are requesting to vacate a little bit of property and dedicate it as part of 14th Street or the 14th Street extension. With the extension of 14th Street, it will open up some ground for traffic circulation to the east of this property. The gas company as part of this project has graciously allowed them to someday acquire an easement for sanitary sewer services through the eastern side of their property and then someday when the Slaters are ready to develop, their property will extend that sewer up to Avenue O and connect up with 14th Street and allow for the extension of that sewer. There will be one large lot, Lot 13 which is approximately six acres in size and then there will be 3 or 4 lots to the west side of Avenue O. Those lots will be sold to the Family of Christ Lutheran Church and they are looking at relocating to this site.

Council Member Lammers asked how quickly that area will develop. Mr. Humphrey stated as soon as the plat is recorded, Mr. Taylor can start selling those lots. They will then work on the design for the extension of Avenue O and complete the transfer of title to the church. As far as the Taylor tract is concerned, this will create more lots to the east to open up more ground in southeast corner of the City. According to the realtors, there are not many lots in that part of town so they are ready to go.

Council Member Nikkila asked for clarification that the Slaters were not ready to develop and they did not want to pay any cost associated with development but if they paved 14th Street would they not have to pay an assessment on 14th Street. Mr. Humphrey stated when they are ready to develop they can look at how they want to take care of 14th Street but currently in the agreement is they would not incur costs. Council Member Nikkila stated he understood 14th Street had to be paved for the construction of the church. Mr. Humphrey stated they will pave a section of 14th Street back far enough to accommodate their driveway or entrance onto their parking lot. Then on Avenue O they can extend Avenue O down to about three lots to the north and then provide for another access point into their parking lot and then at some point of time when the Slaters decide to develop, they will complete this connection and provide connectivity onto the east.

Moved by Nikkila to close the public hearing on the Applications submitted by Buffalo Surveying (Applicant) for Marvin Taylor and Bryan and Susan Slater (Owner) and introduced Ordinance No. 7824 vacating 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 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. 7824. 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. 7824 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. 7824 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. 7824 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. 2013-141** approving 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) subject to approval of the stormwater detention calculations by the Public Works Department. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-141**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Taylor Addition, an addition to the City of Kearney, Buffalo County, Nebraska for Lot 4 through Lot 12, inclusive, Lot 63 through Lot 71, inclusive, Lot 78 through Lot 86, inclusive, Lot 137 through Lot 145, inclusive, Lot 152 through Lot 160, inclusive, and Lot 267, all in Cottage Addition to the City of Kearney, together with all of Avenue "N" from the North line of the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (also known as Tax Lot 13), in Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, northerly to the North line of Lot 71 and Lot 78, and together with all of Avenue "O" from the North line of the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (also known as Tax Lot 13) in said Section 6, northerly to the North line of Lot 145 and Lot 152, and together with all of 15th Street from the West line of Lot 10 and Lot 11, easterly to the centerline of the alley abutting the East line of Lot 159 and Lot 158 on the East, and together with the South 7.0 feet of 16th Street from the Northwest Corner of Lot 4, easterly to the centerline of the alley abutting the East line of Lot 152, and together with the alley abutting Lot 4 through Lot 10, inclusive, on the East and abutting Lot 65 through Lot 71, inclusive, on the West, and together with the alley abutting Lot 78 through Lot 84, inclusive, on the East and abutting Lot 139 through Lot 145, inclusive, on the West, and together with the alley abutting Lot 11, Lot 12 and Lot 267 on the East and abutting Lot 63 and Lot 64 on the West, and together with the alley abutting Lot 85 and Lot 86 on the East and abutting Lot 137 and Lot 138 on the West, and together with the West Half of the alley abutting the East line of Lot 152 through Lot 158, inclusive, on the East, and together with the West Half of the alley abutting the East line of Lot 159 and Lot 160 on the East, with the aforescribed lots, streets, avenues and alleys all in Cottage Addition to the City of Kearney, Buffalo County, Nebraska, and together with the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (also known as Tax Lot 13), in Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and together with a part of Lot 1, Rainbow Acres Addition, an addition to the City of Kearney, Buffalo County, Nebraska, with all of the aforescribed lots, streets, avenues and alleys now vacated, and being part of the West Half of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and with the vacated lots, streets, avenues and alleys and the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (also known as Tax Lot 13), in said Section 6, all being more particularly described as follows: Referring to the Northwest Corner of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, and assuming the West line of the Southwest Quarter of Section 6 as bearing S01°27'51"W and all bearings contained herein are relative thereto; thence S01°27'51"W on the West line of the Southwest Quarter of Section 6 and the centerline of Avenue M, a street in the City of Kearney, Buffalo County, Nebraska a distance of 820.93 feet to the point of intersection of the centerline of Avenue M and 16th Street, a street in the City of

Kearney, Buffalo County, Nebraska; thence continuing on the West line of the Southwest Quarter of said Section 6 and on the centerline of said Avenue M a distance of 33.0 feet to a point on the North line of the vacated South 7.0 feet of said 16th Street, if extended westerly; thence S89°18'03"E on the North line of said vacated South 7.0 feet of 16th Street a distance of 33.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S89°18'03"E on the North line of the vacated South 7.0 feet of said Street a distance of 746.94 feet to point on the centerline of the vacated alley, if extended northerly, as said alley abuts Lot 152, Cottage Addition to the City of Kearney, Buffalo County, Nebraska on the East; thence S01°29'08"W on the centerline of said vacated alley a distance of 479.24 feet to a point on the North line of Lot 263, in said Cottage Addition, if extended easterly; thence N89°18'03"W on the North line of said Lot 263, Cottage Addition, if extended easterly, a distance of 36.79 feet to the Northwest Corner of said Lot 263, Cottage Addition; thence S00°45'29"W a distance of 337.14 feet to the Northeast Corner of Lot 1, Rainbow Acres Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing S00°45'29"W on the East line of said Lot 1, Rainbow Acres Addition a distance of 30.00 feet; thence leaving the East line of said Lot 1, Rainbow Acres Addition N89°17'21"W on a line being 30.0 feet southerly of as measured at right angles from the North line of said Lot 1, Rainbow Acres Addition a distance of 303.48 feet to a point of curvature; thence on a 320.00 foot radius curve to the right forming a central angle of 25°00'28" an arc distance of 139.67 feet to a point on the North line of said Lot 1, Rainbow Acres Addition; thence leaving said curve, non-tangent; N89°17'21"W on the North line of said Lot 1, Rainbow Acres Addition distance of 275.25 feet to the Northwest Corner of said Lot 1, Rainbow Acres Addition, said point being on the East line of said Avenue "M"; thence continuing N89°17'21"W on the North line of said Lot 1, Rainbow Acres Addition, if extended westerly, a distance of 33.00 feet to a point on the West line of said Southwest Quarter of Section 6, said point being on the centerline of said Avenue "M", thence N01°27'51"E on the East line of said Southwest Quarter of Section 6 and on the centerline of said Avenue "M" a distance of 333.49 feet to the Northwest Corner of the North Half of the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (also known as Tax Lot 13), in said Section 6; thence N89°57'49"E a distance of 33.0 feet to a point on the East line of Avenue "M", said point being the Southwest Corner of Lot 267, Cottage Addition; thence N01°27'51"E on the East line of said Avenue "M" a distance of 482.34 feet to the place of beginning, containing 14.25 acres, more or less, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**SANITARY SEWER EASEMENT; LUCILLE STONE**

Public Hearings 2 and 3 were discussed together but voted on separately. They pertain to property located under 17th Avenue from 16th Avenue Place and 51st Street Place.

Mayor Clouse opened the public hearing on the proposed acquisition for a sanitary sewer easement of a tract of land located in the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., City of Kearney, Buffalo County Nebraska (under 17th Avenue from 16th Avenue Place and 51st Street Place) and consider Resolution No. 2013-154.

Director of Utilities Kirk Stocker presented this matter to the Council. At the August 13, 2013 City Council meeting the Council awarded the bid for the 2013 Part 1 Improvements. The 2013 Part 1 Improvements include various improvement districts in Fountain Hills Fifth Addition and Sanitary Sewer Connection District 2013-1.

Sanitary Sewer Connection District 2013-1 will serve two properties located on the west side of 17th Avenue at approximately 51st Street. The sewer main will be laid in an easement from the intersection of 16th Avenue Place and 51st Street Place westward, under 17th Avenue, to the west side of 17th Avenue, then north approximately 80 feet along the west right of way line of 17th Avenue. Since there are already several utilities located in 17th Avenue it is necessary to acquire easements from the owners of the two properties which will be served by the sewer main.

Before the City can accept the easements the City Council must conduct a public hearing on the matter. Nebraska Revised Statute 18-1775 requires that a City of the first class acquiring an interest in real property shall do so only after the governing body has authorized the acquisition by action taken in a public meeting after notice and a public hearing.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-154** approving the proposed acquisition for a sanitary sewer easement of a tract of land located in the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., City of Kearney, Buffalo County Nebraska (under 17th Avenue from 16th Avenue Place and 51st Street Place). Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

**RESOLUTION NO. 2013-154**

WHEREAS, Section 18-1755, R.R.S., authorizes a city acquiring an interest in real property by purchase or eminent domain to do so only after the City Council has

authorized the acquisition by action taken in a public meeting after notice and public hearing; and

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Permanent and Temporary Sanitary Sewer Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Lucille E. Stone, Trustee of the Lucille E. Stone Revocable Trust dated March 29, 2001, has granted to the City of Kearney, Nebraska a Permanent and Temporary Sanitary Sewer Main Easement as follows:

Permanent Sanitary Sewer Main Easement

A tract of land located in the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., City of Kearney, Buffalo County Nebraska, more particularly described as follows: Beginning at the Northeast Corner of Lot 1, Smith Addition, City of Kearney, Buffalo County, Nebraska and assuming the North line of said Lot as bearing N89°09'36"E and all other bearings shown hereon relative thereto; thence N89°09'36"E on said North line extended a distance of 7.00 feet to the West Right-of-Way of 17th Avenue as laid out in said City; thence N00°23'08"W on said West Right-of-Way a distance of 19.94 feet; thence S89°36'52"W perpendicular to said West Right-of-Way a distance of 17.00 feet; thence S00°23'08"E parallel with said West Right-of-Way a distance of 20.08 feet to a point on said North line; thence N89°09'36"E on said North line a distance of 10.00 feet to the Point of Beginning, Buffalo County, Nebraska.

Temporary Sanitary Sewer Main Easement

A tract of land located in the Northeast Quarter of Section 27, Township 9 North, Range 16 West of the 6th P.M., City of Kearney, Buffalo County Nebraska, more particularly described as follows: Referring to the Northeast Corner of Lot 1, Smith Addition, City of Kearney, Buffalo County, Nebraska and assuming the North line of said Lot as bearing N89°09'36"E and all other bearings shown hereon relative thereto; thence N89°09'36"E on said North line extended a distance of 7.00 feet to the West Right-of-Way of 17th Avenue as laid out in said City; thence N00°23'08"W on said West Right-of-Way a distance of 19.94 feet to the Actual Point of Beginning; thence continuing N00°23'08"W on said West Right-of-Way a distance of 40.00 feet; thence S89°36'52"W perpendicular to said West Right-of-Way a distance of 57.00 feet; thence S00°23'08"E parallel with said West Right-of-Way a distance of 60.40 feet to a point on said North line; thence N89°09'36"E on said North line a distance of 40 feet; thence N00°23'08"W parallel with said West Right-of-Way a distance of 20.08 feet; thence N89°36'52"E perpendicular to said West Right-of-Way a distance of 17.00 feet to the Point of Beginning, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent and Temporary Sanitary Sewer Main Easement granted by Lucille E. Stone, Trustee of the Lucille E. Stone Revocable Trust dated March 29, 2001 to the City of Kearney be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**SANITARY SEWER EASEMENT; MICHAEL AND GLORIA GREENE**

Mayor Clouse opened the public hearing on the proposed acquisition for a sanitary sewer easement of a tract of land located in part of Lot 1, Smith Addition to the City of Kearney, Buffalo County, Nebraska (under 17th Avenue from 16th Avenue Place and 51st Street Place) and consider Resolution No. 2013-155.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopted **Resolution No. 2013-155** approving the proposed acquisition for a sanitary sewer easement of a tract of land located in part of Lot 1, Smith Addition to the City of Kearney, Buffalo County, Nebraska (under 17th Avenue from 16th Avenue Place and 51st Street Place). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2013-155**

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

WHEREAS, the City Council has held a public hearing upon the proposed acquisition for a Permanent and Temporary Sanitary Sewer Main Easement and voted in favor to proceed with the acquisition; and

WHEREAS, Michael L. Greene and Gloria J. Greene, Husband and Wife, have granted to the City of Kearney, Nebraska a Permanent and Temporary Sanitary Sewer Main Easement as follows:

**Permanent Sanitary Sewer Main Easement**

A tract of land located in part of Lot 1, Smith Addition, City of Kearney, Buffalo County Nebraska, more particularly described as follows: Beginning at the Northeast Corner of said Lot 1, and assuming the North line of said Lot as bearing N89°09'36"E and all other bearings shown hereon relative thereto; thence N89°09'36"E on said North line a distance of 10.00 feet; thence S00°23'08"E parallel with the West Right-of-Way of 17th Avenue as platted in said Addition a distance of 73.48 feet; thence N89°36'52"E perpendicular to said West Right-of-Way a distance of 10.00 feet to a point on said West Right-of-Way; thence N00°23'08"W on said West Right-of-Way a distance of 73.53 feet to the Point of Beginning, Buffalo County, Nebraska.

**Temporary Sanitary Sewer Main Easement**

A tract of land located in part of Lot 1, Smith Addition, City of Kearney, Buffalo County Nebraska, more particularly described as follows: Referring to the Northeast Corner of said Lot 1, and assuming the North line of said Lot as bearing N89°09'36"E and all other bearings shown hereon relative thereto; thence S00°23'08"E on the West Right-of-Way of 17<sup>th</sup> Avenue as platted in said Addition a distance of 73.53 feet to the Actual Point of Beginning; thence continuing S00°23'08"E on said West Right-of-Way a distance of 40.00 feet; thence S89°36'52"W perpendicular to said West Right-of-Way a distance of 50.00 feet; thence N00°23'08"W parallel with said West Right-of-Way a distance of

113.25 feet to a point on said North line; thence N89°09'36"E on said North line a distance of 40.00 feet; thence S00°23'08" parallel with said West Right-of-Way a distance of 73.48 feet; thence N89°36'52"E perpendicular to said West Right-of-Way a distance of 10.00 feet to the Point of Beginning, Buffalo County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Permanent and Temporary Sanitary Sewer Main Easement granted by Michael L. Greene and Gloria J. Greene, Husband and Wife to the City of Kearney be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

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

Mayor Clouse stated the Consent Agenda was amended on Monday, August 26, 2013 by adding Subsection 18 for three SDL applications submitted by The Cellar. However, the applications were submitted prematurely and have been withdrawn.

Mayor Clouse requested that Subsection 12 be removed for discussion.

He further stated that because he has a conflict of interest, Item 16 will need to be removed and voted on separately

Moved by Nikkila seconded by Lear that Subsections 1 through 11, 13, 14, 15, 17 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 13, 2013.

2. Approve the following Claims:

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

911 Custom \$263.49 co; A T & T \$137.00 smcs; A-1 Refrigeration \$886.12 smcs; AAT \$985.00 smcs; Ace Hardware \$83.29 smcs,co; Advanced Auto Parts \$76.47 smcs; Advisor Marketing \$482.30 smcs; Ahrens,B \$10.68 smcs; Alamar Uniforms \$355.48 smcs,ps; Al-Jon Manufacturing \$593.74 smcs; All Makes Auto \$293.56 smcs; All Partitions \$65.00 smcs; All Points \$41.01 smcs; Ally B Designs \$600.00 smcs; Amazon \$1,842.12 smcs,co; American \$1,066.34 smcs,co; Amer First Aid \$159.95 smcs; Amer Library Assoc. \$240.00 smcs; Amsan \$1,574.42 smcs; Anderson Bros. \$117.75 smcs; Anderson,T \$357.00 smcs; APA Streaming Products \$55.00 smcs; Applied Industrial Tech. \$516.35 smcs; ARC Network \$175.00 smcs; Arc Services \$73.00 smcs; Arcadian Home \$438.18 smcs; Arctic Refrigeration \$261.46 smcs; Ask Supply \$951.04 smcs;

Associated Bag \$876.91 smcs; Aurora Coop \$108.80 smcs; Aussie Hydraulics \$145.30 smcs; A - Z Books \$64.26 smcs; B&B Bendfeldt Farms \$1,035.53 smcs; Baird Holm \$725.00 smcs; Baird Supporting \$210.81 co; Baker & Taylor Books \$4,330.65 smcs; Bamford \$658.25 smcs; Batter Junction \$102.77 smcs; Bells Construction \$300.00 co; Big Dallys Deli \$378.99 smcs; Blackstone Audiobooks \$59.90 smcs; Bluecross Blueshield \$215,451.71 smcs; Bogner,L \$100.00 smcs; Bosselman \$47,619.68 smcs; Brigham Lofts \$9,500.00 smcs; Broadfoot's \$1,486.50 smcs; Brown,P \$54.60 smcs; Buffalo Co. Treasurer \$10.00 co; Buffalo Outdoor Power \$1,329.96 smcs,co; Builders Warehouse \$2,870.52 smcs,co; Buysm Sod \$106.00 co; Cabela's \$71.96 smcs; Carquest Auto \$3,730.16 smcs; Cash-Wa Distributing \$3,311.03 smcs; CBA Lighting \$708.40 smcs; CDW Government \$1,208.90 co; Central NE Bobcat \$70.12 smcs; Central Hydraulic \$461.22 smcs; Charter \$230.26 smcs; ChemSearch \$474.19 smcs; Chicken Coop \$40.00 smcs; Chief Supply \$78.99 smcs; CISEC \$50.00 smcs; City of Ky \$9,276.49 ps; City of Ky \$6,736.66 smcs,co; Coldspring Granite \$650.70 smcs; Comprehensive \$166.08 co; Consolidated Management \$213.50 smcs; Construction Rental \$1,938.47 smcs,co; Copycat Printing \$159.44 smcs; Crane Sales \$1,084.08 smcs; Credit Management \$375.18 ps; Crossroads Ford \$293.41 smcs; Crown Awards \$393.54 smcs; Culligan \$80.00 smcs; Cummins Central Power \$369.47 smcs; D&S Lighting \$145.59 smcs; Davis Equipment \$664.23 smcs; Dawson Public Power \$44,162.79 smcs; Days Inn \$254.10 smcs; Delight Donuts \$95.12 smcs; Dell \$5,214.18 smcs; Deterdings \$100.38 smcs; Dish \$69.65 smcs; Dmilaco \$185.00 smcs; Dollar-General \$2.94 smcs; Dultmeier Sales \$85.65 smcs; Dutton-Lainson \$153.37 smcs; Eakes \$194.75 ps; Eakes \$2,619.60 smcs,co; Ebsco \$3,250.00 smcs; Eileens \$27.65 smcs; Elliott Equipment \$761.30 smcs; Enterprise \$64.25 smcs; Eustis Body Shop \$365.00 smcs; Exxonmobile \$67.43 smcs; Fairbanks \$2,785.10 smcs; Farmers Union \$57.00 smcs; Fastenal \$285.65 smcs; First Care Medical \$153.00 ps; Fletcher,J \$16.00 smcs; Fools of Oz \$320.00 smcs; Frerichs,D \$125.00 smcs; Frontier \$9,568.01 smcs; G.S. Direct \$146.18 smcs; Garcia,A \$15.00 smcs; Garrett Tires \$1,586.91 smcs; Garringer,M \$19.81 smcs; Gear for Sports \$385.00 smcs; General Traffic Controls \$574.57 smcs; Good Samaritan Hospital \$165.11 smcs; Graham Tire \$206.88 smcs; Grainger \$2,966.37 smcs; Granite City Tool \$137.68 smcs; Gronos Outdoor Power \$64.86 smcs; H L Forge Co. Express \$85.18 smcs; H&H Distributing \$1,438.39 smcs; Hach \$797.78 smcs; HD Supply \$5,986.12 smcs; Heritage Cross Apparel \$1,471.61 smcs; HOA Solutions \$8,022.50 smcs; Hobby-Lobby \$124.33 smcs; Holmes Plumbing \$564.31 smcs,co; Hometown Leasing \$444.91 smcs,co; Hydrite Chemical \$3,613.85 smcs; ICMA Retirement \$3,986.10 ps; Internal Revenue Service \$132,377.31 ps; Int'l Code Council \$212.00 smcs; Jack Lederman \$557.31 smcs; John Deere Landscapes \$23,821.43 smcs,co; Johnson Controls \$4,295.36 smcs; Johnson Service \$20,779.00 smcs; Johnstone Supply \$17.75 smcs; Jones & Bartlett Learning \$2,917.51 smcs; K&D Motor & Electric \$978.16 smcs; K&K Parts \$15.97 smcs; Ky Ampride \$104.25 smcs; Ky Aviation \$66.60 smcs; Ky Clinic \$1,250.00 ps; Ky Concrete \$241.31 smcs; Ky Hub \$4,152.34 smcs; Ky Humane Society \$6,825.00 smcs; Ky Literacy Council \$1,000.00 smcs; Ky Quality \$6.00 smcs; Ky Towing \$1,100.00 smcs; Ky Warehouse \$894.33 smcs; Ky Winlectric \$86.59 smcs; Ky Winnelson \$830.61 smcs; Kelly Supply \$34.26 smcs; Kimball Midwest \$76.19 smcs; Kirkpatrick,J \$33.98 smcs; Konica Minolta \$924.54 smcs; Kramer,J \$15.40 smcs; KSNB \$50.00 smcs; La Quinta Inn \$104.00 smcs; Landmark Implement \$1,684.82 smcs; Lawson Products \$140.69 smcs; Lifeguard Store \$139.50 smcs; Lipincott,R \$80.23 smcs; Loaf N Jug \$37.94 smcs; Lockmobile \$3.90 smcs; Logan Contractors \$14,530.20 smcs; Maessner,J \$357.00

smcs; Magic Cleaning \$9,050.00 smcs; Makit Productions \$120.10 smcs; Marlatt Machine shop \$600.02 smcs; Masek Golf Car \$14.17 smcs; Matheson Tri-Gas \$478.88 smcs ;Maxx Sunglasses \$254.31 smcs; Mayo's Electric \$1,052.63 smcs; McNamee,S \$16.06 smcs; Meier,R \$90.00 smcs; Menards \$2,038.31 smcs,co; Midlands Contracting \$3,157.00 smcs; Midwest Mailing \$1,696.00 smcs; Midwest Turf \$1,307.21 smcs; Mindmixercom \$250.00 smcs; Missouri State Aviation \$225.00 smcs; Mitchell 1 \$1,608.00 smcs; Mona \$100.00 smcs; Monoprice \$121.77 co; Moonlight Embroidery \$1,128.75 smcs; Mor Electric \$373.65 smcs; Municipal Supply \$2,832.43 smcs; Nasro \$40.00 smcs; Navigator Motorcoaches \$175.00 smcs; NCS Equipment \$2,679.33 smcs,co; NE Child Support Pyt. Ctr. \$2,284.66 ps;NE Library Commission \$2,887.12 smcs;NE Liquor Control \$10.00 smcs;NE Machinery \$561.55 smcs;NE State Library \$18.75 smcs;Ne Truck & Equipment \$754.72 smcs; NE Truck Center \$1,269.56 smcs; NE Turfgrass \$80.00 smcs; Nebraskaland Distributors \$342.50 smcs; Nelson,S \$410.00 smcs; New Victoria Inn \$49.99 smcs; NFPA Nat'l Fire Protection \$165.00 smcs; Nickel,A \$11.81 smcs; Noller Electric \$346.00 smcs; Northern Safety \$333.71 smcs; Northern Tool \$77.36 smcs; Northwestern Energy \$587.37 smcs; OCLC \$610.38 smcs; Office Max \$1,428.31 smcs,co; Officenet \$160.70 smcs; Olsson Associates \$13,520.00 co; O'Reilly Auto \$9.98 smcs; Orscheln \$1,185.01 smcs; Outdoor Recreation \$1,080.50 co; Paramount \$263.05 smcs; Partch,K \$4.25 smcs; Party America \$7.98 smcs; Patterson,B \$52.82 smcs; Paypal \$495.58 smcs,co; PCMG \$3,608.00 smcs,co; Penwell Subscripts \$40.00 smcs; Pep Co. \$56.34 smcs; Pet Pick Ups \$509.23 smcs; Pex Supply \$133.25 smcs; Pinpros \$236.00 smcs; Pizza Palace \$149.25 smcs; Platte Valley Comm. \$999.83 smcs; Platte Valley Laboratories \$62.75 smcs; Platte Valley State Bank \$45.00 smcs; Porter Corp. \$35.00 smcs; Prestige Group \$139.00 smcs; Presto-X \$310.25 smcs; Priority Management \$74.75 smcs; Provantage \$347.88 smcs; Quill \$1,188.08 smcs; R.W. Sorensen \$6,152.74 smcs; Random House \$302.75 smcs; Ready Mixed Concrete \$506.91 smcs; Reams \$2,479.67 smcs; Reams Sprinklers \$200.00 co; Recorded Books \$224.41 smcs; Riekes Equipment \$88.16 smcs; Reinke's Heating \$75.00 smcs; Resource Management \$1,023.36 smcs; Rhodus,D \$75.00 smcs; Riverside Manufacturing \$240.01 ps; Robert Brooke & Assoc. \$145.76 smcs; Rolanka International \$969.73 smcs; ROM Acquisition \$80.41 co; Schwans Home Service \$2,401.25 smcs; Sears \$39.99 smcs; Secretary of State \$30.00 smcs; Sherwin Williams \$1,346.27 smcs; Showcases \$210.60 smcs; SHRM \$180.00 smcs; Smartsign \$137.77 smcs; Smiley,D \$16.87 smcs; Snow,C \$465.00 smcs; Sorensen Group \$8,147.82 co; SOS Portable \$105.00 smcs; Sprinkler Warehouse \$1,298.07 smcs; Starostka Rentals \$200.00 smcs; Steinbrink Landscaping \$902.26 smcs; Steinbrook,S \$357.00 smcs; Strategic Materials \$350.77 smcs; Sunmart \$188.58 smcs; Target \$53.13 smcs; Theis,J \$30.00 smcs; Thirsty's West \$3.41 smcs; Thompson Co. \$71.72 smcs; Thompson,K \$11.25 smcs; Tielke's Sandwiches \$14.85 smcs; Titleist \$97.46 smcs; TM Sporting Goods \$891.30 smcs; Tom Dinsdale Chevrolet \$201.60 smcs; Tour Edge Golf Mfg. \$782.00 smcs; Tractor-Supply \$2,141.66 smcs,co; Trans Iowa Equipment \$415.35 smcs; Trenton Snow, LLC \$275.00 co; Tri City Outdoor Power \$224.65 smcs; Tri County Equipment \$92.01 smcs; Trinity Software \$323.96 co; Trotter Fertilizer \$77.38 smcs; Tumbleweed Press \$598.00 smcs; Turner Body Shop \$900.00 smcs; U Stop \$42.26 smcs; Ullman,M \$17.92 smcs; Underwriters Laboratories \$2,435.05 smcs; Union Bank & Trust \$56,272.53 ps; Union Pacific Railroad \$100.00 er; Unique Management Serv. \$402.75 smcs; United Laboratories \$386.83 smcs; United States Treasury \$2,500.00 smcs; UPS Store \$85.30 smcs; USA Blue Book \$319.32 smcs; USDA-Aphis Animal \$85.00 smcs; USPS \$167.75 smcs; Van Diest Supply \$965.43 smcs; Verizon

Wireless \$73.53 smcs,co; Walgreens \$7.03 smcs; Wal-mart \$2,802.39 smcs; Ward Laboratory \$84.50 smcs; Wastecorp Pumps \$786.57 smcs; Whelen Engineering \$100.00 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$170.09 smcs; Wilkinson Sidney \$58.59 smcs; Williams,M \$65.54 smcs; World Book \$1,903.00 smcs; WPCI \$132.00 ps; WP-Dragonmarts \$11.24 smcs; Yanda's Music \$74.40 smcs; Yant Equipment \$245.00 smcs; Payroll Ending 8-10-2013 -- \$396,520.99. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$\_\_\_\_\_ to the City of Kearney.

3. Receive recommendations of Planning Commission and set September 10, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2013-156** declaring the intent to issue tax-exempt bonds pertaining to the 2013 Part 1 Improvements consisting of Paving Improvement District No. 2013-962, 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.

**RESOLUTION NO. 2013-156**

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

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

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

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

<u>2013 Part 1 Improvements – Fountain Hills Fifth Addition</u>	
Sanitary Sewer District No. 2013-508	\$300,000.00
Sanitary Sewer Connection District No. 2013-1	\$75,000.00
Sanitary Sewer Connection District No. 2013-2	\$275,000.00
Water District No. 2013-570	\$250,000.00

2. The maximum principal amount of debt expected to be issued for such project is \$900,000.00.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Approve setting September 10, 2013 at 7:00 p.m. as the time and date to meet as the Board of Equalization to assess costs in connection with Paving Improvement District Nos. 2011-946, 2011-949A, 2011-950, 2012-951, 2012-952; Water District Nos. 2011-562, 2012-563, 2012-564, Water Connection District No. 2011-1; Sanitary Sewer District Nos. 2011-502, 2012-503, 2012-504, Sanitary Sewer Connection District No. 2011-1.

6. Adopt **Resolution No. 2013-157** approving the Developer Constructed Infrastructure Agreement between the City of Kearney and Kearney Properties, LLC for water and sanitary sewer improvements for Lot 1 of Block Three, Western Nebraska Property Development Addition.

**RESOLUTION NO. 2013-157**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA that the agreement entitled "Developer Constructed Infrastructure Agreement for Lot 1, Block Three, Western Nebraska Property Development Addition" between the City of Kearney and Kearney Properties, LLC, a Nebraska Limited Liability Company, to construct water and sanitary sewer improvements to serve Lot 1, Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska be and is hereby accepted and approved. The Agreement, marked as Exhibit 1 is attached hereto, negotiated with Sean Denney, Chairman of the Board, to construct said water and sanitary sewer as stated above.

BE IT FURTHER RESOLVED that the President of the Council be and is hereby authorized and directed to execute the same agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

7. Adopt **Resolution No. 2013-158** approving the Agreement for Lot 1, Bosselman Second Addition between the City of Kearney and RTS Business Holdings Inc. pertaining to the construction of a car wash facility located at 4215 2nd Avenue.

**RESOLUTION NO. 2013-158**

WHEREAS, Mirror Image Car Wash has begun to redevelop the property described as Lot 1, Bosselman Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska and located at 4215 2nd Avenue by demolishing the building and beginning construction of a new car wash; and

WHEREAS, the property is very difficult to develop with space being limited due to a vision sight easement off of 2nd Avenue and a 20-foot wide water and sanitary sewer main easement along the east side of the property; and

WHEREAS, the City is willing to allow the appurtenances: trash enclosure, car wash pay stations, retaining wall and canopy, that support the car wash business to be located over the water and sanitary sewer easement as set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement, marked as Exhibit A, attached hereto and made a part hereof, be and is hereby approved.

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

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file the Agreement with the Buffalo County Register of Deeds.

PASSED AND APPROVED THIS 27TH 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. 2013-159** accepting the bid received for the 2013 Part 8 Improvements consisting of Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to 57th Street Place and award the bid to Dan Roeder Concrete in the amount of \$89,257.00.

**RESOLUTION NO. 2013-159**

WHEREAS, Brungardt Engineering and the City of Kearney have reviewed the sealed bids which were opened on August 15, 2013 at 2:00 p.m. for the 2013 Part 8 Improvements consisting of Paving Improvement District No. 2013-961 for 57th Street from Avenue Q east to 57th Street Place; and

WHEREAS, the Engineer's Opinion of Probable Construction Cost was \$88,409.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$89,257.00 be accepted as the lowest responsible bid for 2013 Part 8 Improvements.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Engineers recommendation is hereby accepted and approved, that Dan Roeder Concrete be and is the lowest responsible bidder for the 2013 Part 8 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 of Kearney, Nebraska in the sum of \$89,257.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost in the amount of \$88,409.00 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 27TH 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. 2013-160** approving the final allocation of levy authority in the amount of \$147,900 for the Community Redevelopment Authority of the City of Kearney for fiscal year 2013-2014 and the final allocation of levy authority in the amount of \$45,857 for Offstreet Parking District No. 1 for fiscal year 2013-2014.

### **RESOLUTION NO. 2013-160**

WHEREAS, Neb. Rev. Stat. Section 77-3443.03, (R.R.S. 1943), as amended), requires Community Redevelopment Authorities and Offstreet Parking Districts to submit a preliminary request for levy allocation, on or before August 1, to the City Council; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney submitted to the City, on July 24, 2013, a preliminary request for levy allocation in the amount of \$147,900.00; and

WHEREAS, the Downtown Improvement Board, on behalf of Offstreet Parking District No. 1, submitted to the City, on July 3, 2013, a preliminary request for levy allocation in the amount of \$45,857.00; and

WHEREAS, Neb. Rev. Stat. Section 77-3443.04, as amended, requires the City Council to adopt, by September 1, a resolution (by a majority vote of members present) which determines a final allocation of levy authority to the Community Redevelopment Authority and Offstreet Parking District No. 1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), as amended, that a final allocation of levy authority of \$147,900.00 is hereby approved for the Community Redevelopment Authority of the City of Kearney for 2013 and a final allocation of levy authority of \$45,857.00 is hereby approved for Offstreet Parking District No. 1 for 2013.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Neb. Rev. Stat. Section 77-3443.04 (R.R.S. 1943), that the City Clerk is ordered to forward a copy of this resolution to the chairperson of the Community Redevelopment Authority of the City of Kearney and the chairperson of the Downtown Improvement Board.

BE IT FURTHER RESOLVED that all ordinances and resolutions or parts if ordinances and resolutions in conflict herewith are hereby repealed.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect September 1, 2013, and shall be published in pamphlet form.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Adopt **Resolution No. 2013-161** approving Application and Certificate for Payment No. 2 in the amount of \$51,087.69 submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 6 Improvements; Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue.

**RESOLUTION NO. 2013-161**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements – Phase 2 consisting of Paving Improvement District No. 2012-956 for 56th Street from 2nd Avenue west to 6th Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Application and Certificate for Payment No. 2 in the amount of \$51,087.69, as shown on Exhibit "A" attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$683,092.30
Change Order No. 1 (5-21-2013)	<u>+ 27,602.00</u>
Contract Sum To Date	710,694.30
Gross Amount Due	179,191.60
Retainage	17,919.16
Amount Due to Date	161,272.44
Less Previous Certificates for Payment	<u>110,184.75</u>
Current Payment Due	\$51,087.69

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, and hereby find and determine that Application and Certificate for Payment No. 2, as shown on Exhibit "A", be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**11.** Adopt **Resolution No. 2013-162** approve Change Order No. 3 showing a deduct in the amount of \$5,609.20, Application and Certificate for Payment No. 4-Final in the amount of \$92,022.03, and accept the Certificate of Substantial Completion submitted by Blessing, LLC and approved by Miller & Associates for the 2012 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2012-954 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue.

**RESOLUTION NO. 2013-162**

WHEREAS, Blessing, LLC of Kearney, Nebraska has performed services in connection with the 2012 Part 6 Improvements – Bid B consisting of Paving Improvement District No. 2012-954 for 52nd Street from 3rd Avenue and terminating 761 feet west; Paving Improvement District No. 2012-955A for 3rd Avenue, a Road and Utility Easement, from the north line of 52nd Street to the north line of Oak Park Center and east in a Roadway and Utility Easement to the west line of 2nd Avenue, and the City's engineer, Miller & Associates, have filed with the City Clerk Change Order No. 3 showing a decrease in the amount of \$5,609.20, as shown on Exhibit “A” attached hereto and made a part hereof by reference; and

WHEREAS, Blessing, LLC and Miller & Associates have filed with the City Clerk Application and Certificate for Payment No. 4-Final in the amount of \$92,022.03, as shown on Exhibit “B” attached hereto and made a part hereof by reference and as follows:

Original Contract Sum	\$492,366.19
Change Order No. 1 (6-11-2013)	+158,361.73
Change Order No. 2 (6-11-2013)	+ 1,840.00
Change Order No. 3 (8-27-2013)	- <u>5,609.20</u>
Contract Sum To Date	646,958.72
Gross Amount Due	646,958.72
Retainage	.00
Amount Due to Date	646,958.72
Less Previous Certificates for Payment	<u>554,936.69</u>
Current Payment Due	\$92,022.03

WHEREAS, the Engineer and Contractor have now certified to the City Clerk that work is completed as of July 4, 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. 3, as shown on Exhibit “A”, Application and Certificate for Payment No. 4-Final, as shown on Exhibit “B”, and the Certificate of Substantial Completion as shown on Exhibit “C” be and is hereby accepted and approved.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
 MICHAELLE E. TREMBLY  
 CITY CLERK

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

**13.** Approve the application for a Special Designated License submitted by 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 Great Platte River Road Archway located at 3060 East 1st Street on September 18, 2013 from 5:30 p.m. until 10:00 p.m. for a reception.

**14.** 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 Great Platte River Road Archway located at 3060 East 1st Street on September 28, 2013 from 5:00 p.m. until 1:00 a.m. for a reception.

**15.** Approve the application for a Special Designated License submitted by Alley Rose Inc. of Kearney, NE, dba Alley Rose in connection with their Class IK-21763 catering liquor license to dispense beer, wine and distilled spirits inside the KRAVE Underground located in the Kaufmann Center, 2202 Central Avenue on September 28, 2013 from 5:00 p.m. until 1:00 a.m. for a reception.

**17.** Approve the application to extend Conditional Use Permit No. 1979-06 granted to Susan Underhill to locate a Day Care Facility at 2803 Avenue I for a period of one year.

**18. WITHDRAWN; NO ACTION TAKEN.** Approve the application for a Special Designated License submitted by Earn & Return Investments, dba The Cellar Bar & Grill in connection with their I-064728 liquor license to dispense beer, wine and distilled spirits in Lot 13 located on the UNK Campus, 2508 12th Avenue on September 21, October 5, October 19, 2013 from 11:00 a.m. until 4:00 p.m. for a football tailgate prior to UNK football games.

**12.** Adopt **Resolution No. 2013-163** authorizing the funding to coordinate marketing and communication efforts associated with the development of the Central Nebraska Veterans Home at Kearney.

Mayor Clouse stated Item No. 12 is to contribute \$100,000 to the Kearney Area Chamber of Commerce for assistance with development of the new Veterans Home and any administrative items that needs to take place.

City Manager Michael Morgan stated what this does is allows the City to begin the process for simulation in putting in affect some of the items that were discussed in the City's proposal and do some research and marketing and communication that all started today with the future Central Nebraska Vet's Home being added to the City's website. There is a webpage dedicated as well as well as an email address for individuals or members of the current home or anyone can request information. These funds will give the Chamber of Commerce the opportunity to assist the City and provide funding where appropriate moving forward with this process.

Mayor Clouse stated this will address any misinformation that potentially could be out there or address a lot of those types of issues in a very proactive manner.

City Manager stated they will certainly look into purchasing some ads and providing some clarification on several items that have come up over the past few months. Mayor Clouse questioned whether \$100,000 would be enough or should the amount be \$150,000-\$200,000. This will give the staff the authority to approve the Chamber to spend the money. They want to make the Council aware moving toward fulfilling the promises and commitments that the City of Kearney made and he will report back to them as needed on significant changes or costs associated with this process. They will begin the process, report back to Council in few months and go from there if additional funds are needed.

Council Member Lammers stated it is extremely necessary to spend whatever is needed to clarify misinformation that has been put out there by another City which was the #3 bidder in the process and the ongoing information that has been mishandled, rumored and spread and the willing media. He is willing to do whatever needs to be done to spread a positive message and get the facts out there to the people.

Moved by Lammers seconded by Nikkila that Subsection 12 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-163**

WHEREAS, Kearney Nebraska has been selected by the State of Nebraska as the new site for the Central Nebraska Veterans Home; and

WHEREAS, the City of Kearney is committed to providing ongoing financial and other support to develop the new Central Nebraska Veterans Home in Kearney; and

WHEREAS, the Kearney Area Chamber of Commerce has been designated to coordinate marketing and communication efforts associated with the development of the new Central Nebraska Veterans Home - Kearney; and

WHEREAS, the Kearney Area Chamber of Commerce has also been designated to assist the City of Kearney with providing and coordinating numerous services and initiatives to assist veterans, their family members and employees with the relocation to Kearney.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City of Kearney authorize a maximum of \$100,000 to the Kearney Area Chamber of Commerce for their assistance with development of the new Central Nebraska Veterans Home.

PASSED AND APPROVED THIS 27TH DAY OF AUGUST, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**16.** Adopt **Resolution No. 2013-164** approving the Recreational Use Agreement between the City of Kearney and Nebraska Public Power District to develop a half-mile segment of the Canal Tailrace for recreational activities, including kayaking, canoeing and tubing activities.

Council Member Lear stated he had a few questions: is this the section right along Yanney Park. One of the questions that was raised to him was who controls the rest of it; does NPPD control the rest all the way down to the Platte River from there.

City Manager stated private property owners adjacent to the property actually by law have control and responsibility of Turkey Creek. Council Member Buschkoetter stated it changes when it is that other bridge on the south side of Yanney. Council Member Lear asked so that is when it converts over, it is private property the rest of the way out. So a land owner would have whatever rights associated with a public right-of-way.

City Manager stated confirmed and according to law it is different then their land with respect to waterways. This is really the first step and excited to be able to start the process. They will meet with the Whitewater Group and extend to the private property owners and ask for their input and have discussions with them and look at the area as a whole to further move the project along. This is a big step and appreciate NPPD working with the City to use this stretch of the canal for recreational uses.

Council Member Lear stated he received calls from southbound and eastbound property owners concerned about what is that going to do the overall level of usage of that part of the river. Do you see people just going down this section and continuing on or going down this section and getting out.

City Manager stated he will meet with the property owners to see what their concerns are but they still have a lot of technical research to do to even determine what is available with respect to the flow and turbidity all those issues. This will have to be determined with regard to the needs of the group versus the concerns the property owners may have and then develop a plan in stages.

Council Member Lear stated this is a great project and hopefully it is just a matter of getting information out so everybody can be familiar with what they can and cannot do.

Council Member Nikkila asked if Turkey Creek was a public waterway so anyone can sail their boat down there; it is a problem when they touch the bank. City Manager affirmed that statement. As a good neighbor, the appropriate thing to do is to talk with property owners that if someone had an emergency and had to get out. The City needs to look at capital needs, and egress/ingress; all the issues need to be discussed.

Council Member Lear stated the City needs to help create appropriate ingress and egress spots to take pressure off of what might happen on other adjacent property. City Manager stated that would be the first question he would have is what if someone needs to exit out where would that occur and how would it happen. And what type of events would the City be promoting, what would be the hours, all the concerns the adjacent property would have.

Council Member Lammers asked if some of the canal could be expanded for the whitewater from 11th Street to the north or 11th Street south. City Manager stated there are some bridge structures and other sorts of amenities that cause a little more concern so if the City can get this route done and done well and be able to demonstrate the accomplishments it will be much easier to evaluate other future steps.

Council Member Buschkoetter asked so this is really just the beginning of really where to go from here. City Manager agreed this is the first step and without this step and NPPD's cooperation it would be impossible to get anything done in that particular area. The City is sensitive to their concerns and their environmental hydrological all the different concerns NPPD would have because their job is to produce electricity and the water is there for a reason.

Council Member Nikkila thanked the people of the Whitewater Committee for their work with the City. This is a good example how groups should work with the City to get things like this done.

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

**RESOLUTION NO. 2013-164**

WHEREAS, the City of Kearney and Nebraska Public Power District desire to enter into an agreement to use a portion of the Kearney Canal Tailrace; and

WHEREAS, the City wants to use a half-mile segment of the Canal Tailrace beginning on the south side of the West 11th Street Bridge on 11th Street, continuing downstream in the Canal Tailrace and ending where the Canal Tailrace enters into the north channel of the Platte River, to develop the half-mile segment for recreational activities, including kayaking, canoeing and tubing activities.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the Recreational Use Agreement, marked as Exhibit A, attached hereto and made a part hereof by reference, be and is hereby approved.

BE IT FURTHER RESOLVED that the City Manager be and is hereby authorized and directed to execute the Recreational Use Agreement on behalf of the City of Kearney.

PASSED AND APPROVED THIS 27TH 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**

None.

**VI. REGULAR AGENDA**

**OPEN ACCOUNT CLAIM: NPPD - \$116,293.40**

Moved by Lear seconded by Buschkoetter that the Open Account Claim in the amount of \$116,293.40 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Clouse abstained. Motion carried.

**VII. REPORTS**

Council members expressed the appreciation to the federal, state, county and local entities involved with the East Kearney Bypass. The Ribbon Cutting was held today and there was an excellent attendance.

**VIII. ADJOURN**

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

**ATTEST:**

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

\_\_\_\_\_  
**MICHAELLE E. TREMBLY  
CITY CLERK**