

**Kearney, Nebraska**  
**September 10, 2013**  
**7:00 p.m.**

Prior to the regular Council meeting, the Council met as the Board of Directors for the Kearney Area Solid Waste Agency in open and public session at 7:00 p.m. on September 10, 2013 in the Council Chambers at City Hall. This meeting adjourned at 7:06 p.m. A meeting of the City Council of Kearney, Nebraska, was then convened in open and public session at 7:06 p.m. 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; Shawna Erbsen, Director of Administrative Services; and Lance Lang, City Planner were also present. Some of the citizens present in the audience included: Judy Sickler, Tony Loewenberg, Gail Loewenberg, Sherry Morrow, Jerry Menke, Carolyn Menke, Chris Miller, Craig Bennett, Eric Hellriegel, Andrew Brackett, Brock Arehart, John McBride, Stacey Plautz, Tom McCarty, Sam Ferrise, Dan Rosenthal, Kevin Riley, Sean Denny, Collin Nabity, Rick Luth, Charlie Pickens, Jerry Marlatt, Jim Bogner, Cody Struss, several police officers, family members of Cody Struss, Steve Altmaier from KGFW Radio, Adam Konruff from the 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.

### **OATH OF OFFICE; POLICE OFFICER CODY STRUSS**

City Clerk administered the oath of office to Police Officer Cody Struss.

## **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

### **BOARD OF EQUALIZATION FOR PAVING, WATER AND SEWER DISTRICTS**

Mayor Clouse opened the public hearing for the Council to meet as a 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; Sanitary Sewer District Nos. 2011-502, 2012-503, 2012-504 and to consider Resolution No. 2013-165.

On December 27, 2011 the Council created Paving Improvement District No. 2011-949A for 50th Street from 17th Avenue west to existing pavement in Hoehner Estates Third Addition. The City entered into a Development Agreement for Hoehner Estates Third Addition providing for the creation of this district in compliance with the City's gravel street paving program, assessing 50 percent of the assessable cost to the owner and deferring the payment of paving assessments until the lots are built on.

Also, on December 27, 2011 the Council created Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66 feet. The paving portion considered for assessment is represented by all labor, materials, and equipment required to pave a 36-foot wide, 6-inch thick concrete street. Paving width/thickness, oversizing and intersections are not subject to assessment. In accordance with the City's Paving Policy, Grand West and Patricia Norman have applied for residential deferral from paving special assessments.

The City received letters from Ron Grapes requesting paving, water and sanitary sewer districts be created for 13th Street Place and also for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac. Therefore, the City created Paving Improvement District No. 2012-951, Water District No. 2012-563 and Sanitary Sewer District No. 2011-503 for 13th Street Place from 17th Avenue to its terminus in a cul-de-sac on March 27, 2012. Then on April 24, 2012 the City created Paving Improvement District No. 2012-952, Water District No. 2012-564 and Sanitary Sewer District No. 2011-503 for 12th Street Place from 17th Avenue to its terminus in a cul-de-sac.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing for the Council meeting as the Board of Equalization and adopt **Resolution No. 2013-165** assessing costs for Paving Improvement District Nos. 2011-946, 2011-949A, 2011-950, 2012-951, 2012-952; Water District Nos. 2011-562, 2012-563, 2012-564; Sanitary Sewer District Nos.

2011-502, 2012-503, 2012-504. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-165**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA:

Section 1. The President and Council find and determine that the streets in Paving Improvement District Nos. 2011-946, 2011-949A, 2011-950, 2012-951 and 2012-952 have been improved by paving, curbing and guttering and incidental work, that none of the properties listed, which list is marked Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedules do not exceed the amounts which each of said lots and parcels of ground were specially benefited by said improvements and the total amount of said special assessments does not exceed the costs of said improvements exclusive of the cost of the intersections and areas formed by the crossing of streets, avenues and alleys as heretofore determined by the Mayor and City Council.

Section 2. The President and Council find and determine that the water main heretofore ordered installed in Water District Nos. 2011-562, 2012-563 and 2012-564 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said water main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 3. The President and Council find and determine that the sanitary sewer main heretofore ordered installed in Sanitary Sewer District Nos. 2011-502, 2012-503 and 2012-504 have been installed, together with all incidental work thereto by the City Utilities Department, and that none of the properties listed, which is marked "Exhibit "A" and made a part hereof by reference, were damaged thereby and that the amounts shown in the attached schedule does not exceed the amounts which each of said lots and parcels of ground were specially benefited by said sanitary sewer main and the total amount of said special assessments does not exceed the costs of said improvements as heretofore determined by the Mayor and City Council.

Section 4. Notice of the time and purpose of hearing on special assessments for equalizing said special assessments has been published as provided by law in the Kearney Hub, and a copy of said notice mailed by certified mail to each party known to have a direct legal interest therein.

Section 5. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Paving Improvement District Nos. 2011-946, 2011-949A, 2011-950, 2012-951 and 2012-952 shall become delinquent as follows:

- 1/10th fifty days after date of this Resolution
- 1/10th one year after date of this Resolution
- 1/10th two years after date of this Resolution
- 1/10th three years after date of this Resolution
- 1/10th four years after date of this Resolution
- 1/10th five years after date of this Resolution
- 1/10th six years after date of this Resolution

- 1/10th seven years after date of this Resolution
- 1/10th eight years after date of this Resolution
- 1/10th nine years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 4.8 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 6. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Water District Nos. 2011-562, 2012-563 and 2012-564 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 4.8 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

Section 7. That there be and there is hereby levied against each lot and parcel of ground set out in Exhibit "A" the amount set opposite each lot and parcel of ground. Said assessments for Sanitary Sewer District Nos. 2011-502, 2012-503 and 2012-504 shall become delinquent as follows:

- 1/5th fifty days after date of this Resolution
- 1/5th one year after date of this Resolution
- 1/5th two years after date of this Resolution
- 1/5th three years after date of this Resolution
- 1/5th four years after date of this Resolution

Each installment, except the first, shall draw interest at the rate of 4.8 per centum per annum from date of this Resolution until the same become delinquent and after they become delinquent at the rate of fourteen per centum per annum until paid.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**BOARD OF EQUALIZATION FOR WATER AND SANITARY SEWER CONNECTION DISTRICTS**

Mayor Clouse opened the public hearing for the Council to meet as a Board of Equalization to determine a connection fee in the amount of special benefits accruing to the property in Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 and to consider Resolution No. 2013-166.

Director of Utilities Kirk Stocker presented this matter to the Council. At the December 27, 2011 City Council meeting the Council created Water Connection District 2011-1 and Sanitary Sewer Connection District No. 2011-1 for water and sanitary sewer mains to be constructed in in 50th Street from the east line of 17th Avenue west 627.11± feet.

The connection fee for these connection districts are not levied as liens or assessments against the benefited property whereby annual payments that accumulate interest are due. Rather, the connection fee is approved by the City Council sitting as the Board of Equalization then filed at the Buffalo County Register of Deeds Office so that future owners are aware that connection fees will be collected when the property connects to City water and/or sewer.

The following connection fees have been calculated according to City policy:

- Water Connection District No. 2011-1 – \$56.84 per foot of frontage
- Sanitary Sewer Connection District No. 2011-1 – \$65.67 per foot of frontage

The property owners pay the connection fee multiplied by the property frontage when they connect to the water and sanitary sewer main. The policy calls for the cost of an 8-inch diameter pipe to be charged to the abutting or benefited properties. The City pays for larger diameter pipe in excess of 8 inches, fire hydrants, valves, and pipefittings, etc.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing meeting as the Board of Equalization and adopt **Resolution No. 2013-166** determining a connection fee in the amount of special benefits accruing to the property in Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-166**

WHEREAS, on the 27th day of December, 2011, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7695 creating Water Connection District No. 2011-1, the said water main has been constructed in accordance with said Water Connection District No. 2011-1 and the costs thereof have been reported to the City Council; and

WHEREAS, on the 27th day of December, 2011, the City Council of the City of Kearney, Nebraska, passed and approved Ordinance No. 7696 creating Sanitary Sewer Connection District No. 2011-1, the said sewer main has been constructed in accordance with said Sanitary Sewer Connection District No. 2011-1 and the costs thereof have been reported to the City Council; and

WHEREAS, the City Council, sitting as a Board of Equalization, has determined the benefits to abutting property in the Districts to be shown on the Schedule, marked Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, Section 16-6,103 of the Nebraska Revised Statutes provides that the special benefits determined by the Board of Equalization shall not be levied as special assessments against the property within the Districts, but shall be certified to the Register of Deeds of the County.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the benefits to abutting property in Water Connection District No. 2011-1 and Sanitary Sewer Connection District No. 2011-1 are as found and determined by the Council, sitting as a Board of Equalization, as shown and set forth on Exhibit "A".

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to file a certified copy of this Resolution in the Office of the Buffalo County Register of Deeds.

BE IT FURTHER RESOLVED that a connection fee equal to the amount of the benefit accruing to the property as set by the benefit schedule (Exhibit "A") shall be paid to the City at the time the respective properties are connected to the water main constructed in Water Connection District No. 2011-1 and that no property thus benefited by said main improvements shall be connected to the respective water main until said connection fee is paid.

BE IT FURTHER RESOLVED that a connection fee equal to the amount of the benefit accruing to the property as set by the benefit schedule (Exhibit "A") shall be paid to the City at the time the respective properties are connected to the sewer main constructed in Sanitary Sewer Connection District No. 2011-1 and that no property thus benefited by said main improvements shall be connected to the sewer main until said connection fee is paid.

BE IT FURTHER RESOLVED that upon payment by abutting owners of the connection fee, the City shall notify the Buffalo County Register of Deeds that the individual connection fees have been paid and satisfied.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **STATE REVOLVING FUND LOAN; ULTRA VIOLET DISINFECTION FACILITY**

Mayor Clouse opened the public hearing on the on submitting an application for the State Revolving Fund Loan for the construction of an Ultra Violet Disinfection Facility and to consider Resolution No. 2013-167.

The City of Kearney Public Water Supply System must operate the water system in compliance with regulations adopted by the United States Environmental Protection Agency contained in the Safe Drinking Water Act and enforced by the State of Nebraska Department of Health and Human Services, Office of Drinking Water, through Title 179 of the Nebraska Administrative Code.

In 2008 the Department of Health notified the City that we must start sampling the source water at the Platte River Well Field to determine compliance with a new regulation called the Long Term 2 Enhanced Surface Water Treatment Rule. In 2010, after 2 years of sampling and analysis, the State determined that additional treatment of the Platte River Well Field Water was required to comply with the regulation. The Utilities Department conducted an 18-month study and determined that the natural sands and gravel in the aquifer was providing some compliance with the regulation through natural filtration; however, additional treatment is required per the regulations.

Ultra violet disinfection is the treatment technology that is accepted for compliance with the Long Term 2 Enhanced Surface Water Treatment Rule. The purpose of this public hearing is to meet the requirements necessary to obtain a State Revolving Fund Loan to finance a project to add ultra violet disinfection at the Platte River Well Field. The State

has granted the City an extension to the October 1, 2013 compliance deadline to allow for construction, making our compliance date October 1, 2015.

The Utilities Department has budgeted \$650,000 in the 2013-2014 Budget for purchasing the ultra violet disinfection equipment. An additional \$1,270,000.00 has been included in the Capital Improvement Plan to be included in the 2014-2015 Budget for a building and piping system to accommodate the ultra violet disinfection equipment.

Chris Miller from Miller & Associates presented this matter to the Council. This public hearing is to request funding for State Revolving Loan Fund for an improvement project for the City's well field. The City gets its water from two sources: a 1983 Platte River well field and a 2006 northwest well field. Both these well fields are groundwater wells so the City pumps out of the groundwater with a normal well. However, due to the physical location construction of the Platte River well field, it actually is considered groundwater under direct influence of surface water so surface water regulations apply. As surface water regulations change they become more restrictive and the City has to change with the regulations which is the reason these improvements are needed. In 1995 the City had to address this at one time. They are looking at Giardia which is a certain constituent that they had to test for and did a demonstration of performance for that in order to show that Kearney's well field was getting a filter credit and by that they want Kearney to build a service water treatment plant. This basically means putting three feet of media and run the water through it and it would filter out organisms. Kearney demonstrated that with 60 feet of media through its wells next to the well field and was just as good as an engineered system to remove some of that. Part of that then was having to add chlorination which is what Kearney does now in order to take up or make the difference up in that regulation. Today they are going to do the same thing; they did a demonstration for Enhance Surface Water Treatment Rule Long Term 2 (ESWTRLT2) and that was for cryptosporidium and that has certain requirements of log removal that has to be met.

They did a demonstration over a period of 18 months to get that cryptosporidium activation to show what log removal to get for a well field. This was done because they wanted to reduce the cost for UV disinfection. The more that has to be removed by UV, the greater the cost. There was not enough crypto in the river to actually do the test because Kearney does not have enough organisms to even test for it so they had to use surrogates and went through EPA and Department of Health and did a surrogate testing for these 18 months and looked at other microorganisms to show that Kearney is getting removal efficiency. If it did not have enough organisms in the river source Kearney could not show it was removing them in the well field. So they went to Lincoln and did the demonstration. They had to base it on the most susceptible wells (the ones closest to the river). When they did this current project they got a 2½ log so they asked for the 2½ log for both the old rule which is the Giardia and the new rule for crypto which helped them in several ways. Kearney has is a four log removal credit required for the entire project and will have to make up the 1.5 log via a UV system. They will continue to add chlorine to the system and did receive a change in chlorine contact time. Currently, there is about an extra 1¼ mile of pipe that cannot be connected to because there has to be that chlorine contact time to show that the disinfection of the remaining pipe line. With this project because of the testing, that can get moved back about 1¼ mile which will really help.

The proposed project is about \$1.9 million which is the installation of the UV facilities and the secondary part is some piping to do on the well field and to relocate that compliance point for chlorine. There is currently an existing chemical conditioning building out there to add chlorine. They are going to add to it and add the UV disinfection facility right adjacent to it. They will use the existing infrastructure.

Currently between Avenue M and Antelope Avenue on 11th Street is the current point of compliance. This is where the City tests its chlorine residual. After this project is completed they will move it to Cherry Avenue just south of 11th Street. So Kearney has gained all this infrastructure for use in future projects that it could not use before for taps and for water supply so it is a big benefit to this.

Mayor Clouse asked if that is as far south as you can put that. Mr. Miller confirmed. Mayor Clouse stated so really you just moved your area where you cannot tap in for any development further south than that. City Manager stated it would be for potable water; it does not mean development could not occur based on this type of development. Certain developments would not require the same type of water but this is what we have explained when we have looked at that corridor course there is some overlay district restrictions with the Cherry Avenue project as well.

Council Member Lear clarified that Kearney is basically approving a loan application to borrow money to solve a problem that does not exist. Mr. Miller stated Kearney has very safe and potable water and do not believe there has been cryptosporidium outbreaks in Kearney coming from its well field or water supply. Staff continues to test for it, but have never had a test that has shown to have it. However, the regulation did change and Kearney must comply with it.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-167** on submitting an application for the State Revolving Fund Loan for the construction of an Ultra Violet Disinfection Facility. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-167**

WHEREAS, the City of Kearney, Nebraska recognizes that a properly functioning public water system is necessary to the health and welfare of the citizens of Kearney, Nebraska; and

WHEREAS, the City Council has determined that portions of the City public water system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the Facility Plan and/or other eligible planning grant activities of the City public water system may be obtained by grant from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that it should execute the contract for loan between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska designated as Project No. D311579, incorporated by reference into this Resolution as if fully set forth.

BE IT FURTHER RESOLVED that the Mayor is hereby directed to execute the contract and all other documents necessary to facilitate a grant from the Nebraska Department of Environmental Quality to the City of Kearney, Nebraska for the purpose of planning for the repairing and improving the City public water system.

BE IT FURTHER RESOLVED that the Finance Director be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **CDBG COMMUNITY REVITALIZATION GRANT – SUPPLEMENTAL**

Mayor Clouse opened the public hearing on the Application to the Nebraska Development Economic Development for \$250,000 community revitalization which includes street/sidewalk and storm sewer project and to consider Resolution No. 2013-168.

Eric Hellriegel from Miller & Associates presented this matter to the Council. On June 25, 2013, City Council approved an application for CDBG Community Revitalization Phase I funds for the Central Avenue Paving Project from 26th Street to 31st Street. On August 19, the Department of Economic Development notified CR grantees that additional funds had been allocated to the CR program. The City is eligible to apply for up to \$250,000 with a leverage of 1:2. Staff has received informal approval from DED to request these supplemental funds for the Central Avenue project, in combination with Phase I funding.

The Comprehensive Revitalization program is a funding category within the Community Development Block Grant program funded and developed by the Nebraska Department of Economic Development. This program allows DED to conditionally guarantee grant awards in 2013, 2014 and 2015 for non-entitlement local governments, between 20,000 and 49,999 populations, based on the number of low- and moderate-income (LMI) persons residing in the community. The method for allocating funds through the CR category presents the following advantages:

- Ability to make greater impact through guaranteed funding for longer period of time;
- Larger, urban municipalities who are non-entitlement communities are eligible;
- CDBG funding is more effectively targeted to persons with lower incomes.

The proposed project funds will be used for improvements in the targeted Census Tract which spans an area west to east from 1st Avenue to Avenue C and north to south from 22nd Street to 31st Street. The target area is located in central Kearney. These blocks require significant improvements to streets, storm sewer infrastructure, and sidewalks since there are gaps in the sidewalk system as well as lack of handicap ramps at intersections to meet ADA requirements. The selected area contains 57.2 percent LMI households as documented by the 2012 Census estimates.

The proposed project is already budgeted in the Special Sales Tax CIP as “Central Ave 26th St to 31st St” with bonding and construction set for 2014. The total funds for the project from CDBG are estimated at \$250,000; \$225,000 will be used for construction and \$25,000 for grant administration. Matching funds in the amount of \$112,000 are required for the grant will come from local sales tax funds, already budgeted for this project. The total amount budgeted for this project is \$1.42 million, less the Phase I funds. If awarded, the grant will reduce this amount to \$1.057 million.

The City is responsible for 1:2 leverage. Because of the number and nature of the needs discovered during the assessment process, Kearney citizens voted overwhelmingly to implement a ½ percent sales tax, effective April 1, 2006. Combining program funding and the sales tax money will provide the opportunity to serve the low- and moderate-income populations and to improve accessibility from the residential neighborhoods to the public facilities, business communities and along major arterial streets that is the responsibility of the community.

The project will be completed in 2014-2015, during which residents can expect to see a combination of improvements to sidewalks, streets, and accessible sidewalk ramps at intersections. When construction starts in the 2014, it is anticipated there will be a staged construction in order to keep traffic flow in that area.

1. Sidewalks and Paving. It is proposed to remove existing paving and reconstruct Central Avenue from 26th Street to 31st Street. Sidewalks and gutters will be replaced and accessible sidewalk ramps constructed at intersections. The proposed improvements are to pave approximately 2250 L.F. of 4-foot wide sidewalks, 900 L.F. of storm sewer with inlets and manholes, and construct ADA ramps in the area with detectable warnings.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-168** approving the Application to the Nebraska Development Economic Development for \$250,000 community revitalization which includes street/sidewalk and storm sewer project. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-168**

WHEREAS, the City of Kearney, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program; and

WHEREAS, the City of Kearney, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of City of Kearney for \$250,000 for street/sidewalk and storm sewer activities on Central Avenue, from 26th Street to 31st Street.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between City of

Kearney and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**CDBG ECONOMIC DEVELOPMENT LOAN APPLICATION FOR MIDLAND MOLDING**

Mayor Clouse opened the public hearing on the Application to the Nebraska Development Economic Development for \$305,000 for Midland Molding and consider Resolution No. 2013-169.

Eric Hellriegel from Miller & Associates presented this matter to the Council. The Economic Development Loan program is a funding category within the Community Development Block Grant program funded and developed by the Nebraska Department of Economic Development. This program assists communities with incentivizing new and expanding businesses. By submitting an application, the City of Kearney agrees that 51 percent of jobs created or retained through the remodeling of facilities will benefit low- to moderate-income persons.

Midland Molding is an injection molding company that has been in operation for over 20 years. The company is locally owned and currently employs 22 full-time employees and 1 part-time. In addition, the company is currently utilizing a temporary workforce of 8 full-time through a temp agency. All permanent full-time positions are offered Health and Dental, Vacation, Holiday and Sick pay. The company's annual sales exceed \$6M with over 40 percent sold to companies outside of Nebraska.

The company is seeking to expand in their existing facility in Kearney with the addition of a new production equipment and extensive remodeling. The expansion will result in sales in the next five years reaching \$13M with over 60 percent sold to companies outside of Nebraska. The company has a track record of hiring unskilled labor and then offering training and advancement opportunities for those that excel. The Economic Development Council of Buffalo County feels strongly that Midland Molding would be an ideal candidate for working with LMI.

The City of Kearney is requesting \$305,000 for economic development activities, including \$300,000 for fixed assets/machinery and equipment and \$5,000 for general administration. Matching funds in the amount of \$675,000 will be provided by the business. The expansion will create 16 full-time equivalent (FTE) positions by March 31, 2015.

There is no fiscal impact to the City of Kearney. Funds will be sub-awarded to the business, contingent upon a signed Memorandum of Understanding between the City of Kearney, State of Nebraska, and Midland Molding. Default on the MOU will require repayment to the State by Midland Molding, not the City of Kearney.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2013-169** approving the Application to the Nebraska Development Economic Development for \$305,000 for Midland Molding. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-169**

WHEREAS, the City of Kearney, Nebraska, is an eligible unit of a general local government authorized to file an application under the Housing and Community Development Act of 1974 as amended for Small Cities Community Development Block Grant Program; and

WHEREAS, the City of Kearney, Nebraska, has obtained its citizens' comments on community development and housing needs; and has conducted public hearing(s) upon the proposed application and received favorable public comment respecting the application which for an amount of City of Kearney for \$305,000 for economic development activities for Midland Molding, Inc.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Mayor be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between City of Kearney and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING 1/2 MILE EAST OF COTTONMILL AVENUE AND 56TH STREET**

Mayor Clouse stated the applicant has requested to postpone the application to rezone property located 1/2 mile east of Cottonmill Avenue and 56th Street until October 8, 2013.

Moved by Lear seconded by Buschkoetter to postpone until October 8, 2013 the application to rezone property located 1/2 mile east of Cottonmill Avenue and 56th Street. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **FINAL PLAT FOR D.R. NELSON SUBDIVISION: 1/2 MILE EAST OF COTTONMILL AVENUE AND 56TH STREET**

Mayor Clouse stated the applicant requested to postpone the application for the final plat for D.R. Nelson Subdivision until October 8, 2013

Moved by Lear seconded by Buschkoetter to postpone until October 8, 2013 the application for the final plat for D.R. Nelson Subdivision. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**DEVELOPMENT PLANS FOR HELICOPTER PAD WEST OF 22ND AVENUE AND SOUTH OF 10TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for WNH, LLC (Owner) for Revised Planned District Development Plan Approval for a proposed helicopter pad on property zoned District C-O/PD, Office/Planned Development Overlay District on property described as Lot 1 of Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street) and to consider Resolution No. 2013-171. Planning Commission recommended approval subject to the hospital owners paying for installation of aviation warning lights that conform to FAA standards on the observation tower at Yanney Park

The Kearney Regional Medical Center (South Hospital) is currently under construction at the southwest intersection of 11th Avenue and Kea West Road. The developer has proposed adding a helipad at the southeast corner of the hospital lot for Life Flight capabilities. The zoning for this property is C-O/PD and the PD Overlay requires Planning Commission and City Council review of the revisions to the Development Plans.

Good Samaritan Hospital is zoned C-O/PD and has an existing helipad which is an essential component of the emergency services offered at their facility. Life flight capability is equally important in a more rural setting such as Kearney when compared to large metropolitan areas. Critical patients may be referred to the hospital from numerous smaller communities in northern Kansas, western Nebraska, eastern Colorado, eastern Wyoming, and southern South Dakota and helicopter transport is the preferred method due to the distances involved.

The proposed helipad is a vital component of the emergency services that will be offered at the Kearney Regional Medical Center (KRMC). However, as staff initially discussed this request some concerns regarding the potential impact to the area were raised, especially with the proximity to Yanney Park and potential future development. Upon further discussion, staff came to the conclusion that a satisfactory flight path can be achieved to provide Life Flight service to and from KRMC. The approach and exiting routes can potentially be adjusted so as not to fly directly over Yanney Park.

At the Planning Commission meeting, helicopter pilots that work for the Life Flight service at Good Samaritan Hospital stated that weather conditions, especially wind speed and direction, dictate the approach and departure routes for helicopters at any given site. It is therefore impossible to say that the helicopters will never overfly Yanney Park. Discussion continued regarding approach paths, Yanney Park, the presence of Gottschalk Observation tower and the possibility of the City lighting it with aviation warning lights even though the tower is currently lit at night. The tower is not tall enough to be regulated by FAA. In the end, the Applicant offered to pay for the tower lighting if the restrictions on flight paths being contemplated by the City are removed.

Craig Bennett from Miller & Associates presented this matter to the Council. Western Nebraska Property Development is located on about a 16-acre parcel and is located south of 11th Street, west of Kea West which is west of the Yanney Park area. The reason they are here is because when they previously presented their development

plan to the Council in December of 2012 they did not show a proposed helicopter pad. Essentially, the helicopter pad would be located at the southeast corner of the hospital near the walkway to the emergency room. They acknowledged the comments about the beacon on the tower as well. It would be like a beacon light. It is not actually required by FFA because of the height but it was something that was discussed at Planning Commission.

Council Member Buschkoetter asked how far the walkway from the pad to the emergency room. Mr. Bennett stated he did not know the exact distance but guessed it would be eight to nine parking stalls.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-171** approving the Application submitted by Miller & Associates (Applicant) for WNH, LLC (Owner) for Revised Planned District Development Plan Approval for a proposed helicopter pad on property zoned District C-O/PD, Office/Planned Development Overlay District on property described as Lot 1 of Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-171**

WHEREAS, Miller & Associates (Applicant) for WNH, LLC (Owner) have applied for Revised Planned District Development Plan Approval for a proposed helicopter pad on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1 of Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Miller & Associates (Applicant) for WNH, LLC (Owner) for Revised Planned District Development Plan Approval for a proposed helicopter pad on property zoned District C-O/PD, Office/Planned Development Overlay District and described as Lot 1 of Block Three, Western Nebraska Property Development Addition, an addition to the City of Kearney, Buffalo County, Nebraska (west of 22nd Avenue and south of 10th Street) be approved subject to the hospital owners paying for installation of aviation warning lights that conform to FAA standards on the observation tower at Yanney Park.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING 2001 AVENUE A**

Mayor Clouse opened the public hearing on the Application submitted by Brock Arehart (Applicant) for JWB LLC (Owner) to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District property described as Lots 535, 536, 537, 538 except the south 17 feet of the north 18 feet, Original Town of Kearney

Junction now the City of Kearney, Buffalo County, Nebraska (2001 Avenue A) and to consider Ordinance No. 7831. Planning Commission recommended approval.

The applicant is requesting rezoning from M-1, Limited Industrial District to CBD, Kearney Center Mixed-Use District, for property located south of the Law Enforcement Center with frontage on North Railroad Street. The police impound yard abuts the property on the east side. There is an existing building on site. The rezoning request is in conformance with the Future Land Use Map of the Comprehensive Development Plan which depicts this property as "Central Business District."

This property was originally zoned M-1 because of its proximity to the railroad tracks. The proposed zoning to District CBD is preferable. Staff is in support of this zone change. Residential uses are not allowed in M-1 zones. At this time, it is unclear exactly what type of use will be proposed for this site. The application lists potential retail, restaurant, and residential use, or a combination thereof. Unlike most zoning categories, the CBD District has no requirements for off-street parking, landscaping, and building setbacks.

Brock Arehart was present to answer any questions.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application Application submitted by Brock Arehart (Applicant) for JWB LLC (Owner) to rezone from District M-1, Limited Industrial District to District CBD, Kearney Center Mixed Use District property described as Lots 535, 536, 537, 538 except the south 17 feet of the north 18 feet, Original Town of Kearney Junction now the City of Kearney, Buffalo County, Nebraska (2001 Avenue A) and introduced Ordinance No. 7831 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. 7831. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. 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. 7831 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7831 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7831 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 TACO BELL LOCATED EAST OF 2ND AVENUE NORTH OF 56TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by REGA Engineering Group, Inc. (Applicant) and Roberta Corrigan Farms and Roberta Corrigan Trustee (Owner) for Planned District Development Plan Approval for the construction of Taco Bell on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District on property described as Lot 2, Ingalls Crossing Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue north of West 56th Street) and to consider Resolution No. 2013-172. Planning Commission recommended approval.

The applicant is requesting approval of Development Plans for a Taco Bell restaurant to be located on the lot just north of the existing Applebee's Restaurant in Ingalls Crossing Subdivision. The property is zoned C-2/PD, Community Commercial/Planned Development Overlay District. The applicant has reduced the size of the platted lot by a minor subdivision as the entire Lot 2 is larger than they need for this restaurant. The revised lot contains 0.93 acres,

Staff has reviewed the Development Plans and offers the following summary:

- The Public Works Department requires a minimum 35 feet of separation between the proposed Taco Bell drive and the existing drive to the south that leads to Applebee's. The proposed layout shows 40 feet between the drives.
- The building consists of 2,175 square feet with a drive-thru service lane and an additional lane for thru traffic.
- Minimum stacking area equivalent to eight car lengths behind the first service window is required by Code and the proposed layout exceeds this minimum. Cars can stack all the way through the parking lot.
- 18 parking stalls are required, 33 are provided.
- The maximum impervious cover in this zoning district is 80 percent; the site plan as shown achieves 65 percent.
- A Landscape Plan is included that meets or exceeds all landscape requirements including street trees, parking lot interior landscaping, screening of the trash enclosure, and supplemental plantings around the building. All landscaped areas will be irrigated.
- Stormwater detention is provided by an existing storm water detention cell located to the east side of McDonald's restaurant. This cell was designed to accommodate full commercial build-out on all of the lots that have been final platted, including this one.
- Architectural elevations of all four facades of the building have been submitted.
- Sharp cut-off light fixtures as required by Code are specified on the plan for exterior lighting.

There is no additional information required for this Development Plan submittal. All code requirements have been met.

Dan Rosenthal from REGA Engineering Group presented this matter to the Council. He stated this is a new Taco Bell located on 2nd Avenue and west 56th Street. This is a good project and the owner is ready to move forward as soon as the project is approved.

Tom McCarty from Coldwell Banker real estate company stated he has worked with Taco Bell and the Corrigan family and this proposal and is going to be a nice development for the community and would like to see it be approved.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2013-172** approving the Application submitted by REGA Engineering Group, Inc. (Applicant) and Roberta Corrigan Farms and Roberta Corrigan Trustee (Owner) for Planned District Development Plan Approval for the construction of Taco Bell on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District on property described as Lot 2, Ingalls Crossing Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue north of West 56th Street). Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-172**

WHEREAS, REGA Engineering Group, Inc. (Applicant) and Roberta Corrigan Farms and Roberta Corrigan Trustee (Owner) have applied for Planned District Development Plan Approval for the construction of Taco Bell on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 2, Ingalls Crossing Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue north of West 56th Street).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of REGA Engineering Group, Inc. (Applicant) and Roberta Corrigan Farms and Roberta Corrigan Trustee (Owner) for Planned District Development Plan Approval for the construction of Taco Bell on property zoned District C-2/PD, Community Commercial/Planned Development Overlay District and described as Lot 2, Ingalls Crossing Fourth Addition, an addition to the City of Kearney, Buffalo County, Nebraska (east of 2nd Avenue north of West 56th Street) be approved.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING 4400 EAST HIGHWAY 30**

Public Hearings 11 and 12 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) to rezone from District M-2, General Industrial District to District M-2/PD, General Industrial/Planned Development Overlay District property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) and to consider Ordinance No. 7832. Planning Commission recommended approval.

In 2008 Baldwin Filters and the City negotiated an agreement to facilitate a major expansion of the Baldwin Filters facility in Kearney. The City owned property to the east of the existing plant and a subdivision was prepared to transfer ownership of approximately 20 additional acres to Baldwin which also entailed relocating some utilities and relocating Airport Road further to the east to its current configuration. The subdivision plats for Baldwin Subdivision were filed with the Register of Deeds on May 6, 2013. The aggregate total land area has increased to 61.88 with the additional 20 acres. Any project exceeding 20 acres in M-2 zoning is required to be a PD, Planned Development Overlay District, so the 60-plus acre site causes the property to be rezoned from M-2 to M-2/PD. The PD overlay requires submittal of Development Plans for review and approval by Planning Commission and City Council. Consequently, the applicant is requesting approval of Rezoning and Development Plans at this time.

Staff has reviewed the Development Plans and offers the following summary:

- Timeline: Plan on starting the project is fall of 2013 with full use of the facility the first part of 2015.
- The Developer has submitted preliminary drawings to FAA for their review.
- The Baldwin Plant building, when complete, will be just shy of 1 million square feet under roof at 997,210 square feet.
- The new building will be located east of the existing building, over old Airport Road.
- Parking will be south of the existing building and new building, and also on the west side of the new building.
- There will be three rows of parking for truck trailer boxes. If the budget allows, the parking for the trailer boxes will be paved, but the intention at this time is to have that parking be gravel.
- There will be 755 parking stalls for passenger vehicles provided with 690 required.
- The loading docks are on the east side of the building. There are 50 overhead truck doors proposed on the east side of the building.
- The campus will be fenced and the drive accesses will be gated. The gates into the site will not be closed unless the plant is closed. There are no plans for a guard shack. Truck stacking at the entrances/exits should not be an issue since the gates will not be closed.
- Total impervious coverage is 66 percent with 90 percent allowable.
- A Landscape Plan was shown to the Planning Commission at the meeting. The Planning Commission requested more screening of the east side of the building and east parking lot from Airport Road due to the large number of truck doors and parked trucks that would otherwise be fully visible from the road. A few of the existing trees that were planted in 2008 or 2009 are dead and must be replaced. Tree plantings are proposed along the Highway 30 frontage as well. A Revised Landscape Plan will be submitted for City Council review.
- The site plan shows a new access point off of 39th Street on the west end of the new building and off of Airport Road on the south end of the site. The existing access points will remain.
- The Public Works Department expressed concerns with the width of the proposed access points to public streets and the radii at these access points. The City standard is a maximum 40-foot wide "throat" with 50-foot radiuses. The plans propose a 75-foot wide access with large radiuses. The Public Works Department is concerned

that the wide maneuvering areas will result in skewed angles at which the trucks leave the site as opposed to lining up at 90 degrees with the street. The addition of a center median at the access points will alleviate this concern. The medians will be added to the plans.

- Plans depicting stormwater facilities and plans depicting pavement layout are not consistent. Sheet U-101 depicts a driveway layout that is acceptable to the Public Works Department.

- The project must comply with all NPDES requirements.

- City can provide a letter that the developer can move dirt at their own risk. Grading should be done in order to prevent stormwater from entering the sanitary sewer.

- A large stormwater detention cell is proposed at the southeast corner of the site. There will also be detention on the north side of the site and two underground storage fields. The north detention cell is existing but after proposed improvements it will be smaller than the original cell.

- The Owner plans to construct an additional private sewer service line from the addition to discharge into the existing private sewer main waste.

- The Owner plans to extend the existing fire suppression main around the addition. The City is not responsible for the fire suppression main, the well, the pumps or the fire hydrants on the main.

- The height of the proposed addition exceeds the 45-foot maximum height in the M-2 zone. The applicant needs to request a height deviation from the Planning Commission and City Council.

- Architectural Elevations of all building facades were submitted with this plan package. The building addition will be constructed with precast concrete walls and red brick for accents and to match the existing building. The area devoted to administrative functions is enhanced with windows and brick.

- Horizontal offset for every 100 linear feet of building is not required in an M-2 zoning district.

- Lights on east side of building and east entrance must be sharp cutoff shielded fixtures.

Kevin Riley from Davis Design Group presented this matter to the Council. He stated they are currently proposing to maintain truck access all coming in/off the existing point with one new tap for trucks coming in/off of Airport Road and then everything else would be handled with internal circulation with no access back out anywhere other than there. With their proposed design they would be maintaining all the required parking that is necessary for not only the tractor trailers they have but employee parking; their counts are exceeding what is required for the property. They are going to be working with a combination of underground rain water storage as well as open retention slow down ponds focusing on the existing one that is on the north side of the property as well as the one that will be wrapping back around on their property handling everything off the southeast corner as well.

They have been working with Steinbrink's so they have got their landscaping identified between the combination of all the existing landscaping that is bounding the property on Airport Road, 39th Street and the highway and they have already started to implement what their new landscaping would be and it is identified.

This is a big building; approximately 500 feet x 800 feet so 400,000 square feet just on the main distribution facility. What they are proposing for the south side is administration, signage and they are working to integrate brick and give it some tieback to the existing building.

Council Member Lammers asked the height restriction was 45 feet; how much higher above that is the building. Mr. Riley stated the actual building itself is 45 feet but all of the mechanical units are up above that height and that is the only exception. They have got about 8-inch parapet on the north and south end of the building; thus far; they have not heard any comments negative from the FAA. They do have their formal permit in for the FAA review.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) to rezone from District M-2, General Industrial District to District M-2/PD, General Industrial/Planned Development Overlay District property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) and introduced Ordinance No. 7832 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7832. 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. 7832 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 Buschkoetter seconded by Clouse that Ordinance No. 7832 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. 7832 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 BALDWIN EXPANSION, 4400 EAST HIGHWAY 30**

Public Hearings 11 and 12 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) for Planned District Development Plan Approval for an expansion to the Baldwin Filters Distribution Center on property to be

zoned District M-2/PD, General Industrial/Planned Development Overlay District on property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) and to consider Resolution No. 2013-173. Planning Commission recommended approval subject to (1) the Works Department is requesting redesign of access points to add center medians (submitted); (2) a complete Landscape Plan shall be submitted for City Council review and approval (submitted); (3) the request for a height deviation; and (4) lights on the east side of the building and east entrance must be sharp cutoff shielded fixtures.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-173** approving the Application submitted by Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) for Planned District Development Plan Approval for an expansion to the Baldwin Filters Distribution Center on property to be zoned District M-2/PD, General Industrial/Planned Development Overlay District on property described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) recognizing the deviation of the height of the proposed addition exceeds the 45-foot maximum height in the M-2 zone and subject to compliance with the condition that lights on the east side of the building and east entrance must be sharp cutoff shielded fixtures. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-173**

WHEREAS, Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) have applied for Planned District Development Plan Approval for an expansion to the Baldwin Filters Distribution Center on property zoned District M-2/PD, General Industrial/Planned Development Overlay District and described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30).

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska, that the application of Sam Ferrise (Applicant) for Baldwin Filters, Inc. (Owner) for Planned District Development Plan Approval for an expansion to the Baldwin Filters Distribution Center on property zoned District M-2/PD, General Industrial/Planned Development Overlay District and described as Lot 1, Baldwin Subdivision, Buffalo County, Nebraska (4400 East Highway 30) be approved recognizing the deviation of the height of the proposed addition exceeds the 45-foot maximum height in the M-2 zone and subject to compliance with the condition that lights on the east side of the building and east entrance must be sharp cutoff shielded fixtures.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE PORTION OF LUTH & SOBOTKA INDUSTRIAL PARK AND COTTAGE ADDITION AND REZONE EAST OF AVENUE M AND NORTH OF 16TH STREET**

Public Hearings 13 and 14 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) to (1) vacate Lots 1 and 2, Luth & Sobotka Industrial Park; Lots 149 thru 151 inclusive, Lots 201 thru 206 inclusive, Cottage Addition, 17th Street, the alley, east half of Avenue O and Avenue P abutting said lots and to consider Ordinance No. 7833; and (2) rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street) and to consider Ordinance No. 7834. Planning Commission recommended approval.

The applicant is requesting approval to develop a residential subdivision for Habitat for Humanity on the east side of Avenue M and north and south of 17th Street. This project requires vacation of an existing subdivision that has never been built, rezoning for residential use and subdivision plats.

Lots 1 and 2, Luth & Sobotka Industrial Park need to be vacated along with Lots 149-151 and Lots 201-206, Cottage Addition, and portions of Avenue O, Avenue P, and 17th Street as described in the vacation petition so that the land can be combined and a new subdivision to be known as Marlatt Addition can be created.

Part of the property that will become Marlatt Addition is already zoned R-1 and part of the property was recently rezoned from M-1 to R-1. However, now the applicant has decided to rezone a portion of the R-1 to R-2 to allow flexibility for construction of duplexes or single-family housing. 2.58 acres in the northeast corner and extending down the east side of this property is proposed for rezoning to R-2. This area contains Lots 1 through 6 of Block 1. Habitat for Humanity may sell these lots to another builder to construct duplexes. The rezoning request is in conformance with the Future land Use Map of the Comprehensive Development Plan.

The Preliminary and Final Plat for proposed Marlatt Addition contain 26 buildable lots and one outlot reserved for stormwater management, all on 9.01 acres. The Preliminary Plat was approved by Planning Commission on August 16, 2013. Six of the lots on the east end are zoned for duplex or single-family construction while the balance of the lots will be Habitat for Humanity single-family homes. An Infrastructure Feasibility Plan has been submitted. The infrastructure installation will be phased. The first phase of development will likely commence on the west end by Avenue M and extend east. The second phase commences on the east end at 16th Street with infrastructure extended to the north. These phases could be reversed with the east end developing first, but the applicant had indicated that is unlikely. Sanitary sewer services are deep enough to serve basements by gravity flow; however, Habitat for Humanity generally does not build homes with basements. A Subdivision Agreement will be prepared to address CRA concerns. Stormwater detention is split with the majority of the water flowing west to the Outlot next to Avenue M and some of the water flowing south to 16th Street. All of

the stormwater eventually ends up in the large drainage structure in Avenue M that is overloaded. The holding time for water detained in the cell has been increased above normal design standards due to this capacity issue.

Craig Bennett from Miller & Associates presented this matter to the Council. He stated the parcel is located east of Avenue M and basically north of 16th Street. He presented a drawing showing what portion would be proposed to be rezoned from R-1 to R-2. They have 26 lots of residential. The six lots on the east side could very well be Single-Family lots but it did have some character in terms of size and layout in order to make Avenue O and Avenue P line up which left them with some circulation and lots that may be a little larger than what Habitat would normally build on. They want to have the flexibility should they need a Multi-Family that they would have that availability.

From an infrastructure standpoint this site can be served and will probably be done in a phased approach but probably most likely it would be served beginning at the west side of the property from Avenue M continuing east on 17th Street. They would build the detention cell on the very northwest corner and provide storm water detention being able to serve both this subdivision and extending for future infrastructure extensions for development east and north of this site as well. They currently would have two lots that have infrastructure available to it on 16th Street but due to the replatting and vacating that has happened, they would be able to immediately start building on these two lots and the remaining 24 lots would happen in those two phases.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Applications submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) to (1) vacate Lots 1 and 2, Luth & Sobotka Industrial Park; Lots 149 thru 151 inclusive, Lots 201 thru 206 inclusive, Cottage Addition, 17th Street, the alley, east half of Avenue O and Avenue P abutting said lots; and (2) rezone from District R-1, Urban Residential Single-Family District (Low Density) to District R-2, Urban Residential Mixed-Density District property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street) and introduced Ordinance Nos. 7833 and 7834 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 Nos. 7833 and 7834. 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 Nos. 7833 and 7834 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 Nos. 7833 and 7834 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 Nos. 7833 and 7834 are declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**FINAL PLAT FOR MARLATT ADDITION; EAST OF AVENUE M AND NORTH OF 16TH STREET**

Public Hearings 13 and 14 were discussed together but voted on separately.

Mayor Clouse opened the public hearing on the Application submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) for the Final Plat for Marlatt 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 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska, including Lots 1 and 2, Luth & Sobotka Industrial Park, a subdivision to the City of Kearney (now vacated), Lots 149 thru 151 inclusive and Lots 201 thru 206 inclusive, part of Avenue O and Avenue P as platted in Cottage Addition to the City of Kearney (now vacated), and unplatted Tax Lot 8, City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street) and to consider Resolution No. 2013-174. Planning Commission recommended approval.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-174** approving the Application submitted by Miller & Associates (Applicant) for Joseph Sobotka, Richard and Gwendolyn Luth, and Excalibar Enterprises, Inc. (Owner) for the Final Plat for Marlatt 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 6, Township 8 North, Range 15 West of the 6th P.M., City of Kearney, Buffalo County, Nebraska, including Lots 1 and 2, Luth & Sobotka Industrial Park, a subdivision to the City of Kearney (now vacated), Lots 149 thru 151 inclusive and Lots 201 thru 206 inclusive, part of Avenue O and Avenue P as platted in Cottage Addition to the City of Kearney (now vacated), and unplatted Tax Lot 8, City of Kearney, Buffalo County, Nebraska (east of Avenue M and north of 16th Street). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**RESOLUTION NO. 2013-174**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Marlatt Addition, an addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, including Lots 1 and 2 of Luth & Sobotka Industrial

Park, a Subdivision to said City (now vacated), Lots 149 thru 151 inclusive, and Lots 201 thru 206 inclusive, and part of Avenue 'O' and Avenue 'P' as platted in Cottage Addition to said City (now vacated), and unplatted Tax Lot 8, more particularly described as follows: Beginning at the Northwest Corner of Lot 1, New Cottage Addition to the City of Kearney, Buffalo County, Nebraska and assuming the East Right-of-Way line of Avenue 'M' as platted in said City as bearing N01°18'19"E and all other bearings shown hereon relative thereto; thence N01°18'19"E on said East Right-of-Way a distance of 334.00 feet to the Southeast Corner of an unplatted tract known as Tax Lot 6 (also the Northwest Corner of said Luth & Sobotka Industrial Park); thence N89°26'21"E on the South line of said Tax Lot 6 a distance of 630.78 feet to the Southeast Corner of said Tax Lot 6, said point also being the Southwest Corner of an unplatted tract known as Tax Lot 5 and a point on the North line of said Luth & Sobotka Industrial Park; thence N89°23'40"E on the South line of said Tax Lot 5 a distance of 367.65 feet to the Northwest Corner of Lot 4, Austin Dean Addition to said City; thence S00°39'34"W on the West line of said Lot 4 (also the East line of said Tax Lot 8) a distance of 327.13 feet to a point on said West line; thence N89°02'41"E continuing on said West line a distance of 49.42 feet to a point on said West line; thence S01°14'11"W on said West line a distance of 140.88 feet to the Southwest Corner of said Lot 4 and the North Right-of-Way of 16<sup>th</sup> Street as platted in said City (also the South line of said Cottage Addition); thence N89°29'05"W on said North Right-of-Way a distance of 460.05 feet to a point on the East line of Lot 8, New Cottage Addition to said City; thence N01°09'59"E on said East line a distance of 129.27 feet to the Northeast Corner of said Lot 8 and a point on the North line of said New Cottage Addition; thence S89°00'40"W on said North line a distance of 591.29 feet to the Point of Beginning, containing 9.01 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 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**CITY CODE AMENDMENTS TO CHAPTERS 13, 14, 46 AND 47**

Mayor Clouse opened the public hearing on the proposed amendments to the following sections: Section 13-111, 13-105, 13-107, 13-110, 14-112, Table 14-1, 46-104, 46-111, and 47-104 and to consider Ordinance No. 7835. Planning Commission recommended approval. The proposed amendments will become effective on January 1, 2014.

Assistant City Manager/Development Services Director Suzanne Brodine presented this matter to the Council. Several proposed amendments to the Unified Land Development

Ordinance (ULDO) were discussed at the Planning Commission meeting in recent months.

Staff has made some revisions to the proposed amendments based on input from the Planning Commission.

- The Planning Commission had questions regarding the automobile service categories within Chapter 13, "Use Types" and staff has revised that language to clarify differences between each category.

- The description of "Day Care" facilities is being revised to be more consistent with State Department of Health and Human Services definitions.

- The use type "Group Care Facilities" is proposed to be split into "Limited" for distinguishing alternative incarceration programs such as work release and probation as opposed to "General" which will cover more typical group care scenarios such as drug and alcohol counseling, mental illness, physical handicap, etc.

- Amendments to Chapter 14, "Zoning District Regulations" propose significant changes to Table 14-1, the "Use Matrix." The proposed changes are intended to address the following concerns that have been collectively identified by Development Services Staff:

- Some use types are allowed in zoning districts that do not make sense.
- Some of the uses in the UC District, Urban Corridor, are deemed to be too intense for the adjacent neighborhood and should therefore not be allowable in UC zones.

- Some of the use types that are allowed as conditional uses do not fit and need to be removed from certain zones. In general, staff believes there is too much use of the conditional use permit in the current matrix. The reason for this opinion is based upon four principles.

1. Some use types are indeed best regulated by a CUP and shall remain so.
2. Other use types are primarily permanent in nature and cause less potential for undesirable impacts. These use types should be permitted by right.

3. Some use types may cause more concern for various reasons than other use types in certain zones. These use types may be better regulated from the City's standpoint with a "higher level of review" provided through the PD, Planned Development Overlay District process.

4. The current use matrix requires site plan review for many of the use types that warrant a more detailed review of a given project. An asterisk at the bottom of the matrix indicates "Use subject to Site Plan Review (Chapter 59)". Any use type that was subject to the site plan review asterisk will now be handled by DRT review or become a PD overlay project.

The end result of these changes is meant to streamline development process by basically replacing CUP and Site Plan Review process with PD Overlay process. Both CUP's and PD Overlays require Public Hearings by state statute and the amount of "paperwork" is basically the same.

Staff has proposed a new category of wind energy turbines that are smaller than the large commercial units. The small units are designed for residential use and are referred to as "Vertical Axis Wind Turbines (VAWT)". The section of Chapter 46 that pertains to the VAWT's has been continued at Planning Commission for further analysis and is not included in this Council agenda.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the proposed amendments to the following sections: Section 13-111, 13-105, 13-107, 13-110, 14-112, Table 14-1, 46-104, 46-111, and 47-104 and introduced Ordinance No. 7835 with an effective date of January 1, 2014 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to close the hearing and suspend the rules for Ordinance No. 7835. 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. 7835 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 Clouse seconded by Lammers that Ordinance No. 7835 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7835 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.

### **THE GARAGE LIQUOR LICENSE RENEWAL/CANCELLATION**

Mayor Clouse opened the public hearing on the liquor license held by The Garage Production Company, dba The Garage in connection with their Class CK-083704 liquor license located at 15 East 24th Street and to consider Resolution No. 2013-175.

The City Council directed City staff to develop a City Council Policy dealing with the consideration of liquor licenses given concerns that City Council has with reference to underage drinking and other liquor license violations within the City of Kearney. On March 22, 2011 the City Council adopted a nonbinding resolution that established general guidelines as to when the Council would consider not recommending approval of a liquor license application or denial of a special designated license. On March 23, 2011 letters were sent to all liquor license holders, with a copy of the resolution setting forth the Council's Policy, emphasizing the requirement of training and submitting Certificates of Training of their employees.

With the renewal process of all Class C liquor licenses, notices were published in the Kearney Hub on July 19, 2013. As part of the renewal process, I check the Liquor Commission's website for charges and convictions of liquor violations for each establishment. The Garage was issued a liquor license May 28, 2009. In viewing the website, it appears that on May 7, 2012 The Garage was cited for Intoxicated Persons

Consume/In Possession but was not charged by the Liquor Commission. On June 22, 2012 The Garage was cited for Minors Consume/In Possession and for Disturbance. The Liquor Commission charged them for Minors Consume/In Possession and dismissed the Disturbance. Then on July 21, 2012 The Garage was cited and charged for Intoxicated Persons Consume/In Possession and their license was suspended for ten days.

The City Council's Policy provides that if a license holder has been charged and convicted of two or more charges of the sale of alcohol to a visibly intoxicated person or the sale of alcohol to a minor within the renewal period (one year) and/or has been charged and convicted of three or more similar violations in the prior five years, City Council will not recommend approval of said liquor license to the Nebraska Liquor Control Commission. If a license holder is up for automatic renewal of its license and there have been two or more law violations, it shall be the policy of the City Council to require that license holder to appear before the Council at a public hearing to review the status of the license and its renewal. Upon the conclusion of any hearing by the City Council, the City Council may request a licensee to submit an application as provided in Section 53-135 of the Statutes.

In accordance with Section 53-134(6) of the Nebraska Revised Statutes, the local governing body of any city with respect to licenses within its corporate limits shall have the power with respect to retail licenses: to cancel or revoke on its own motion any license if, upon the same notice and hearing, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rules or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor.

Collin Naby presented this matter to the Council. He apologized for even standing here and discussing this issue. The Garage is currently shut down. They were in the process of selling to some individuals but that fell through. He and Heath decided that they are not going to re-open. They would like some sort of ownership change to happen whether he bought out or if he gets bought out or if they both get bought out. Before the Garage opens there is going to be some sort of ownership change. It would be advantageous for them to be able to renew that liquor license should a situation come up in the next 30-45 days where they can sell and the new ownership would have the opportunity to get what is called a temporary operating permit from the Nebraska Liquor Commission and that would allow them to operate off of their liquor license until they are able to go through the full process to get theirs.

Council Member Nikkila stated there are two violations. Mr. Naby stated both of these violations happened in a short time frame and it was obvious there was a lack of management on his part and his partner's part on making sure management in house was doing their job and things got a little crazy there for a few months. Ultimately, that is what has led to this situation. They both realized that their lives and priorities have changed. The two violations: one was a situation where somebody drank somewhere else throughout the evening and came to their establishment for the last couple drinks of the night. That person was probably visibly drunk based off of what the breath alcohol content was; however, the person did get served the final drinks at his establishment, sat out on the sidewalk waiting for a cab and in the process fell asleep. The Police Department noticed him before the cab company showed up so the person was taken to

the emergency room to be tested and he did not know until he got the certified letter stating they were in violation. At that time, they had gone back and talked with their staff about that and trying to prevent it from happening. He did state that their staff is certified through the University of Nebraska on the serving alcohol classes. They do the online course; however, they failed to follow what that course definitely dictates.

The other violation was a situation where a minor with a fake ID got into the building, had some drinks, left the building got into an altercation and the Police Department got involved and they had asked where he had been and he had mentioned that he was at the Garage and that he had drinks so the Garage got charged with serving a minor. Again there was a failure with the door staff; it was an out of state ID. They had purchased, and assuming the new ownership would take advantage of it, one of the ID swipe machine that you can download and update everything like that.

Mayor Clouse stated he struggles with is the City Council has a policy in place and even though Mr. Nabity does a great job on his other properties, the Council has laid the policy out and is difficult to make an exception. It is unfortunate, and again respects the work that Mr. Nabity does in the businesses he has because he has been to places where Mr. Nabity cards and that is what is disappointing with the Garage.

City Attorney Michael Tye wanted to clarify is you cannot sell a liquor license so whether there is a license in a business or not that is something that is not sellable. It may be that a person could go and get a temporary ability to sell alcohol but they still have to go through the process.

Mr. Nabity stated the Liquor Commission requires that you actually submit if you are going for a temporary operating permit (TOP) you have to submit your liquor license to the State and they have to go through and make sure everything is going and get the process going then they will allow a temporary operating permit to happen at an existing location. It obviously has to be someone that is serious and they are going to be required that they show a purchase agreement or a lease agreement before the Liquor Commission even allows it to happen.

City Attorney stated the Council passed a policy that indicates if somebody has two violations within a year, rather than an automatic renewal happening that you will require this public hearing, they cannot just automatically renew. That is the first step in the process and the second is that you would consider cancelling the license to the Liquor Commission. This is a non-binding policy that was passed previously.

Council Member Lammers stated the Council made up their mind a long time ago with the passing of the policy and the Garage having two violations. He does not believe the Council can bend the rule for one and not the other. Council Member Buschkoetter stated if you are going to draw the line, this would be a case where they are already moving away from the problem. The Garage is looking at a relatively short window of time frame if their license has to be renewed by November and they are not even sure they are going to do that.

Mr. Nabity stated what they are looking at \$145 with the State and then turn around and pay the City license which is somewhere over \$900 since they have catering, so it is a big commitment just to hang on to the license to help out future buyers and that is where he does not have any answers.

Council Member Buschkoetter stated this is what makes whether or not Council should make the exception if they are really looking at such a small window of time. Mr. Nability stated with that they are negotiating with some people and they had expressed interest in the fact that if they do finalize, they want to be able to get going as soon as possible and he is afraid if he loses that flexibility and now they are going to be 60-90 days out before they are able to operate on their own liquor license it may hurt the process a little bit.

Council Member Nikkila asked if the result is if they were to vote not to renew the license or not recommend it, essentially the state officially takes it away. Council Member Lear stated we make a recommendation to the State and the State takes it from there. He believes that they have a policy in place and they should stick with it.

There was no one present in opposition to this hearing.

Moved by Clouse seconded by Lammers to close the hearing and adopt **Resolution No. 2013-175** cancelling the liquor license held by The Garage Production Company, dba The Garage in connection with their Class CK-083704 liquor license located at 15 East 24th Street. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

#### **RESOLUTION NO. 2013-175**

WHEREAS, The Garage Production Company, dba The Garage holds a Class CK-083704 liquor license located at 15 East 24th Street, Kearney, Nebraska; and

WHEREAS, the Kearney City Council adopted Resolution No. 2011-28 establishing a Liquor License Policy for making recommendations to the Nebraska Liquor Control Commission on new licenses, renewal of licenses, and special designated licenses; and

WHEREAS, in accordance with Section 53-134(6) of the Nebraska Revised Statutes, the local governing body of any city with respect to licenses within its corporate limits shall have the power with respect to retail licenses: to cancel or revoke on its own motion any license if, upon the same notice and hearing, it determines that the licensee has violated any of the provisions of the act or any valid and subsisting ordinance, resolution, rules or regulation duly enacted, adopted, and promulgated relating to alcoholic liquor; and

WHEREAS, a hearing was held on September 10, 2013 to allow the license holder an opportunity to explain why they did not comply.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska hereby cancels the liquor license held by The Garage Production Company, dba The Garage holds a Class CK-083704 liquor license located at 15 East 24th Street for the reason they did not comply with Resolution No. 2011-28 by having been charged with three liquor violations within two years.

BE IT FURTHER RESOLVED that in accordance with Section 53-134 of the Nebraska Revised Statutes, the license holder has 30 days in which to appeal this decision to the Nebraska Liquor Control Commission.

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

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ADOPT CITY OF KEARNEY 2013-2014 FISCAL YEAR BUDGET – ORDINANCE NO. 7836**

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Budget for the 2013-2014 Fiscal Year and to consider Ordinance No. 7836.

Director of Finance Wendell Wessels presented this matter to the Council. Pursuant to Section 13-506 of the Nebraska Revised Statutes, the City Council is required to conduct a public hearing on the City of Kearney proposed budget and the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2013-2014 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. After the Budget Document is reviewed and the public hearings are conducted, Ordinance No. 7836 should be passed and approved. Ordinance No. 7836 legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney. The 2013-2014 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the City, and keeping expenditures and taxes as low as possible.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing for the purpose of adopting the City of Kearney Budget for the 2013-2014 Fiscal Year and introduced Ordinance No. 7836 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. 7836. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. 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. 7836 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7836 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7836 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.

**ADOPT 2013-2014 BUDGET FOR OFFSTREET PARKING DISTRICT NO. 1**

Mayor Clouse opened the public hearing for the purpose of adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2013-2014 Fiscal Year and to consider Resolution No. 2013-176.

Director of Finance Wendell Wessels presented this matter to the Council. Pursuant to Section 13-506 of the Nebraska Revised Statutes, the City Council is required to conduct a public hearing on the City of Kearney Offstreet Parking District No. 1 proposed budget for the 2013-2014 fiscal year. The public hearing is a process where the City Council hears support, opposition, criticism, suggestions or observations of taxpayers relating to the proposed Budget Document. Resolution No. 2013-176 legally adopts the Budget Document and appropriates sums of money contained in the Budget Document for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No. 1. The 2013-2014 City of Kearney Offstreet Parking District No. 1 budget has been created on conservative financial principals that reflect staff commitment to maintaining necessary services, improving the quality of the operation of the Offstreet Parking District No. 1, and keeping expenditures and taxes as low as possible.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-176** adopting the City of Kearney Offstreet Parking District No. 1 Budget for the 2013-2014 Fiscal Year. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**RESOLUTION NO. 2013-176**

A RESOLUTION TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES FOR THE CITY OF KEARNEY OFFSTREET PARKING DISTRICT NO. 1

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that after complying with all procedures required by law, the budget for the City of Kearney Offstreet Parking District No. 1 presented and set forth in the budget statement (Annual Operating Budget and Program of Services for the Fiscal Year beginning October 1, 2013 through September 30, 2014) is hereby approved as the Annual Appropriation Bill. All sums of money contained in the budget statement are hereby appropriated for the necessary expenses and liabilities of the City of Kearney Offstreet Parking District No. 1. A copy of the budget document shall be forwarded as provided by law to the Auditor of Public Accounts, State Capitol, Lincoln, Nebraska, and to the County Clerk of Buffalo County, Nebraska, for use by the levying authority.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **2013 PROPERTY TAX LEVY**

Mayor Clouse opened the public hearing setting the 2013 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk and to consider Resolution No. 2013-177.

Director of Finance Wendell Wessels presented this matter to the Council. Section 77-1601.02 of the Nebraska Revised Statutes requires political subdivisions of the State of Nebraska to conduct a Special Public Hearing to set the 2013 property tax request if the request is going to be different than the 2012 property tax request. The same statutes include a provision stating that the property tax request for 2012 will be the property tax request for 2013 unless the political subdivision passes by a majority vote a resolution setting the property tax request at a different amount.

Resolution No. 2013-177 sets the property tax request for 2013. The 2013-2014 City of Kearney Budget includes a property tax requirement of \$2,412,885.96 for the General Fund, and a property tax requirement of \$321,680.96 for the Public Safety Tax Anticipation Bond Fund. The 2013 property tax requirements are different than the 2012 property tax requirements; therefore, a Special Public Hearing is required to set the 2013 property tax requirement.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-177** setting the 2013 City of Kearney property tax levy at a different amount than the preliminary property tax levy set for the City of Kearney by the Buffalo County Clerk. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-177**

WHEREAS, Section 77-1601.02 of the Nebraska Revised Statutes authorizes the City Council to set the 2013 property tax request for the City of Kearney; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that a 2013 property tax request be set for the City of Kearney.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes an All-Purpose Tax Request of \$2,412,885.96 is set for the fiscal year beginning the 1st day of October, 2013 and ending on the 30th day of September, 2014 for the purpose of equipping, maintaining and paying the departments of the City of Kearney.

BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that, pursuant to the provisions of Section 77-1601.02 of the Nebraska Revised Statutes, a Special Tax Request of \$321,680.96 is set for the fiscal year beginning the 1st day of October, 2013 and ending the 30th day of September, 2014 for

the purpose of paying off bonds authorized by Section 18-1202 of the Nebraska Revised Statutes.

BE IT FURTHER RESOLVED that the City Clerk is hereby ordered to certify said request to the Buffalo County Clerk in order that the same may be placed on the property tax rolls and be collected in the manner provided by law.

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 October 1, 2013.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 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, September 9, 2013 by adding Subsections 13, 14, 15 and 16.

Council Member Buschkoetter stated he needed to abstain from voting on Subsection 4 of the Consent Agenda.

Moved by Clouse seconded by Lammers that Subsections 1, 2, 3 and 5 through 16 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

1. Approve Minutes of Regular Meeting held August 27, 2013.

2. Approve the following Claims:

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

Agri Service Center \$3,026.25 smcs; Airport Revenue Fund \$2,000.00 smcs; Alamar Uniforms \$130.80 smcs; Alfred Benesch \$4,115.38 co; American Fence Company \$4,590.00 smcs; Anderson,S \$301.24 smcs; Ask Supply \$561.17 smcs; Aurora Coop \$54.40 smcs; Bacon,B \$12.48 smcs; Baer,E \$316.80 smcs; Baker & Taylor Books \$6,440.04 smcs; Bamford \$879.57 smcs; Beckenhauer,T \$14.41 smcs; Birdwell,W \$53.41 smcs; Blackstone Audio \$16.00 smcs; Blaze Publications \$297.00 smcs; Blessing Construction \$146,821.47 smcs,co; BlueCross BlueShield \$43,406.51 smcs; Bosselman \$3,492.50 smcs; Brown Traffic Products \$1,878.00 smcs; Buffalo Co. Register Deeds \$144.00 smcs; Buffalo Co. Treasurer \$10.00 co; Buffalo Co. Weed Control \$299.45 smcs; Builders \$7.12 smcs; Bullex \$7,343.00 smcs; Capital Business Systems \$302.18 smcs; Casey's General Store \$177.98 smcs; Cash-Wa Distributing \$2,172.78 smcs; Center Point Large Print \$72.71 smcs; Central Fire & Safety \$392.80 smcs; Central Hydraulic Systems \$1,369.16 smcs; Central NE Bobcat \$1,720.00 co;

Charter \$254.99 smcs; Chavez,K \$50.24 smcs; Chesterman \$805.90 smcs; Churchill,C \$358.03 smcs; City of Ky \$429,074.77 ps; City of Ky \$57,495.16 smcs,co; Clevenger Petroleum \$4,496.90 smcs; Comcate \$4,961.00 smcs; Community Action Partner \$136.00 smcs; Consolidated Management \$199.75 smcs; Cook,J \$97.10 smcs; Cornhusker Cleaning \$59.59 smcs; Countryside Christian \$165.00 smcs; Crane River Theater \$2,568.75 smcs; Credit Management Serv. \$29.42 ps; Crouch Recreation Design \$20,783.00 co; Cummins Central Power \$3,589.75 smcs; Dandee Concrete \$3,960.00 co; Demco \$57.83 smcs; Deterdings \$77.72 smcs; Dickey's Barbecue Pit \$175.00 smcs; DT Development \$10.80 smcs; Eakes \$1,376.28 smcs; Eirich,T \$50.00 smcs; Elliott Equipment \$301.80 smcs; EMC Insurance Companies \$4,506.43 smcs; Eustis Body Shop \$613.80 smcs; Express Sharpening \$96.00 smcs; Fairbanks Int'l \$3,967.75 smcs; Fiddelke Heating \$833.00 smcs; FireGuard \$407.62 smcs; Fools of Oz \$50.00 smcs; Footjoy \$277.12 smcs; Fruit,T \$30.14 smcs; GE Money Bank \$3,100.81 smcs; Golf Buddy \$522.38 smcs; H&H Distributing \$1,132.60 smcs; HD Supply \$3,195.76 smcs; Henning,J \$50.00 smcs; Hometown Leasing \$265.92 smcs; ICMA Retirement Trust \$3,982.90 ps; Internal Revenue Service \$126,355.98 ps; Island Supply \$83.32 smcs; J&B Powder Coating \$100.00 smcs; Jack Lederman \$866.29 smcs; Jack's Uniform \$4,489.57 smcs; JCB Enterprise \$27.00 smcs; Johnson,S \$40.00 smcs; Kamrath,R \$26.00 smcs; Kart-Man \$999.00 smcs; Kassis,G \$133.44 smcs; Kearney Crete & Block \$1,056.03 smcs,co; Kearney United Way \$915.06 ps; Kearney Visitors Bureau \$56,853.54 smcs; Klaus,M \$307.10 smcs; Krull Insurance \$1,950.00 smcs; Lawn Builders \$79.95 smcs; League Assoc. Risk Mgmt. \$750.00 smcs; League of NE Municipalities \$3,492.00 smcs; Madron,R \$29.29 smcs; Magic Cleaning \$2,050.00 smcs; Mail Express \$110.42 smcs; Marlatt Machine Shop \$66.88 smcs; Martin,D \$7.97 smcs; Mason,C \$27.36 smcs; Matheson Tri-Gas \$21.47 smcs; Matt Friend Truck \$7,415.00 smcs; Mehlin,C \$68.20 smcs; Menards \$22.14 smcs; Metlife \$11,382.51 ps; Mid American Signal \$18,163.88 smcs; Midnight Cleaning \$275.00 smcs; Midwest Turf \$11,517.00 co; Miller Signs \$80.00 smcs; Mindmixer \$250.00 smcs; Moonlight Embroidery \$1,862.50 smcs; MPH Industries \$244.38 co; Municipal Supply \$3,965.68 smcs; National Tactical Officers \$150.00 smcs; NE Child Support \$2,284.66 ps; NE Dept. of Environmental \$7,500.00 smcs; NE Dept. of Revenue \$54,267.46 ps; NE Machinery \$2,454.73 smcs; NE Public Health \$1,457.00 smcs; NE Truck Center \$123,620.65 co; NEland Distributors \$349.60 smcs; Northwestern Energy \$211.48 smcs; O'Keefe Elevator \$378.75 smcs; Olive Software \$4,200.00 smcs; One Call Concepts \$550.75 smcs; Outdoor Recreation \$942.00 co; Overdrive \$3,000.00 smcs; Panwoicz,K \$192.00 ps; Paramount Linen \$64.97 smcs; Patterson,K \$2,391.00 smcs; Payflex Systems \$544.00 ps; Pitney Bowes \$52.48 smcs; Platte Valley Comm \$1,580.53 smcs; Presto-X \$112.00 smcs; Random House \$127.50 smcs; Rasmussen,T \$6.95 smcs; Ready Mixed Concrete \$709.68 smcs; Recorded Books \$125.36 smcs; Rivershore Reading Store \$695.00 smcs; RMV Construction \$57,833.10 co; RNDC-Eagle Division \$221.84 smcs; RNDC-Falcon Division \$61.80 smcs; Roper Radiator Service \$1,185.00 smcs; Safelite \$186.90 smcs; Sapp Brothers \$39,739.50 smcs; Scharff,Z \$14.42 smcs; School District #7 \$940.80 smcs; Setcom Corporation \$71.85 smcs; Sheldon,S \$74.28 smcs; Showcases \$414.20 smcs; Simulaid \$1,382.25 smcs; Sirsi Dynix \$1,784.50 smcs; Stark,J \$21.58 smcs; State Fire Marshal Training \$50.00 smcs; State of NE/AS Central \$3,785.54 smcs,co; Sterling Distributing \$285.40 smcs; Tacha,J \$50.00 smcs; Taser International \$587.00 smcs; Theis,J \$30.00 smcs; Thome,B \$12.00 smcs; Titleist \$118.50 smcs; Tri-City BMX \$3,000.00 smcs; Tri-County Glass \$2,962.00 co; TruGreen ChemLawn \$196.00 smcs; Tye & Rademacher \$11,114.57 smcs; Ullman,M \$316.80 smcs; Union Bank & Trust \$57,082.09 ps; Upstart

\$125.42 smcs; Vasquez,C \$40.00 smcs; Verizon \$1,064.32 smcs; Village Uniform \$543.59 smcs; Warren-T Plumbing \$144.00 smcs; We Care Tree Care \$225.00 co; Wisch,R \$21.69 smcs; Wood,N \$78.01 smcs; Wright,D \$400.00 smcs; Yant Equipment \$250.00 smcs; Payroll Ending 8-24-2013 -- \$372,711.64. 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. 2013-178** allowing the City of Kearney to increase its "Budget Authority" by an additional one percent or \$120,667.60 which will be carried over to the 2013-2014 Budget as "Unused Budget Authority".

### **RESOLUTION NO. 2013-178**

WHEREAS, on April 2, 1998 the Nebraska Legislature passed and approved LB 989 which imposes a two and one half percent lid on certain restricted funds for local governments; and

WHEREAS, Section 13-519.03 of the Nebraska Revised Statutes, as amended, allows governmental units to exceed the two and one half percent limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body; and

WHEREAS, the Mayor and City Council of the City of Kearney Nebraska hereby finds and determines that it is in the best interests of the City of Kearney that the City of Kearney exceed the limit as provided in Section 13-519.01 of the Nebraska Revised Statutes, as amended, by an additional one percent as allowed pursuant to Section 13-519.03 of the Nebraska Revised Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Kearney, Nebraska, that the City of Kearney exceed the limit as provided in Section 13-519.03 of the Nebraska Revised Statutes, as amended, by an additional one percent.

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 October 1, 2013.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**5. Adopt Resolution No. 2013-179** repealing Resolution No. 2012-154 and adopt the 2013-2014 Comprehensive Fee Schedule setting forth the fees for items and services to be provided by the City during the 2013-2014 year.

### **RESOLUTION NO. 2013-179**

WHEREAS, the Mayor and City Council of the City of Kearney have established fees for items and services provided to its citizens; and

WHEREAS, the Comprehensive Fee Schedule setting forth the fees for such items and services to be provided during the 2012-2013 fiscal year was adopted by Resolution No. 2012-154 on September 11, 2012 by the City Council; and

WHEREAS, the Comprehensive Fee Schedule attached hereto as Exhibit "A" sets out the proposed fees for such items and services to be provided during the 2013-2014 fiscal year; and

WHEREAS, it is recommended that such Comprehensive Fee Schedule be adopted.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Comprehensive Fee Schedule attached hereto as Exhibit "A" is hereby approved and adopted with an effective date of October 1, 2013.

BE IT FURTHER RESOLVED that Resolution No. 2012-154 be and is hereby repealed in its entirety.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Approve the Applications for deferral of special assessments submitted by Patricia Norman and Grand West with regard to Paving Improvement District No. 2011-950 for 17th Avenue from 49th Street Place north 522.66 feet.

7. Adopt **Resolution No. 2013-180** approving the Grant Agreement between the City of Kearney and the Federal Aviation Administration for Project 3-31-0045-028-2013; the Wildlife Hazard Assessments Project at the Kearney Regional Airport.

**RESOLUTION NO. 2013-180**

A RESOLUTION ADOPTING AND APPROVING THE EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR PROJECT NO. 3-31-0045-028-2013 FOR THE WILDLIFE HAZARD ASSESSMENTS PROJECT AT THE KEARNEY REGIONAL AIRPORT

WHEREAS, the City of Kearney, Nebraska has submitted a project application to the Federal Aviation Administration for Project No. 3-31-0045-028-2013 for the Wildlife Hazard Assessments Project at the Kearney Regional Airport; and

WHEREAS, the Federal Aviation Administration has approved the project for the Kearney Regional Airport.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that:

1. The City of Kearney shall enter into a Grant Agreement with the Federal Aviation Administration for Project No. 3-31-0045-028-2013 for the purpose of obtaining federal assistance for the Wildlife Hazard Assessments Project at the Kearney Regional Airport. The Grant Agreement, marked as Exhibit "A", is attached hereto and made a part hereof by reference.

2. The Mayor of the City of Kearney is hereby authorized and directed to execute said Grant Agreement on behalf of the City of Kearney and the City Clerk is hereby authorized to attest said execution.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**8.** Adopt **Resolution No. 2013-181** approving the Contract for Professional Services between the City of Kearney and Gander Island Consulting Services, Inc. providing services on the Wildlife Hazard Assessment Project.

### **RESOLUTION NO. 2013-181**

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, on August 13, 2013 the City Council accepted the proposal submitted by Gander Island Consulting Services from Aberdeen, South Dakota in the amount of \$61,850.00 which has been approved by the FAA and the Nebraska Department of Aeronautics.

NOW, THEREFORE, BE IT RESOLVED by the President and City Council of the City of Kearney, Nebraska that the Mayor that the Contract for Professional Services between the City of Kearney and Gander Island Consulting Services, Inc. providing services on the Wildlife Hazard Assessment Project be and is hereby approved. The Contract, marked as Exhibit A is attached hereto and made a part hereof.

BE IT RESOLVED that the Mayor be and is hereby authorized and directed to execute Contract for Professional Services on behalf of the City of Kearney.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**9.** Accept the bids received 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 Box Butte Avenue and adopt **Resolution No. 2013-182** awarding the bid to Midlands Contracting in the amount of \$49,735.00 for the water and to Dan Roeder Concrete in the amount of \$212,174.00 for the paving.

### **RESOLUTION NO. 2013-182**

WHEREAS, Olsson Associates and the City of Kearney have reviewed the sealed bids which were opened on September 3, 2013 at 2:00 p.m. 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 Box Butte Avenue; and

WHEREAS, the Engineers Opinion of Probable Construction Cost for Bid A (Water) was \$56,385.00 and for Bid B (Paving) was \$171,545.00 for the said project; and

WHEREAS, the said engineers have recommended the bid offered by Midlands

Contracting of Kearney, Nebraska in the sum of \$49,735.00 be accepted as the lowest responsible bid for 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

WHEREAS, the said engineers have recommended the bid offered by Dan Roeder Concrete of Kearney, Nebraska in the sum of \$212,174.00 be accepted as the lowest responsible bid for paving Box Butte Avenue.

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 11 Improvements – Bid A (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 \$49,735.00 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 Dan Roeder Concrete be and is the lowest responsible bidder for the 2013 Part 11 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 Dan Roeder Concrete in the amount of \$212,174.00 be and is hereby accepted.

BE IT FURTHER RESOLVED the Engineer's Opinion of Probable Construction Cost for Bid A (Water) in the amount of \$56,385.00 and for Bid B (Paving) in the amount of \$171,545.00 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 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**10.** Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on September 28, 2013 from 4:00 p.m. until 12:00 a.m. for a reception.

**11.** Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Ag Pavilion located at the Buffalo County Fairgrounds, 3807 Avenue N, on October 12, 2013 from 3:00 p.m. until 12:00 a.m. for a reception.

**12.** Approve the application for a Special Designated License submitted by Night Life Concepts, Inc., dba Cunningham's Journal in connection with their Class CK-59311 catering liquor license to dispense beer, wine and distilled spirits in the Exhibit Building located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 8, 2013 from 3:00 p.m. until 12:00 a.m. for a dance.

**13.** Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on September 21, 2013 from 11:00 a.m. until 3:00 p.m. for tailgating area.

**14.** Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on October 5, 2013 from 10:30 a.m. until 3:00 p.m. for tailgating area.

**15.** Approve the application for a Special Designated License submitted by Earn & Return Investments, Inc., dba Cellar Bar & Grill in connection with their Class I-064728 liquor license to dispense beer and distilled spirits in Parking Lot 13 on UNK Campus located at 2508 12th Avenue on October 19, 2013 from 10:00 a.m. until 1:00 p.m. for tailgating area.

**16.** Adopt **Resolution No. 2013-184** accepting the bid received for 2013 Part 7 Improvements; Downtown Lighting; approving Change Order No. 1 showing a decrease in the amount of \$451,195.30; and awarding the bid to Blessing, LLC in the new contract price of \$608,809.85.

Moved by Clouse seconded by Lammers that Subsection 4 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter abstained. Motion carried.

**4.** Approve the recommendation submitted by the Keno Committee on the allocation of non-departmental keno funds designed for outside agencies.

## **V. CONSENT AGENDA ORDINANCES**

### **ORDINANCE NO. 7837 ANNUAL SALARY ORDINANCE**

This ordinance will repeal Ordinance No. 7752 (2012-2013 Annual Personnel Ordinance); classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for the payments of vehicle allowances; and provide for the payment of cell phone allowances.

Ordinance No. 7837 includes all the job classifications, pay grades and ranges of compensation that are included in the City of Kearney 2013-2014 Pay Policy. Additionally, various employee benefits as discussed above have been included in the ordinance. Passage of the Personnel Ordinance is done on an annual basis in conjunction with the budget process. Ordinance No. 7837 is required pursuant to Section 16-502 of the Nebraska Revised Statutes, which mandates that the governing bodies of First Class Cities specifically appropriate all personnel expenditures in

ordinance form. The 2013-2014 City of Kearney budget includes salaries and benefits reflected in the attached Personnel Ordinance.

Council Member Lammers introduced Ordinance No. 7837, being Subsection 1 of Agenda Item V repealing Ordinance No. 7752 and classify the officers and employees of the City; fix the ranges of compensation of such officers and employees; establish the hours and work period for overtime eligibility; provide for payments of clothing and/or uniform allowances; provide for payment of vehicle allowance; and provide for payment of cell phone allowance, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7837 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. 7837 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7837 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. 7838 AMENDING SECTION 3-1313 OF THE CITY CODE**

City Staff has reviewed certain code provisions dealing with the sale of and the consumption of alcoholic beverages. City code currently requires a 300 foot distance between a business that sells alcohol and a school or church. The State requirement in this regard is a spacing of 150 feet. We presently have locations within the City that sell alcohol and that are closer than the 300 feet. To be consistent with State law, City staff has drafted a revision to City code reducing this distance from 300 to 150 feet.

Also, the City of Kearney does not currently have a code section making it illegal to consume alcoholic beverages on public streets and alley ways. Omaha, Lincoln, and Grand Island all have code sections that outlaw the consumption of alcohol in these areas. City staff believes that for public safety purposes adopting a code section that would make it illegal to consume alcohol on a public street, roadway, or alley would be appropriate.

Council Member Lammers introduced Ordinance No. 7838, being Subsection 2 of Agenda Item V amending Section 3-1313 "Alcoholic Beverages; Locational Restrictions" of Article 13 "Alcoholic Beverages" of Chapter 3 "Business Regulations of the City Code

to provide no alcoholic beverages or liquor shall be sold or dispensed at retail within 150 feet of the property of any church, school, hospital, or home for aged or indigent persons or for veterans, their wives or children; to add a new section entitled Section 3-1313.1 "Alcoholic Beverages; Sale for Consumption on Premises Near Campus of College or University"; to add a new Section entitled Section 3-1313.2 "Alcoholic Beverages; Places Where Drinking Prohibited.", and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7838 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. 7838 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7838 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. 7839 AMENDING SECTION 8-805 OF THE CITY CODE**

Kearney Public Schools has requested that we reestablish School Zones around the old Kenwood School site and establish a School Bus Loading Zone on the east side of 5th Avenue from 16th Street south 150 feet.

When the new Kenwood School opened, Kearney Public Schools intended to close the old Kenwood School and move the Administration Offices into the old Kenwood building. However, they have now decided to leave the Administration Offices at their current location and reestablish the old Kenwood School building as the Kearney Education Center School with classrooms for students. When they closed the old Kenwood School, we moved the Kenwood School zone signage and description in the City Code to the new location, thereby removing all signage and references of the old school site from the City Code.

With the establishment of the Kearney Education Center School Zone, we will install the new chartreuse signs that are currently placed in all school zones and all zones have beginning and ending of the school zone signs. The zones are in areas that abut the school properties and do not extend significantly past the property borders. All speed zones will be marked as 20 mile per hour zones between the hours of 7:30-8:30 a.m. and 3:00-4:00 p.m.

<b>Kearney Education Center School Zone</b>	
15th Street	From 4th Avenue to 5th Avenue
16th Street	From 4th Avenue to 5th Avenue
4th Avenue	From 15th Street to 16th Street
5th Avenue	From 15th Street to 16th Street

Council Member Lammers introduced Ordinance No. 7839, being Subsection 3 of Agenda Item V amending Section 8-805 “School Zones” of Article 8 “Speed Limitations” of Chapter 8 “Police” of the City Code to reestablish the school zone around the old Kenwood School site as Kearney Education Center School Zone and setting forth the speed limits, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, 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. 7839 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. 7839 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Nikkila, Buschkoetter, Lear. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7839 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**

**TAX INCREMENT FINANCING FOR HABITAT FOR HUMANITY**

Mayor Clouse opened for discussion the redevelopment project submitted by Habitat for Humanity for Redevelopment Area #7 for an area described as Lots 1 and 2 Luth & Sobotka Industrial Park to the City of Kearney, Buffalo County, Nebraska (Avenue M and east 17th Street) and to consider Resolution No. 2013-183.

Suzanne Brodine, Assistant City Manager/Development Services Director presented this matter to the Council. The project that you are looking at this evening is the Habitat for Humanity Subdivision which you saw earlier on the agenda as Marlatt Subdivision. What they are looking at constructing here is 26 lots and the TIF project is only for the first 11 lots. Phase I infrastructure which would be constructed in 2014-2015 and would serve the first 11 lots that Habitat could build on. They do build approximately three

homes per year so this would last them quite a while and they may come back at some point in the future to discuss an additional phase of infrastructure when they view those 11 lots so that we can continue their project. The CRA looked at this project; there would be an increase in valuation during that Phase I of approximately \$825,000 for those 11 lots by the time it is completely built out once all 11 homes are constructed so a fairly significant increase in this area of town.

They recommend a tax increment financing at 90 percent which would generate a total of \$218,586 over the 15-year period. This is a little bit different than most of the TIF projects because the houses are developed over a series of years rather than the entire project being done at once so the TIF is a little different, they will receive the full 15 years on houses 1-3 but those last three house they do they will receive fewer years of TIF off of those. In addition with this project to assist the CRA in this both because it is a Habitat project and it is part of the CRA's guideline as established by City Council to try and provide low income housing within the community they have also provided \$50,000 to be paid over two years and a grant towards the infrastructure for this project it will be payable to the City to help reduce the assessment costs for these infrastructure districts to Habitat for Humanity.

Council Member Nikkila asked the \$50,000 so that came out of their funds, CRA funds and so essentially they are paying the property taxes for Habitat, how does that work. Assistant City Manager stated the districts the City pay. When you look at that the first two years, the payments are larger than the amount of TIF that comes in because they only build three houses a year so they are not bringing in enough TIF to pay for the cost of the infrastructure so those first two years there was a deficit there and so the CRA provided a grant of funding to them to help offset that deficit.

Council Member Nikkila asked grant meaning they are obviously not paying that back. Assistant City Manager confirmed and stated that grant does not actually go to Habitat it will be paid to the City so that district assessment bill will be less that Habitat would receive.

Moved by Lear seconded by Buschkoetter to adopt Resolution No. 2013-183 finding that the redevelopment project for Redevelopment Area #7 set forth in the application submitted by Habitat for Humanity would not be economically feasible without the use of tax-increment financing, that the proposed redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing and, that the costs and benefits of the proposed redevelopment project are found to be in the long term best interests of the community; and further move that the redevelopment project be granted 90 percent of the anticipated TIF valuation for eligible expenses payable until the 15-year TIF period expires be granted and further grant the Chairman and legal counsel the authority to negotiate and execute a redevelopment contract with Habitat for Humanity.. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **RESOLUTION NO. 2013-183**

WHEREAS, the City of Kearney, Nebraska, a municipal corporation and city of the first class, has determined it be desirable to undertake and carry out urban redevelopment projects in areas of the City which are determined to be substandard

and blighted and in need of redevelopment; and

WHEREAS, the Nebraska Community Development Law, Chapter 18, Article 21, Nebraska Reissue Revised Statutes of 1991, as amended (the "Act"), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has declared an area of the City to be substandard and blighted and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Redevelopment Authority of the City of Kearney, Nebraska (the "Authority"), has prepared a Redevelopment Plan for Area #7 pursuant to Section 18-2111 of the Act ("Redevelopment Plan"), and recommended the Redevelopment Plan to the Planning Commission of the City; and

WHEREAS, the Planning Commission of the City reviewed the Redevelopment Plan pursuant to the Act and submitted its recommendations, if any, to the Authority, pursuant to Section 18-2114 of the Act; and

WHEREAS, in accordance with Section 18-2114 of the Act, the Authority submitted its recommendation, along with the recommendation from the Planning Commission to the City Council; and

WHEREAS, following consideration of the recommendations of the Planning Commission and the Authority, and following the public hearing with respect to the Redevelopment Plan, the City approved the Plan; and

WHEREAS, there has been presented to the City by the Authority for approval pursuant to and in accordance with Section 18-2119 of the Act a specific Redevelopment Project within the Redevelopment Plan and as authorized in the Redevelopment Plan, as legally described as a tract of land described as Lots 1 and 2, Luth & Sobotka Addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 603786201 and 603786202; and

WHEREAS, the City Council has determined that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project have been found to be in the long-term best interests of the community.

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

1. The Redevelopment Plan of the City previously approved for the area described on the attached Exhibit "A", including the Redevelopment Project legally described as a tract of land described as Lots 1 and 2, Luth & Sobotka Addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 603786201 and 603786202 is hereby determined to be feasible and in conformity with the general plan for the development of the City of Kearney as a whole and the Redevelopment Plan, including the Redevelopment Project identified on Exhibit "A", is in conformity with the legislative declarations and determinations set forth in the Act.

2. The City Council hereby determines that the proposed Redevelopment Project would not be economically feasible without the use of tax increment financing; that the proposed Redevelopment Project would not occur in the community without the use of tax increment financing, and; that the costs and benefits of the proposed Redevelopment Project are found to be in the long-term interests of the community.

3. Approval of the Redevelopment Plan is hereby ratified and reaffirmed, as amended by this Resolution, and the Authority is hereby directed to implement the Redevelopment Plan in accordance with the Act.

4. Pursuant to Section 18-2147 of the Act, ad valorem taxes levied upon real property in a redevelopment project for the benefit of any public body, included or authorized in the Plan which is legally described as a tract of land described as Lots 1 and 2, Luth & Sobotka Addition to the City of Kearney, Buffalo County, Nebraska and designated as Parcel IDs 603786201 and 603786202 shall be divided, for a period not to exceed 15 years after the effective date of the provision, which effective date shall be identified in the Project Redevelopment Contract, as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each public body upon the redevelopment project valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds, of loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies.

c. Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

5. The President and City Clerk are authorized and directed to execute and file with the Treasurer and Assessor of Buffalo County, Nebraska, an Allocation Agreement and Notice of Pledge of Taxes with respect to the Redevelopment Project substantially in the form attached hereto as Exhibit "B" with appropriate insertions.

PASSED AND APPROVED THIS 10TH DAY OF SEPTEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**OPEN ACCOUNT CLAIM TO NPPD - \$6,195.61**

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$6,195.61 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**

Council Member Nikkila stated several churches are recognizing the upcoming weekend as Step Out & Serve. 1,500 people are doing various service projects around town.

**VIII. ADJOURN**

Moved by Lear seconded by Nikkila that Council adjourn at 8:38 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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

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