

*Kearney, Nebraska
October 22, 2013
7:00 p.m.*

A meeting of the City Council of Kearney, Nebraska, was convened in open and public session at 7:00 p.m. on October 22, 2013, in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaelle Trembly, City Clerk; Council Members Randy Buschkoetter, Bob Lammers and Jonathan Nikkila. Absent: Bruce Lear. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/ Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; Shawna Erbsen, Administrative Services Director; and Shelley Dennis, Risk Management Coordinator were also present. Some of the citizens present in the audience included: Tim Hughbanks, Matthew Epp, Kylie Epp, Gerry O'Rourke, Dallas Watkins, Tony Seever, Mark Loescher, Roberta Loescher, Steve Altmaier from KGFW Radio, Adam Konruff from Kearney Hub.

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

I. ROUTINE BUSINESS

MOMENT OF SILENCE

The Council held a moment of silence.

PLEDGE OF ALLEGIANCE

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

ANNOUNCEMENT

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

ORAL COMMUNICATIONS – CITY OF KEARNEY INSURANCE PROGRAM

Tim Hughbanks from Barney Insurance presented information to the City Council on the City's insurance program. The Council previously received a packet which includes the breakdown of premiums as it compares to the prior year. The first page of that shows all the current coverages that the City has with Employer's Mutual. The second page shows the ancillary coverage which include coverages that are written outside of

Employer's Mutual. The workers' compensation premium actually went down again this year even though there was an increase in premiums. The primary reason for that is the City's experience modification factor went from a .70 to .61. Last year he reported that it had dropped to .70 which Employers Mutual thought was outstanding; they never seen any that low. There is a firm called NCCI (National Council on Compensation Insurance), and regardless of the type of business those claims are reported to them on a regular basis and they determine what the experience factor is. 1.0 being the standard flat rate that anybody would have so anything below that is truly remarkable when you consider the number of employees and the number of different types of jobs that the City employees do. He has been in the business for 30 years and has never seen one that low. That is a true testament to everything that the City Manager, Risk Management Coordinator and Director of Administrative Services have done in promoting safety and awareness within the staff. Also, the entire staffs' awareness of safety and willingness to get back to work when they do have an injury all attributes to that.

He did some quick math just to see where EMC would be and assuming the City's prior carrier had never made a premium increase, which was fairly unlikely considering they were going up an average of 15% a year prior to that, EMC has saved the City about \$2.6 million over the last 7 or 8 years as a result of that.

City Manager Michael Morgan stated this has become routine and it probably should not be because it is a big deal and Barney Insurance with Mr. Hughbanks's leadership and the risk management team is doing an outstanding job. \$2.6 million is real money. There are other cities that are in LARM (League Association of Risk Management) today that are looking to leave and who have monitored what Kearney has been doing. It has worked for Kearney and it is a great relationship. It is nice to have the resources put to use in the community with the local business.

Mr. Hughbanks stated he has the opportunity to attend the Safety Meetings and see the excitement and willingness to learn and share with different departments to what they can do to improve even from one meeting to the next. There is always something that gets discussed and they also do the safety audits of the buildings. From the time he started walking through those with the staff to now is a remarkable difference. There are relatively zero problems anymore. It is the entire staff that is very aware of it.

Council Member Lammers commended the staff on an outstanding job by the staff and also commended the City Manager. When the City first left LARM was a concern. It was a big step because Kearney had been in the program a long time. The City was hoping to save money but had no idea that it would save \$250,000 a year.

Council Member Buschkoetter asked if there would be any changes to the law with regard to insurance that the City would need to know about. Mr. Hughbanks stated he did not anticipate any major changes at all. On behalf of EMC and his entire staff at Barney's they certainly appreciate the opportunity and look forward to working with the City again this year.

II. UNFINISHED BUSINESS

There was no Unfinished Business.

III. PUBLIC HEARINGS

GILLIES BAR AND GRILL LIQUOR LICENSE

Mayor Clouse opened the public hearing on the Application for a Class C-105103 liquor license submitted by Matthew Epp, dba Gillies Bar and Grill located at 1822 Central Avenue and to consider Resolution No. 2013-200.

This is a new application submitted by Matthew Epp, dba Gillies Bar and Grill for a license to sell alcohol at its facility located at 1822 Central Avenue. The current facility has held a liquor license since 1994 by Gil and Sally Vasquez. This application is a change in ownership.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicants. There was nothing found in the background that would indicate a problem with compliance with Council policy nor is there any recent history of any issues with any of the corporate stores in Nebraska. The applicant has knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, on March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. Mr. Epp has submitted the Liquor License Training Compliance form indicating that their employees will receive training on November 21, 2013.

Matthew Epp presented this matter to the Council. He stated as far as being safe at the bar, they check everybody's IDs and call the police whenever necessary. If there is a fake ID, they keep the ID and notify whoever needs to be notified. They do not serve anyone that is overly intoxicated.

Council Member Lammers asked what their plans were if he had someone who is serving alcohol to a minor, how would he handle that situation. Mr. Epp stated he would have to call the Law Enforcement or the Liquor Commission but his wife and himself will be the only employees as of right now.

Council Member Buschkoetter stated he understood they are going to go through the training process in November. Mr. Epp stated they would be taking the Responsible Beverage Training. They both took the online TIPS course but they needed further training which is scheduled for November 21st.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-200** recommending approval to the Nebraska Liquor Control Commission the Application for a Class C-105103 liquor license submitted by Matthew Epp, dba Gillies

Bar and Grill located at 1822 Central Avenue. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

RESOLUTION NO. 2013-200

WHEREAS, Matthew Epp, dba Gillies Bar and Grill has filed with the Nebraska Liquor Control Commission and the City Clerk of the City of Kearney, Nebraska, an application for a Class C-105103 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to do business at 1822 Central Avenue, Kearney, Nebraska, and has paid all fees and done all things required by law as provided in the Nebraska Liquor Control Act; and

WHEREAS, a hearing was held relating to said application on October 22, 2013 and the cost of the published notice was \$11.29; and

WHEREAS, the applicant has submitted the Liquor License Training Compliance form indicating all employees have or will complete a state approved alcohol server/seller training program.

NOW, THEREFORE, BE IT RESOLVED that the President and City Council of the City of Kearney, Nebraska approve or recommend approval to the Nebraska Liquor Control Commission of the issuance of a Class C-105103 (Beer, Wine and Distilled Spirits – On and Off Sale) Liquor License to Matthew Epp, dba Gillies Bar and Grill located at 1822 Central Avenue, Kearney, Nebraska.

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

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2013.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK

IV. CONSENT AGENDA

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

1. Approve Minutes of Regular Meeting held October 8, 2013.

2. Approve the following Claims:

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

1000Bulbscom \$540.12 smcs; 4Imprint \$656.59 smcs; 7-Eleven \$99.25 smcs; 9034 Code \$1.95 co; AT&T \$143.35 smcs; Abramson,C \$30.00 smcs; Acco Brands Direct \$36.35 smcs; Ace Hardware \$141.77 smcs,co; Advance Auto Parts \$14.99 smcs; Air

Delights \$338.94 smcs; Alamar Uniforms \$215.95 smcs; Alert Shirt \$1,657.88 smcs; Al-Jon Mfg \$42.21 smcs; All Makes Auto \$1,909.39 smcs; Allied Electronics \$49.72 smcs; Amazon \$2,853.88 smcs,co; American \$192.80 smcs,co; Amer First Aid \$199.08 smcs; Amer Legion Emblem \$46.85 smcs; American Library Assn \$315.00 smcs; Amsan \$673.34 smcs; Anderson,S \$288.90 smcs; Appliance Service Center \$1,697.95 co; Ask Supply \$1,005.61 smcs; Aurora Coop \$54.40 smcs; Avery Supplies \$50.90 smcs; AWWA \$615.00 smcs; Baker & Taylor Books \$17,390.61 smcs; Bauer Underground \$2,292.00 co; Beehive Industries \$7,697.00 smcs; Bells Construction \$400.00 co; Belmont Technology \$94.17 co; Bike Shed \$6,498.00 co; Blessing Construction \$1,239.45 smcs; Bluecross Blueshield \$148,233.78 smcs; Body Medica \$50.00 ps; Books Galore \$11,868.42 smcs; Boston Taxi \$39.96 smcs; Broadfoot's Sand & Gravel \$55.00 smcs; Brown Traffic Products \$350.00 smcs; Bruha, \$390.00 smcs; BSN Sport Supply \$1,039.67 smcs; Buffalo Outdoor Power \$759.93 smcs,co; Buggy Bath Car Wash \$70.00 smcs; Builders \$4,913.32 smcs; Cabela's \$161.94 smcs; Cabela's Ventures \$13,050.00 smcs; Camera Doctor \$129.95 smcs; Capital Business Systems \$169.93 smcs; Capstone Press \$3,832.27 smcs; Carquest Auto \$1,880.21 smcs,co; Casey's General Store \$213.37 smcs; Cash Wa Distributing \$720.80 smcs; CBI*Winzip \$29.95 co; CDW Government \$1,646.15 co; Center Point Large Print \$100.68 smcs; Central District Health \$3,900.50 smcs; Central Hydraulic \$170.30 smcs; Central NE Bobcat \$71.73 smcs; Central State Mueller \$683.90 smcs; Charter \$434.71 smcs; Chicken Coop \$40.00 smcs; Chief Supply \$613.03 smcs; Child's World \$1,906.90 smcs; City of Ky \$18,106.71 smcs; Coastal Tool \$102.40 smcs; Coldspring \$216.90 smcs; Compasscom \$50.00 smcs; Computer Warehouse \$6.97 smcs; Construction Rental \$2,053.42 smcs,co; Constantcontactcom \$168.00 smcs; Copycat Printing \$1,503.31 smcs; Cornhusker Cleaning \$400.00 smcs; Crane Sales & Service \$956.37 smcs; Crossroads Ford \$191.05 smcs; Crown Awards \$221.25 smcs; Crucialcom \$90.99 co; Crystal Clean Carpet \$414.00 smcs; Culligan \$89.75 smcs; Cummins Central Power \$610.50 smcs; D&M Security \$100.00 smcs; D&S Lighting \$70.38 smcs; DANKO Emergency \$916.75 smcs; Dave Waggoner Plumbing \$325.00 smcs; Davis Equipment \$185.89 smcs; Dawson Public Power \$3,204.47 smcs; DaylightDonuts \$48.60 smcs; Dell \$3,326.81 smcs,co; Deterdings \$53.98 smcs; Diamond Tours \$6,000.00 smcs; Dish \$73.99 smcs; Diversified \$139.00 smcs; Dmilaco \$181.88 smcs; Dollar-General \$12.00 smcs; Drury Columbus \$505.44 smcs; Dutton-Lainson \$88.35 smcs,co; Dvorak,J \$2.77 smcs; Eakes \$2,928.90 smcs,co; Earl May \$578.00 smcs; Eileen's Cookies \$40.65 smcs; England,J \$230.00 smcs; Eustis Body Shop \$100.00 smcs; Express Parcs \$9.00 smcs; Expression Wear \$330.63 smcs; Fairbanks \$129.93 smcs; Fastenal \$1,814.54 smcs; Fiddelke \$235.85 smcs; Fielding,G \$875.00 smcs; Fire Trader \$35.00 smcs; Fireguard \$4,035.40 smcs; Fleetpride \$1,393.60 smcs; Foote Convenience Plaza \$137.10 smcs; Footjoy \$292.72 smcs; Foremost Promotions \$470.51 smcs; Fort Ky Shooting \$3,000.00 smcs; Frontier \$9,391.32 smcs; Gale \$6,445.93 smcs; Gangwish Turf \$191.10 smcs,co; Gardels,L \$30.00 smcs; Garrett Tires \$6,983.59 smcs; GCSAA \$185.00 smcs; GE Money Bank \$2,910.56 smcs; Gear for Sports \$3,777.91 smcs; Giboney,S \$100.00 smcs; Goodmartcom \$179.99 smcs; Graham Tire \$512.25 smcs; Grainger \$3,446.14 smcs,co; Gray,C \$849.00 smcs; H&H Distributing \$526.70 smcs; Hali-Brite \$380.66 smcs; Hastings \$100.00 smcs; HD Supply \$7,612.56 smcs; Heartland Events Center \$1,080.00 smcs; Heggemeyer,L \$62.25 smcs; HOA Solutions \$1,930.04 co; Hobby-Lobby \$179.04 smcs; Hoehner Turf \$427.82 smcs; Hoffman,N \$21.72 smcs; Holmes Plbg \$1,233.99 smcs,co; Hookers Bros \$430.49 smcs; Horsley,D \$43.54 smcs; IAPMO \$414.50 smcs; Instrumart \$1,405.00 smcs; JJ Keller \$47.22 smcs; Jack Lederman \$2,988.77 smcs,co; James,D \$180.00

smcs; John Deere Landscapes \$140.49 co; Johnstone Supply \$20.71 smcs; Jrs Western \$123.96 smcs; K&K Parts \$1,554.64 smcs; Karg,V \$1,319.46 smcs; Ky Chamber of Comm \$60.00 smcs; Ky Clinic \$402.00 ps; Ky Crete & Block \$798.70 smcs,co; Ky Hub \$2,133.68 smcs; Ky Humane Society \$6,825.00 smcs; Ky Power Sports \$203.65 smcs; Ky Towing \$275.00 smcs; Ky Warehouse \$361.66 smcs; Ky Winlectric \$93.70 smcs,co; Ky Winnelson \$26.75 co; Kelly Supply \$158.73 smcs; Killion Motors \$333.46 smcs; Krabiel,L \$74.99 smcs; Kring,J \$120.00 co; Krueger,L \$50.00 smcs; Landmark Implement \$755.45 smcs; Larue Distributing \$164.20 smcs; LCL Truck Equipment \$879.00 smcs; Ledsnsirenscom \$932.00 smcs; Lewis,B \$34.98 smcs; Lighting Spot \$248.86 smcs; Limbach,D \$88.69 smcs; Lockmobile \$58.35 smcs; Luther,M \$76.85 smcs; Mac Tools \$207.29 smcs; Mail Express \$80.44 smcs; Marlatt Machine \$457.56 smcs; Marriott Hotel \$519.97 smcs; Matheson Tri-Gas \$700.25 smcs; McMaster-Carr \$165.40 smcs; Meadowlark Hills Golf \$235.56 smcs; Menards \$4,406.07 smcs,co; Midwest Breathing Air \$168.39 smcs; Midwest Labs \$46.11 smcs; Midwest Mailing \$1,947.00 smcs; Midwest Turf \$894.81 smcs; Miller Signs \$885.00 smcs; Miller,B \$24.27 smcs; Mindmixercom \$250.00 smcs; Mohrman,B \$150.00 smcs; Moonlight Embroidery \$1,122.00 smcs; Mueller,J \$240.00 smcs; Municipal Emergency \$122.00 smcs; Municipal Supply \$2,581.38 smcs; National Arbor Day Found. \$35.00 smcs; Navigator Motorcoaches \$1,130.00 smcs; NCS Equipment \$49.90 smcs; NE Dept of Revenue \$29,140.00 smcs; NE Dept of Environmental \$16,091.86 smcs; NE Machinery \$3,410.32 smcs; NE Municipal Clerks Assn \$35.00 smcs; NE Safety \$87.00 smcs; NE Section of AWWA \$135.00 smcs; NE Truck & Equipment \$1,137.15 smcs; NE Truck Center \$560.60 smcs; NE Truck Equipment \$1,770.94 smcs; Network Solutions \$143.94 smcs; New Victorian Inn \$49.99 smcs; Newsbank \$1,060.80 smcs; NFPA Nat'l Fire \$41.95 smcs; Northern Safety \$894.81 smcs; Northwestern Energy \$2,130.63 smcs; Novus \$85.00 smcs; NRG Media \$65.00 smcs; NWTC Web \$175.00 smcs; OCLC \$575.96 smcs; Office Depot \$551.36 smcs; Office Max \$680.03 smcs,co; Officenet \$2,126.58 smcs; O'Hara Lindsay & Assoc \$1,515.00 smcs; Old Navy \$15.99 smcs; O'Reilly Auto \$107.18 smcs; Orscheln \$630.14 smcs; Otto Environmental \$9,253.00 smcs; Pape,E \$45.00 smcs; Paramount Linen \$116.32 smcs; Party America \$22.15 smcs; Pat's Plbg \$1,965.00 smcs; Patterson,B \$172.10 smcs; Paypal \$3,661.71 smcs,co; PCMG \$840.00 co; Platte Valley Comm \$2,813.13 smcs; Platte Valley Labs \$167.75 smcs; Potter,B \$100.00 smcs; Presto-X \$350.93 smcs; Project Harmony \$75.00 smcs; Provantage \$209.57 smcs; Quiet Zone Technologies \$793.05 smcs; Quill \$562.29 smcs; Quizno's \$143.02 smcs; Radioshack \$242.97 smcs; Radwell Int'l \$126.67 smcs; Random House \$225.00 smcs; Rasmussen Mechanical \$1,776.76 smcs; RDJ Specialties \$179.55 smcs; Ready Mixed Concrete \$29,956.42 smcs,co; Reams \$1,881.17 smcs,co; Recorded Books \$9.75 smcs; Redman's Shoes \$788.31 smcs; Region III \$160.00 smcs; Resource Management \$107.52 smcs; Restaurant Equippers \$349.82 smcs; Roth,N \$142.00 smcs; Rouse,H \$100.00 smcs; Rubber Flooring \$1,456.52 co; Russell,J \$33.83 smcs; Safelite Fulfillment \$1,060.70 smcs; Sahling Kenworth \$25.44 smcs; Salina Blueprint \$512.20 smcs; Salter,J \$164.70 smcs; Sanitation Products \$468.01 smcs; Sapp Bros \$56,101.50 smcs; SCC \$139.00 smcs; Schaeffer Mfg \$980.65 smcs; Schonstedt Instrument \$301.42 smcs; Schutte,N \$30.00 smcs; Sears \$1,947.80 smcs,co; Seneca \$106,200.00 co; Sensus \$212.50 smcs; Sheraton Boston Hotel \$296.43 smcs; Sherwin Industries \$402.85 smcs; Sherwin-Williams \$639.54 smcs,co; SHRM \$350.00 smcs; Sign Center \$1,386.34 smcs,co; Smaha,J \$135.00 smcs; Snap-on Tools \$36.00 smcs; Snipercraft \$76.00 smcs; Snow,C \$225.00 smcs; Softwaremediacom \$949.95 co; Sorinex Exercise Equip \$329.00 smcs; SOS Portable Toilets \$105.00 smcs; Sportmartcom \$14.90 smcs; Stage Coach \$21.92

smcs; Start Stop \$440.00 co; Steinbrink Landscaping \$160.00 smcs; Sun Life Financial \$62,457.48 smcs; Sunmart \$54.31 smcs; Super Shine Auto Care \$7.75 smcs; Superior Signals \$758.52 smcs; SWANA \$195.00 smcs; Target \$273.57 smcs,ps; Terri's' Shrub Design \$590.00 smcs; Thomson West \$147.50 smcs; Thompson,K \$194.70 smcs; Tigerdirect \$4,954.88 smcs,co; Toolsourcecom \$28.90 smcs; Tractor-Supply \$1,166.15 smcs; Tri City Outdoor \$356.54 smcs; Tri-County Glass \$95.00 smcs; TruGreen ChemLawn \$165.00 smcs; Turner Body Shop \$250.00 smcs; Under Armour Direct \$1,274.40 smcs; Unique Management \$304.30 smcs; United \$50.00 smcs; United Seeds \$2,100.00 smcs; Uphoff,M \$96.92 smcs; UPS Store \$265.98 smcs; USA Blue Book \$116.19 smcs; USPS \$115.02 smcs; Van Diest \$1,557.60 smcs; Van Wall Equipment \$202.25 smcs; Vance,S \$24.40 smcs; Verizon Wireless \$29.78 smcs; Wal-Mart \$1,356.28 smcs; Walters Electric \$217.49 smcs; Warrington,D \$164.70 smcs; Water Environment \$55.00 smcs; Wayfair \$253.60 smcs; Webstaurant Store \$54.83 smcs; Wessels,W \$120.91 smcs; West Villa Animal \$61.19 smcs; Wiegand Security \$90.00 smcs; Wilke's True Value \$278.92 smcs,co; Wilkins Hinrichs Stober \$3,441.76 co; Wyman,P \$45.00 smcs; Yanda's Music \$601.00 smcs; Yant Equipment \$711.00 smcs; Payroll Ending 10-5-2013 -- \$381,785.28. The foregoing schedule of claims is published in accordance with Section 19-1102 of the Revised Statutes of Nebraska, and is published at an expense of \$_____ to the City of Kearney.

3. Receive recommendations of Planning Commission and set November 12, 2013 at 7:00 p.m. as date and time for hearing on those applications where applicable.

4. Adopt **Resolution No. 2013-201** approving the selection of Miller & Associates to perform the duties as the Project Administrator of the CDBG 13CR004 Grant as set forth in the contract.

RESOLUTION NO. 2013-201

WHEREAS, the City of Kearney has been awarded a CDBG CR Phase I grant in the amount of \$165,000, including \$12,000 for administration; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for a Project Administrator to ensure that the activities conducted with grant funding are in compliance with DED and Federal regulations; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide management and supervision services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, approving the selection of Miller & Associates to perform the duties as Project Administrator of the CDBG 13CR004 Grant.

BE IT FURTHER RESOLVED that upon award of the grant application by the Nebraska Department of Economic Development, the City Manager be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Kearney and Miller & Associates.

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2013.

ATTEST:

MICHAELLE E. TREMBLY
CITY CLERK

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

5. Adopt **Resolution No. 2013-202** approving the selection of Miller & Associates to perform the duties as the Project Administrator of the CDBG 13CR104 Supplemental Grant as set forth in the contract.

RESOLUTION NO. 2013-202

WHEREAS, the City of Kearney has been awarded a CDBG CR Supplemental Grant in the amount of \$349,300, including \$25,000 for administration; and

WHEREAS, the City of Kearney requested proposals from firms in Central Nebraska for a Project Administrator to ensure that the activities conducted with grant funding are in compliance with DED and Federal regulations; and

WHEREAS, City staff received one proposal and recommends pursuing a contract with Miller & Associates of Kearney to provide management and supervision services.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, approving the selection of Miller & Associates to perform the duties as Project Administrator of the CDBG 13CR104 Supplemental Grant.

BE IT FURTHER RESOLVED that upon award of the grant application by the Nebraska Department of Economic Development, the City Manager be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the City of Kearney and Miller & Associates.

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2013.

ATTEST:

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

MICHAELLE E. TREMBLY
CITY CLERK

6. 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 November 2, 2013 from 9:00 a.m. until 4:00 p.m. for tailgating area.

7. 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 November 9, 2013 from 9:00 a.m. until 4:00 p.m. for tailgating area.

8. Approve the recommendation from Park & Recreation/Cemetery Division to award the proposal for the installation of a new storage building to be located at the Kearney Cemetery, 4400 Avenue I to Astro Buildings from Omaha, Nebraska in the amount of \$73,485.00.

9. Adopt **Resolution No. 2013-203** approving Change Order No. 1 showing an increase in the amount of \$5,185.00 submitted by Sampson Construction and approved by Alfred Benesch & Company for the construction of an Aircraft Rescue and Fire Fighting (ARFF) Facility located at the Kearney Regional Airport.

RESOLUTION NO. 2013-203

WHEREAS, Sampson Construction of Lincoln, Nebraska has performed services in connection with the Aircraft Rescue and Fire Fighting (ARFF) Facility located at the Kearney Regional Airport, and the City's engineer, Alfred Benesch & Company, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$5,185.00, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$1,677,000.29
Change Order No. 1 (10-22-2013)	+ 5,185.00
Contract Sum to Date	\$1,682,185.29

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

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 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 Juan Lazo, dba El Tropicico in connection with their Class IBK-37623 catering liquor license to dispense beer and distilled spirits in the Exhibit Building (alternate location is Exposition Building) located at the Buffalo County Fairgrounds, 3807 Avenue N, on November 16, 2013 from 6:00 p.m. until 1:00 a.m. for a dance.
- 11. Authorize administration to make request to the Nebraska Department of Economic Development to extend the grant contract for CDBG #11-CR-004 to May 8, 2014 to complete the improvements for sidewalks and ADA ramp improvements.
- 12. Adopt **Resolution No. 2013-204** appointing Marty Madden and Duane Ruh to fulfill terms vacated on the Board of Adjustment.

RESOLUTION NO. 2013-204

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

WHEREAS, two vacancies currently exist on the Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the following persons, as proposed by the Mayor of the City of Kearney, Nebraska, are hereby appointed to fulfill the vacated terms as indicated:

BOARD OF ADJUSTMENT

Marty Madden appointed to fulfill the term vacated by Ron Ridgway to July 31, 2015.
Duane Ruh appointed to fulfill the term vacated by Brett Jacobitz to July 31, 2016.

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

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2013.

ATTEST:

MICHAELLE E. TREMBLY
CITY CLERK

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

13. Adopt **Resolution No. 2013-205** approving Change Order No. 1 showing an increase in the amount of \$5,145.77 submitted by Seneca Companies and approved by Wilkins Hinrichs Stober Architects for the construction of a new hangar located at the Kearney Regional Airport.

RESOLUTION NO. 2013-205

WHEREAS, Seneca Companies of Des Moines, Iowa has performed services in connection to the construction of a new hangar located at the Kearney Regional Airport, and the City's architect, Wilkins Hinrichs Stober Architects, have filed with the City Clerk Change Order No. 1 showing an increase to the contract sum in the amount of \$5,145.77, as shown on Exhibit "A", attached hereto and made a part hereof by reference as follows:

Original Contract Sum	\$1,259,000.00
Change Order No. 1 (10-22-2013)	+ 5,145.77
Contract Sum to Date	\$1,264,145.77

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

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2013.

ATTEST:

MICHAELLE E. TREMBLY
CITY CLERK

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

V. CONSENT AGENDA ORDINANCES

None.

VI. REGULAR AGENDA

ORDINANCE NO. 7848 ISSUANCE OF COMBINED UTILITIES REVENUE BONDS, SERIES 2013

On August 13, 2013, the City Council awarded a bid to Midlands Contracting, Inc. for the Fountain Hills Fifth Addition. As indicated in the 2013-2014 budget, the funding source for these improvements will be from proceeds received from the issuance of Series 2013 Combined Utilities Bonds. The Series 2013 Combined Utilities Bonds will be dated November 26, 2013 and the final payment will be on December 15, 2033. The

interest rate for the Bonds will be 0.40% on the one-year bonds to 4.60% on the twenty-year bonds and the total principal amount of the Bonds is \$945,000.00. The new bonds will have a twenty-year maturity schedule. The City will be required to include appropriate funding in its annual budget (Water and Sewer Bond Funds) to pay the principal and interest on the Bonds during the twenty-year life of the Bonds.

Dallas Watkins from Ameritas was present to answer any questions.

Council Member Buschkoetter introduced Ordinance No. 7848, being Subsection 1 of Agenda Item VI authorizing the issuance of Combined Utilities Revenue Bonds, Series 2013, of the City of Kearney, Nebraska, in the aggregate principal amount of \$945,000 for the purpose of paying the cost of maintaining, extending, enlarging and improving the Waterworks Plant and Water System and the Sewage Disposal Plant and Sanitary Sewer System of the City; directing the application of the proceeds of said Bonds; prescribing the form, terms and details of said Bonds; pledging and hypothecating the revenue and earnings of the Waterworks Plant and Water System, Sewage Disposal Plant and Sanitary Sewer System and Electric Distribution System of said City for the payment of said Bonds and interest thereon; providing for the collection, segregation and application of the revenues of said Waterworks Plant and Water System, Sewage Disposal Plant and Sanitary Sewer System and Electric Distribution System; entering into a contract on behalf of the City with the holders of said Bonds, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Clouse seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7848 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Nikkila, Lammers. Nay: None. Lear absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7848 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7848 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.

BOOGAARTS MANAGER APPLICATION FOR ANTHONY SEEVERS

Mayor Clouse opened for discussion the Manager Application for Anthony Seevers submitted by Foodmart III, Inc., dba Boogaarts in connection with their Class C-078216 liquor license located at 1615 2nd Avenue.

The City received an Application for Manager submitted by Foodmart III, Inc., dba Boogaarts in connection with their Class C-078216 liquor license located at 1615 2nd Avenue. Boogaarts has held a liquor license since 2007 and according to the Liquor Commission's web site; they have not had any violations. A background was conducted by the Police Department on Tony Seevers as the applicant for Manager and nothing was found that would prohibit Mr. Seevers from functioning as the manager. He has a basic knowledge of the applicable laws and her plan for managing sales and staff seemed appropriate.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, City Council adopted a Liquor License Policy on March 22, 2011. Mr. Seevers completed the Liquor License Training Compliance Form indicating he and his employees have received training and their Certificates of Training are on file with the City Clerk's Office.

Tony Seevers presented this matter to the Council. He has been in retail a long time and has been at Boogaarts for about a year. He has good staff and they all have taken the training. That has been a good foundation to be able to interact with the employees and let them understand the importance of everything they learn in the training. It is very well explained on how to check for IDs, how to check for people who are underage, and people who are intoxicated. It is a nice tool for them because to say something as a manager is fine but when you are sitting down and you are going through the test on the computer having the City say this is important, this is beyond what the manager is saying, this is the community saying it. Their computers prompt to put in a date of birth when alcohol is scanned and the rule of them is if a person happens to look younger than 35 they are asked to see an ID.

Council Member Nikkila asked are people under drinking age allowed to sell or run alcohol through the checkout. Mr. Seevers stated 19 year olds are allowed to and he has one 18 year old. The 18 year old can run the register but as soon as they clock in we hand them a sign that says no alcohol through this register. It has actually worked as a good tool for them because there are still some folks that are not comfortable with having alcohol in a grocery store and so it almost puts them at ease to go through that line.

Council Member Buschkoetter asked what their policy was if somebody does sell to an underage person. Mr. Seevers stated unfortunately that employee would lose their cashiering privilege which would be their job.

Moved by Lammers seconded by Nikkila to recommend approval to the Liquor Commission the Manager Application for Anthony Seevers submitted by Foodmart III, Inc., dba Boogaarts in connection with their Class C-078216 liquor license located at 1615 2nd Avenue. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

TRU CAFÉ ADDITION TO LIQUOR LICENSE

Mayor Clouse opened for discussion the Application for Addition to Liquor License submitted by Brick Street Enterprises Inc., dba Tru Café in connection their Class I-

087967 liquor license located at 2100 Central Avenue.

Roberta Loescher has been operating Tru Café since May 2, 2010. On September 24, 2013 the City received the Application for Addition to Liquor License submitted by Tru Café in connection with their Class I-087967 liquor license located at 2100 Central Avenue. Tru Café would like to expand the current facility by adding the sidewalk area adjacent to their facility. The addition would extend five feet from the building in front of the café on the east side and on the south side of the café. The irregular shaped outdoor area measures 23 feet by 5 feet.

According to the definitions of the Liquor Commission, "sidewalk café" shall mean an outdoor area included in license premises, which is used by a restaurant or hotel with a restaurant license, for the service of meals as well as alcoholic liquors, and which is a contained by a permanent fence, wall, railing, rope or chain, defining the licensed area, provided that one open entrance not to exceed eight feet shall be allowed.

As you may remember, on June 11, 2013 the Council approved a Sidewalk Café License to allow Tru Café to open up a sidewalk café area adjacent to their business. The License was issued for the period of June 1, 2013 through May 31, 2014. One of the provisions of the License is the licensee shall ensure that no alcohol sales are allowed in the sidewalk café area per the current license agreement. This license agreement would need to be amended if City Council wanted to allow the sale of alcohol on the City sidewalk in the future.

It was discussed that sidewalk cafés are not uncommon and other cities have them and it would be a nice addition.

Roberta Loescher presented this matter to the Council. She stated the area was installed the first of July and runs the south side of the building adjacent to the windows in the café and it runs on the east side of the building along Central Avenue. The reason they chose to do that so they can have complete visibility from inside the café at all times. Their focus at Tru Café has been and always will be a café and coffee house. They have served breakfast and lunch for the last four years, and are now providing a dinner service. They see this as a very important part of their future for dining experience for their guests. They understand their reputation and liquor license are completely on the line. They have obtained their liability insurance for the outside sitting area as was asked by the City. They also have posted signage that it is a non-smoking area and they have already had to physically go outside and enforce this rule.

They have a policy that they will not hire anyone under the age of 19. The three females they hired are all over the age of 21 and that is where they would like to keep it but their policy does read 19 or older. They are not large enough to deal with someone not being able to serve so they will have a designated waitress, her only area will be the outside area. The hostess stand has also been placed at the front door so in essence if the waitress has to come inside to get something, the hostess will hopefully be able to watch the outside. All of their servers are TIPS trained, the three girls will be receiving their certificate and these three girls have all been hired within the last three months. They have always had someone inside the café that has been TIPS certified but these three girls are all fairly new and so they have just been able to go through the class. Again their main focus is still going to be on food sales and outstanding service.

Mayor Clouse stated this has been talked about; this is not a free for all on City sidewalks. There are those who have had violations, but it is his belief that if a retailer has a clean record and has demonstrated that they can manage its liquor license then the Council has the flexibility to allow it. A retailer has to manage within its facility before it can consider outside.

Police Chief Dan Lynch stated they have not had any violations. It is a well-rounded establishment and he would never categorically state this is a bad idea. And it is certainly a better idea with Tru Café than other places. As long as there is an agreement between the City and the Loeschers that gives everybody a greater level of control and comfort.

Council Member Nikkila commented on how great the outside looked. It is a good thing for Kearney and it is unfortunate that there is not more space along Central Avenue so people could put bigger tables out there and enjoy the restaurant environment outside. It is a café and a restaurant type setting if you go into any city that has outdoor seating; they can serve alcohol at the restaurant outside just like inside.

Council Member Nikkila questioned if it was the intent to just limit that sidewalk sitting to places that serve food primarily or could bars also have sidewalk seating. City Manager stated anyone can submit a request and the City would look at each case and look at the width of the sidewalk in the area with the respect to ADA. The Loeschers have met all the requirements of that agreement. The City would certainly look at anyone that would have that request that would meet the same conditions and evaluate it from there. This is unique and a little bit different though to make sure to understand there could be a violation in the agreement that would result in the loss of this privilege but still not the loss of their liquor license. Council still has the discretion if there is a violation they certainly can bring this back and indicate that it does not meet the requirements but that does not necessarily mean a business would lose their license.

Council Member Nikkila asked if it was because it is in the public right-of-way and the City owns the property. City Manager stated that was correct.

Council Member Buschkoetter stated there would also be some other restrictions with bars and things like that that might want to have an area to smoke because the smoking ban is from the front door as well. So not a lot of bars would want that to be there.

City Manager stated the City thought that was important because of what Council has expressed in the past that that was an important condition to get in this unique agreement and the Loeschers have adopted stricter rules than State Law. Under State law smoking is allowed at the entry way to a restaurant within so many feet, but with Tru Café you cannot so they actually have a stricter requirement.

City Attorney stated requests can be determined on a case by case basis. As indicated by City Manager, there are two pieces to this there is the liquor license plus the license agreement which is essentially the City allowing the use of the sidewalk. So the City has the ability to set the rules in that agreement for the purpose of having a sidewalk café and if those rules are violated then the City can terminate that agreement. Terminating the sidewalk license is separate from something dealing with the liquor license. He

believed the focus of the Loeschers was primarily food and a restaurant situation. The City also incorporated into the current agreement that does not allow alcohol and smoking so if the Council were to approve the addition, the agreement would need to be amended to deal with the alcohol issue.

Council Member Nikkila questioned if the City was setting a precedent that every business would want this. City Manager stated if all the conditions are the same and someone would want the same restrictions and one of the findings of the agreement is that it is primarily a restaurant and their receipts would reflect that. So bars would not be able to meet that condition. City Attorney stated its primary focus is food.

Ms. Loescher stated it is written clearly in their policy and they go over it several times when employees are hired. They are fired if they sell to a minor; they no longer have a job.

Moved by Nikkila seconded by Buschkoetter to authorize the City Manager to amend the Sidewalk Café License to allow alcohol sales and consumption within the proposed licensed area and further to approve the Application for Addition to Liquor License submitted by Brick Street Enterprises Inc., dba Tru Café in connection their Class I-087967 liquor license located at 2100 Central Avenue. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Nikkila. Nay: None. Lear absent. Motion carried.

OPEN ACCOUNT CLAIM: NPPD - \$98,633.65

Moved by Buschkoetter seconded by Lammers that the Open Account Claim in the amount of \$98,633.65 payable to Nebraska Public Power District be allowed. Roll call resulted as follows: Aye: Buschkoetter, Nikkila, Lammers. Nay: None. Clouse abstained. Lear absent. Motion carried.

VII. REPORTS

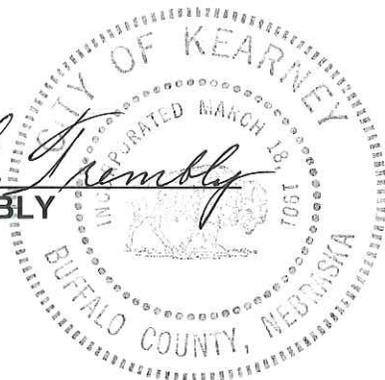
None.

VIII. ADJOURN

Moved by Clouse seconded by Lammers that Council adjourn at 7:34 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter. Nay: None. Lear absent. Motion carried.

ATTEST:


MICHAELLE E. TREMBLY
 CITY CLERK




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