

*Kearney, Nebraska  
November 12, 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 November 12, 2013 in the Council Chambers at City Hall. Present were: Stanley A. Clouse, President of the Council; Michaëlle Trembly, City Clerk; Council Members Randy Buschkoetter (arrived at 7:06 p.m.), Bruce Lear, Bob Lammers. Absent: Jonathan Nikkila. 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; and Dan Lynch, Chief of Police were also present. Some of the citizens present in the audience included: Mitch Humphrey, Rex Currie, 8 UNK students, Steve Altmaier from KGFW Radio, Adam Konruff from Kearney Hub.

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

## **I. ROUTINE BUSINESS**

### **INVOCATION/MOMENT OF SILENCE**

With the absence of a representative from the Kearney Ministerial Association, the Council held a moment of silence.

### **PLEDGE OF ALLEGIANCE**

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

### **ANNOUNCEMENT**

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

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

### **III. PUBLIC HEARINGS**

#### **DEVELOPMENT OF BG ADDITION; EAST OF CENTRAL AVENUE AND NORTH OF 4TH STREET**

Mayor Clouse opened the public hearing on the Applications submitted by Buffalo Surveying (Applicant) for BG Ventures, LLC, a Nebraska Limited Liability Company (Owner): (1) to vacate the south 155 feet of the north 279.83 feet of Lot 4, A. Collins Subdivision to the City of Kearney, Buffalo County, Nebraska, and located in the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska and to consider Ordinance No. 7849; and (2) the Final Plat and Subdivision Agreement for BG Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as the south 155 feet of the north 279.83 feet of Lot 4, A. Collins Subdivision to the City of Kearney, Buffalo County, Nebraska, with the aforescribed part of A. Collins Subdivision (to be vacated) and located in the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (east of Central Avenue and north of 4th Street) and to consider Resolution No. 2013-206. Planning Commission recommended approval.

The applicant is requesting partial vacation of property located on the east side of Central Avenue just south of Buzz's Marine so that the lot lines can be adjusted and replatted as a new subdivision. The property is zoned C-3, General Commercial District and will remain as such. A two-lot subdivision containing 2.35 acres is proposed as BG Addition. The Preliminary Plat was approved by the Planning Commission on October 18, 2013. Lot 1 is a "flag" shaped lot with 65 feet of frontage on Central Avenue which is the minimum lot width in C-3 zones. Lot 1 contains an existing building at the east end. An ingress-egress easement providing shared access to the owners of Lot 1 and Lot 2 is shown on the plat. There will be no additional curb cuts on Central Avenue.

4th Street is platted along the south line of the proposed subdivision but has not been constructed. Generally, City Code would require all public improvements on all sides of the proposed subdivision be installed for the entire length of the street before a building permit is issued. In this case, 4th Street is not required for access or for utilities to this site. Although it will be necessary in the future, the timing for construction of 4th Street is undetermined at this time. Therefore, a Subdivision Agreement has been prepared whereby the owner agrees to not protest future improvement districts abutting this subdivision and to pay for said districts at such time in the future as they are installed.

There is some previously vacated right-of-way abutting this property along Central Avenue. The vacated property tapers but it measures approximately 36 feet in width. Due to the presence of the vacated right-of-way and the 25-foot front building setback, the closest any future building can be constructed is 61 feet from the property line.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. The property is located north of 4th Street and east of Central Avenue and is the old Eldon's Transmission site. It was platted as part of Lot 4 of the platted and dedicated A. Collins Subdivision which was completed about 75 years ago when Central Avenue was

previously the main highway going through town. This site is planned to be developed into two lots which at the present time is and will remain zoned C-3. The two lots being created would be Lot 1 which will be the Eldon Transmission Building, the metal building combined with frontage being 65 feet in width along Central Avenue with the remaining lot known as Lot 2. At this present time there is no intention of developing 4th Street which for this project is by large not that important because the area to the north of proposed Lot 2 will be designated as an ingress/egress easement with the use of the present driveway being shared by the present and future owners of Lots 1 and 2.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application to vacate the south 155 feet of the north 279.83 feet of Lot 4, A. Collins Subdivision to the City of Kearney, Buffalo County, Nebraska, and located in the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska and introduced Ordinance No. 7849 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7849. 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, Lammers, Buschkoetter. Nay: None. Nikkila 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. 7849 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7849 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7849 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

Moved by Buschkoetter seconded by Clouse to adopt **Resolution No. 2013-206** approving the Final Plat and Subdivision Agreement for BG Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as the south 155 feet of the north 279.83 feet of Lot 4, A. Collins Subdivision to the City of Kearney, Buffalo County, Nebraska, with the aforescribed part of A. Collins Subdivision (to be vacated) and located in the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (east of Central Avenue and north of 4th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**RESOLUTION NO. 2013-206**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of BG Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a tract of land being part of the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M. Buffalo County, Nebraska, more particularly described as follows: the South 155 feet of the north 279.83 feet of Lot 4, in A. Collins Subdivision to the City of Kearney, Buffalo County, Nebraska, with the aforescribed part of A. Collins Subdivision now vacated and located in the South Half of the Northwest Quarter of Section 12, Township 8 North, Range 16 West of the 6th P.M., containing 2.35 acres, more or less Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING SOUTH OF EAST 1ST STREET AND NORTH OF I-80**

Public Hearings 2 and 3 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Marlo Johnson (Applicant and Owner) to rezone from District C-2, Community Commercial District to District C-3, General Commercial District property described as a tract of land being part of Government Lot 6 and part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of East 1st Street and north of I-80) and to consider Ordinance No. 7850.

The applicant is requesting rezoning and approval of a subdivision plat for property located between Interstate 80 and East 1st Street South (also known as Archway Parkway) from the east side of Johnstone Supply Company to the east side of the antique shop. When the Interstate Corridor Mixed Use zoning (ICMU performance point

zoning) was rescinded all properties were designated a "standard" zoning category. This property was designated C-2, Community Commercial but the owner has now requested rezoning to C-3, General Commercial District. The area to be rezoned consists of 10.65 acres with 1.06 acres reserved for road purposes as the property lines extend to the centerline of Archway Parkway. The subject property is surrounded by C-2 zoning on three sides and the Interstate to the south. The property is designated as "Mixed Use 2" on the Land Use Map of the Kearney Comprehensive Development Plan. There is no amendment required to the Land Use Map.

A 1-lot subdivision to be known as Johnson Commercial Second Addition containing 3.0 acres, of which 0.29 acres is being used for road purposes is proposed adjacent to Johnstone Supply Company. The remainder of the land to the east that is being rezoned is not part of a subdivision, including the existing antiques shop. There is a 40-foot wide strip of land between the Interstate and the lot that remains unplatted. The south 33 feet of East 1st Street South (Archway Parkway) is being dedicated as the south half of a public street on the plat. The Preliminary Plat was approved by Planning Commission on October 18, 2013. No Subdivision Agreement or Public Works Plan (Infrastructure Feasibility Plan) is required.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. He represents Mr. and Mrs. Marlo Johnson who own the property essentially to the north of this site and they also own everything down to and through the antique store that they have ran for a number of years. They would like to rezone the property from C-2 to C-3 specifically being south of East 1st Street, north of the interstate and east of the Johnstone Supply building through and including their land where the antique store is located. This would allow them to develop the land south of East 1st Street in accordance with what their desires are and how the City staff believes would be appropriate for the development along that corridor.

The Final Plat of Johnson Commercial Second Addition would consist of a 3-acre lot with some street right-of-way dedicated along the north side. Mr. and Mrs. Johnson can then sell the 3-acre lot and somebody could come in and develop that in the near future. All of the utilities are in place in East 1st Street as they were constructed when the Archway was built a number of years ago.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Marlo Johnson (Applicant and Owner) to rezone from District C-2, Community Commercial District to District C-3, General Commercial District property described as a tract of land being part of Government Lot 6 and part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of East 1st Street and north of I-80) and introduced Ordinance No. 7850 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. 7850. 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, Lammers. Nay: None. Nikkila 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. 7850 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, Lammers. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7850 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7850 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.

**FINAL PLAT FOR JOHNSON COMMERCIAL SECOND ADDITION; SOUTH OF EAST 1ST STREET AND NORTH OF I-80**

Public Hearings 2 and 3 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Marlo Johnson (Owner) for the Final Plat for Johnson Commercial Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of Government Lot 6 and part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (550 feet east of Central Avenue and East 1st Street) and to consider Resolution No. 2013-207. 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 adopted **Resolution No. 2013-207** approving the Application submitted by Buffalo Surveying (Applicant) for Marlo Johnson (Owner) for the Final Plat for Johnson Commercial Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of Government Lot 6 and part of Government Lot 7 located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (550 feet east of Central Avenue and East 1st Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**RESOLUTION NO. 2013-207**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Johnson Commercial Second Addition, an

addition to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Government Lot 6 and part of Government Lot 7, located in Fractional Section 13, Township 8 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northwest Corner of Government Lot 7 located in Fractional Section 13 and assuming the North line of said Government Lot 6 and Government Lot 7 located in Fractional Section 13 as bearing S86°50'00"E and all bearings contained herein are relative thereto; thence S86°50'00"E and on the North line of said Government Lot 7 located in Fractional Section 13, a distance of 370.40 feet; thence leaving the North line of said Government Lot 7 located in Fractional Section 13, S03°10'00"W a distance of 319.57 feet; thence S87°09'38"W a distance of 412.88 feet; thence N86°56'00"W a distance of 6.58 feet to the Southeast Corner of Lot 1, Johnson Commercial Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence N01°05'10"E and on the East line of said Lot 1, Johnson Commercial Addition, a distance of 363.00 feet to a point on the North line of Government Lot 6 located in Fractional Section 13, said point also being the Northeast Corner of Johnson Commercial Addition; thence on the North line of said Government Lot 6 located in Fractional Section 13, S86°50'00"E a distance of 60.08 feet to the place of beginning, containing 3.00 acres, more or less of which 0.29 acres, more or less are presently being used for road purposes on the North side, 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 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**REZONING WEST OF 67TH STREET AND AVENUE L**

Public Hearings 4, 5 and 6 were discussed together but voted on separately. Planning Commission recommended approval of the rezoning and annexation, but took exception to staff's recommendation of changing the name of 67th Street to "Remington Drive" at the intersection of Avenue L and 67th Street and onward to the west. Their recommendation to Council is to remain consistent with the street name of Remington Drive throughout the subdivision, even if the addresses assigned to some existing residences will be affected.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District

property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L) and to consider Ordinance No. 7851.

The applicant is requesting rezoning, approval of the final subdivision plat and annexation for property located north of the City/County detention cell in northeast Kearney. This development is the next phase of the Remington Heights neighborhood and is to be known as Remington Heights Second Addition. The detention cell, or portions of it, may someday be developed as a City Park.

The current zoning of this property is District AG, Agricultural as it has never been rezoned to any higher use. The area to be rezoned consists of 18.79 acres with 9.77 acres proposed for rezoning to R-1, Urban Residential Single-Family District, and 9.02 acres proposed as R-2, Urban Residential Mixed Density District. The subject property is surrounded by AG zoning on three sides and R-1 to the east. The property is in conformance with the Land Use Map of the Kearney Comprehensive Development Plan designated as "Low Density Residential and Medium Density Residential". There is no amendment required to the Land Use Plan.

A 41-lot subdivision to be known as Remington Heights Second Addition containing 18.79 acres is proposed. The Preliminary Plat for this area was approved by the Planning Commission in 2003 when this area was known as Bel Air Estates. There are 22 R-1 lots and 19 R-2 lots in the current proposal with the R-2 lots abutting the detention cell as a buffer for the interior R-1 lots. A Subdivision Agreement has been prepared and a Developer Constructed Infrastructure Agreement will be prepared. An Infrastructure Feasibility Plan (formerly called Public Works Plan) has been submitted as well.

Staff spent considerable time discussing street naming for the street known as 67th Street where it ties into Avenue N. This street proceeds only a short distance westward from Avenue N as an existing street, then as proposed in this subdivision the street angles sharply to the northwest paralleling the boundary of the detention cell. This configuration does not fit well with the 911 street naming protocol which is based on grid pattern streets with numbers one direction and alphabetical letters in the other direction. There have been other cases in Eastbrooke, Spruce Hollow, and Fountain Hills, for example, where the traditional street naming system does not work and a street changes name at some point.

In this case, when 67th Street angles northwest and then straightens out to head directly west it should be numbered 71st Street where it heads west based on the rational application of the grid method, counting blocks to the north as in 67th, 68th, 69th, 70th and 71st. Consequently, there is no "clean" place to make a name change. Obviously, 67th Street cannot be the name of the street in the 7100 block. Therefore, staff proposes to change the name of 67th Street to "Remington Drive" at the intersection of Avenue L and 67th Street and onward to the west. The street will remain known as 67th Street for the short distance from the subdivision entrance at Avenue N west to Avenue L. If this short section of 67th Street were to also be renamed Remington Drive, the existing homes that are already located there would require

address changes. Such a change may seem minor, but staff has always honored street names and address numbers once they are established and do not change them. The Planning Commission believed that the entire street should be renamed to Remington Drive to lessen confusion for drivers. A lot of discussion was held at the Planning Commission in regards to the naming of this street and assignment of address numbers. In the end, staff still believes that 67th Street should change names at the Avenue L intersection. A final decision in regards to street naming at this location is a City Council decision.

This property is contiguous to the City limit line and will be served by public infrastructure. In keeping with the City's policy on annexation this property will be annexed into the corporate limit as "an addition to the City of Kearney" on the Final Plat.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. What is fascinating about this project is that the City of Kearney will be providing the opportunity to extend the interceptor sewer or the main sewer trunk line that will eventually make its way along with the developing land towards the north 2nd Avenue area. This sewer will be 30 inches in diameter and it will be located just north of the City's 40-acre detention cell or on the north boundary. Because of the expense of that line, the owners understand that they are responsible for some fairly hefty connection fees and they have delayed the development of a couple lots in the original Remington Heights project because of the beauty of the nature of this sewer. It is deep and a lot of the dirt that has to be piled up that comes up from the trench will actually have to be piled on the lots. So they have agreed to force all the development of a couple lots that are adjacent to the Remington Heights project with consideration that the City is going through the design phase of this sewer.

The storm cell that is located south of this project and west of Avenue N was built a number of years ago to address the storm water issues in northeast Kearney and it also will be used to address the storm water runoff for this project. There are two storm cells up there. This site will connect into the westerly storm cell leaving the easterly cell to function as it does with the water that goes on through the site primarily to the south at the present time. The Bel-Air development and towards the north side and around towards the future area will link in with the westerly cell and somehow goes into the easterly one. The sanitary sewer will link in to the interceptor sewer via easements coming across in the street designed as "Remington Drive" and then the water lines will be looped through the system as required by the City to serve the project.

On the south side going into the Bel-Air development or Remington Heights is 67th Street. 69th Street is on the north side and then the street angles up and will turn into something that lines up more or less with what might be called 71st Street. They could not come up with a good solution so as not to be confusing. So when he submitted the plat he named Remington Drive and he thought he would let the City determine it.

What needs to be addressed is whether or not to rename a little section of 67th Street going to the west of Avenue N or have the street named Remington Drive throughout the entire development which is very similar to what was done with Country Club Lane, Eastbrooke Drive or Spruce Hollow Boulevard. The developer is deferring that decision to Council. They would prefer it would change to Remington Drive throughout.

Council Member Lear asked how many existing residents would be affected by the street renaming. Mr. Humphrey stated there are five residences there.

Council Member Buschkoetter stated he did not remember seeing anything in the Planning Commission minutes or any other documentation of any objection. Mr. Humphrey stated he did not know.

Council Member Lammers stated he was concerned about changing the addresses from what they have for existing addresses. When you are starting to change your addresses it is a concern.

Council Member Buschkoetter stated it can be a pain. It was done with the Archway Parkway years ago so it would not be unprecedented.

Council Member Lear stated to him the issue is what creates the least amount of confusion over the longest period of time. Five people would be affected if we change the street now which certainly is an impact on them and then if you do not change it how confusing is it for people for perpetuity.

Council Member Lear stated so 67th Street would terminate under the staff's proposal at Avenue L. Then it would turn into Remington Drive as it angled to the northwest. Mayor Clouse stated and then whatever that turns into when it goes further to the west would stay the same.

Council Member Lammers stated you can leave it as Remington Drive from there on once it starts to angle that would make sense especially if you are assuming that is not going to be a straight road back to 2nd Avenue anyways.

There was no one present in opposition to this hearing.

Moved by Buschkoetter to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) to rezone from District AG, Agricultural District to District R-1, Urban Residential Single-Family District (Low Density) and District R-2, Urban Residential Mixed-Density District property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L) and introduced Ordinance No. 7851 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. 7851. 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. Nay: None. Nikkila 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. 7851 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. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Clouse seconded by Lammers that Ordinance No. 7851 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7851 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.

### **FINAL PLAT FOR REMINGTON HEIGHTS SECOND ADDITION**

Public Hearings 4, 5 and 6 were discussed together but voted on separately. Planning Commission recommended approval of the rezoning and annexation, but took exception to staff's recommendation of changing the name of 67th Street to "Remington Drive" at the intersection of Avenue L and 67th Street and onward to the west. Their recommendation to Council is to remain consistent with the street name of Remington Drive throughout the subdivision, even if the addresses assigned to some existing residences will be affected.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) for the Final Plat and Subdivision Agreement for Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L and north of City's detention cell) and to consider Resolution No. 2013-208.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Lear to close the hearing and adopt **Resolution No. 2013-208** approving the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) for the Final Plat and Subdivision Agreement for Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L and north of City's detention cell) and to change the name of 67th Street to "Remington Drive" at the intersection of Avenue L and 67th Street and onward to the west. The street will remain known as 67th Street for the short distance from the subdivision entrance at Avenue N west to Avenue L. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

**RESOLUTION NO. 2013-208**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of Section 24 and assuming the East line of the Northeast Quarter of Section 24 as bearing SOUTH and all bearings contained herein are relative thereto; thence  $N89^{\circ}51'35''W$  and on the North line of the Northeast Quarter of said Section 24 and on the North line of Bel Air Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska and on the North line of Bel Air Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska a distance of 762.00 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of said Bel Air Fifth Addition; thence leaving the North line of the Northeast Quarter of said Section 24, SOUTH and on the West line of said Bel Air Fifth Addition, a distance of 301.82 feet; thence West and continuing on the West line of said Bel Air Fifth Addition, a distance of 45.00 feet; thence SOUTH and continuing on the West line of said Bel Air Fifth Addition, a distance of 381.21 feet; thence  $S39^{\circ}08'38''E$  and continuing on the West line of said Bel Air Fifth Addition, a distance of 169.50 feet; thence  $S38^{\circ}56'30''W$  and continuing on the West line of said Bel Air Fifth Addition, a distance of 181.00 feet to a point on a non-tangent, 313.00 foot radius curve, concave Northeasterly; thence continuing on the West line of said Bel Air Fifth Addition, Southeasterly on said non-tangent curve forming a central angle of  $38^{\circ}56'23''$  an arc distance of 212.72 feet to a point being tangent to the South line of 67th Street, a street dedicated and shown on the final plat of said Bel Air Third Addition, said point of tangency bears  $S70^{\circ}31'49''E$  a chord distance of 208.65 feet from the previously described point, and said point of tangency being the Northwest Corner of Lot 10, Remington Heights Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the West line of said Bel Air Fifth Addition, and leaving said curve, non-tangent, and on the West line of said Lot 10, Remington Heights Addition,  $S40^{\circ}53'52''W$  a distance of 216.67 feet to the Southwest Corner of said Lot 10, Remington Heights Addition, said point being on the Northerly line of a tract of land as described on Warranty Deed recorded at Instrument No. 2007-6589 filed for record August 31, 2007 in the Office of the Buffalo County Register of Deeds; thence  $N51^{\circ}03'37''W$  on the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 a distance of 1140.50 feet to a point of curvature; thence continuing on the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 and on a 5754.58 foot radius curve to the left forming a central angle of  $02^{\circ}39'48''$  arc distance of 267.5 feet; thence leaving the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 and leaving said curve, non-tangent,  $N00^{\circ}08'47''E$  a distance of 94.65 feet; thence  $N89^{\circ}51'35''W$  parallel with the North line of the Northeast Quarter of said Section 24 a distance of 20.16 feet; thence  $N00^{\circ}08'47''E$  a distance of 216.00 feet to a point on the North line of the Northeast Quarter of said Section 24; thence  $S89^{\circ}51'35''E$  on the North line of the Northeast Quarter of said Section 24 a distance of 1115.13 feet to the place of beginning, containing 18.79 acres, more or less, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and

recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **ANNEXATION OF REMINGTON HEIGHTS SECOND ADDITION**

Public Hearings 4, 5 and 6 were discussed together but voted on separately. Planning Commission recommended approval of the rezoning and annexation, but took exception to staff's recommendation of changing the name of 67th Street to "Remington Drive" at the intersection of Avenue L and 67th Street and onward to the west. Their recommendation to Council is to remain consistent with the street name of Remington Drive throughout the subdivision, even if the addresses assigned to some existing residences will be affected.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) for the annexation of Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L and north of City's detention cell) and consider Resolution No. 2013-209.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-209** approving the Application submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) for the annexation of Remington Heights Second Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of 67th Street and Avenue L and north of City's detention cell). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**RESOLUTION NO. 2013-209**

WHEREAS, an Application has been submitted by Buffalo Surveying (Applicant) for TWL, LLC, a Nebraska Limited Liability Company (Owner) for the inclusion of Remington Heights Second Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the North Half of the Northeast Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of Section 24 and assuming the East line of the Northeast Quarter of Section 24 as bearing SOUTH and all bearings contained herein are relative thereto; thence  $N89^{\circ}51'35''W$  and on the North line of the Northeast Quarter of said Section 24 and on the North line of Bel Air Third Addition, an addition to the City of Kearney, Buffalo County, Nebraska and on the North line of Bel Air Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska a distance of 762.00 feet to the ACTUAL PLACE OF BEGINNING, said point being the Northwest Corner of said Bel Air Fifth Addition; thence leaving the North line of the Northeast Quarter of said Section 24, SOUTH and on the West line of said Bel Air Fifth Addition, a distance of 301.82 feet; thence West and continuing on the West line of said Bel Air Fifth Addition, a distance of 45.00 feet; thence SOUTH and continuing on the West line of said Bel Air Fifth Addition, a distance of 381.21 feet; thence  $S39^{\circ}08'38''E$  and continuing on the West line of said Bel Air Fifth Addition, a distance of 169.50 feet; thence  $S38^{\circ}56'30''W$  and continuing on the West line of said Bel Air Fifth Addition, a distance of 181.00 feet to a point on a non-tangent, 313.00 foot radius curve, concave Northeasterly; thence continuing on the West line of said Bel Air Fifth Addition, Southeasterly on said non-tangent curve forming a central angle of  $38^{\circ}56'23''$  an arc distance of 212.72 feet to a point being tangent to the South line of 67th Street, a street dedicated and shown on the final plat of said Bel Air Third Addition, said point of tangency bears  $S70^{\circ}31'49''E$  a chord distance of 208.65 feet from the previously described point, and said point of tangency being the Northwest Corner of Lot 10, Remington Heights Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence leaving the West line of said Bel Air Fifth Addition, and leaving said curve, non-tangent, and on the West line of said Lot 10, Remington Heights Addition,  $S40^{\circ}53'52''W$  a distance of 216.67 feet to the Southwest Corner of said Lot 10, Remington Heights Addition, said point being on the Northerly line of a tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 filed for record August 31, 2007 in the Office of the Buffalo County Register of Deeds; thence  $N51^{\circ}03'37''W$  on the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 a distance of 1140.50 feet to a point of curvature; thence continuing on the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 and on a 5754.58 foot radius curve to the left forming a central angle of  $02^{\circ}39'48''$  arc distance of 267.5 feet; thence leaving the Northerly line of said tract of land described on Warranty Deed recorded at Instrument No. 2007-6589 and leaving said curve, non-tangent,  $N00^{\circ}08'47''E$  a distance of 94.65 feet; thence  $N89^{\circ}51'35''W$  parallel with the North line of the Northeast Quarter of said Section 24 a distance of 20.16 feet; thence  $N00^{\circ}08'47''E$  a distance of 216.00 feet to a point on the North line of the Northeast Quarter of said Section 24; thence  $S89^{\circ}51'35''E$  on the North line of the Northeast Quarter of said Section 24 a distance of 1115.13 feet to the place of beginning, containing 18.79 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 18, 2013 on the inclusion of Remington Heights Second Addition within the corporate limits and recommended the Kearney City Council approve said application; and

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

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 12, 2013 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

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

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

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING WEST OF PARKLANE DRIVE AND 56TH STREET**

Public Hearings 7, 8 and 9 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) to rezone from District AG, Agricultural District to District C-2, Community Commercial District property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street) and to consider Ordinance No. 7852.

The applicant is requesting rezoning, approval of the subdivision plat, and annexation for property located just west of the new Riverdale State Bank on the north side of 56th Street.

The current zoning of this property is District AG, Agricultural as it has never been rezoned to any higher use. The area to be rezoned to C-2, Community Commercial District consists of 1.20 acres. The subject property is surrounded by AG zoning to the north and west and C-2 to the east, C-2/PD to the south. The property is in

conformance with the Land Use Map of the Kearney Comprehensive Development Plan designated as "Mixed Use 2". There is no amendment required to the Land Use Map.

The Preliminary Plat and Final Plat consist of a 1-lot subdivision to be known as Ingalls Crossing Sixth Addition containing 1.20 acres. The Preliminary Plat was approved by Planning Commission on October 18, 2013. A Subdivision Agreement has been prepared that obligates the owner to pay connection fees that are due for sanitary sewer and also forfeits the owner's right to protest future improvement districts in 57th Street if 57th Street is extended west. Since 57th Street is not shown on the plat where it could perhaps be extended west in the future, DRT Staff requested a 25-foot building setback be platted along the north property line of the lot in case the street is ever constructed. Due to site grades and limited developable area, it does not seem likely that 57th Street will extend further west. However, if the owner decides to have a second access point to the site it will have to be taken from 57th Street since only one access is allowed on Parklane Drive and no access is allowed on the arterial 56th Street. Staff has not seen a site layout to evaluate access and circulation. A Developer Constructed Infrastructure Agreement will be prepared. An Infrastructure Feasibility Plan (formerly called Public Works Plan) was submitted and approved with the bank project and all public infrastructure is in place and available. An existing stormwater detention cell that was constructed with the bank project was engineered and sized to handle the stormwater needs of this site as well.

This property is contiguous to the City limit line and will be served by public infrastructure. In keeping with the City's policy on annexation this property will be annexed into the corporate limit as "an addition to the City of Kearney" on the Final Plat.

Mitch Humphrey from Buffalo Surveying presented this matter to the Council. He represents the Corrigan family regarding the Ingalls Crossing Sixth project. The project is a continuation of Ingalls Crossing development located north of 56th Street and east of 2nd Avenue. This is a small piece although he thinks it will be a significant segue into some greater things as the family develops into the interior of this quarter section. The infrastructure and public works elements of this project are in place and were installed at the time the State Bank of Riverdale was developed which is to the east of this site and north of 56th Street. The present lay of the land is that it is farmland; the family would like to partition off one lot that would consist of 1.2 acres. They will zone that property from Agricultural to C-2.

The site as you see it, the utilities have been installed the street section goes north into Parklane Drive and across 57th Street is built. The stormwater management issues have been taken care of and are constructed and in place. It is rather a simple project but is a big deal with the way 56th Street is developing basically from the airport on out to 30th Avenue.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) to rezone from District AG, Agricultural District to District C-2, Community

Commercial District property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street) and introduced Ordinance No. 7852 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. 7852. 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. Nay: None. Nikkila 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. 7852 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. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7852 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7852 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.

### **FINAL PLAT FOR INGALLS CROSSING SIXTH ADDITION**

Public Hearings 7, 8 and 9 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the Final Plat and Subdivision Agreement for Ingalls Crossing Sixth Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street) and to consider Resolution No. 2013-210.

There was no one present in opposition to this hearing.

Moved by Lear seconded by Buschkoetter to close the hearing and adopt **Resolution No. 2013-210** approving the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the Final Plat and Subdivision Agreement for Ingalls Crossing Sixth Addition, an addition to the City of

Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street). Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

### **RESOLUTION NO. 2013-210**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Ingalls Crossing Sixth Addition, an addition to the City of Kearney, Buffalo County, Nebraska, a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 24 and assuming the South line of the Southwest Quarter of Section 24 as bearing S89°38'03"W and all bearings contained herein are relative thereto; thence S89°38'03"W on the South line of the Southwest Quarter of said Section 24 a distance of 1248.61 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing on the South line of the Southwest Quarter of said Section 24, S89°38'03"W a distance of 202.00 feet; thence leaving the South line of the Southwest Quarter of said Section 24, N00°21'57"W a distance of 275.00 feet; thence N89°38'03"E and parallel with the South line of the Southwest Quarter of said Section 24, a distance of 202.00 feet to a point on the West line of said Ingalls Crossing Fifth Addition; thence on the West line of said Ingalls Crossing Fifth Addition, S00°21'57"E a distance of 275.00 feet to the place of beginning, EXCEPTING THEREFROM; all that part of the North 17.0 feet of the South 50.0 feet of the aforescribed tract of land Deeded to the City of Kearney, Nebraska, a municipal corporation and described on Quitclaim Deed recorded August 12, 1994, on Microfilm Roll 94, Page 13006 thru 13007 filed in the Office of the Register of Deeds of Buffalo County, containing 1.20 acres, more or less, Buffalo County, Nebraska duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**ANNEXATION OF INGALLS CROSSING SIXTH ADDITION**

Public Hearings 7, 8 and 9 were discussed together but voted on separately. Planning Commission recommended approval.

Mayor Clouse opened the public hearing on the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the annexation of Ingalls Crossing Sixth Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street) and consider Resolution No. 2013-211.

There was no one present in opposition to this hearing.

Moved by Buschkoetter seconded by Clouse to close the hearing and adopt **Resolution No. 2013-211** approving the Application submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the annexation of Ingalls Crossing Sixth Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (west of Parklane Drive and 56th Street). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**RESOLUTION NO. 2013-211**

WHEREAS, an Application has been submitted by Buffalo Surveying (Applicant) for Roberta Corrigan, Trustee of the Leroy Corrigan Trust and Roberta Corrigan, General Partner of the Roberta Corrigan Farm, a Limited Partnership (Owner) for the inclusion of Ingalls Crossing Sixth Addition, an addition within the corporate boundaries of the City of Kearney said property described as a tract of land being part of the South Half of the Southwest Quarter of Section 24, Township 9 North, Range 16 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast Corner of the Southwest Quarter of Section 24 and assuming the South line of the Southwest Quarter of Section 24 as bearing S89°38'03"W and all bearings contained herein are relative thereto; thence S89°38'03"W on the South line of the Southwest Quarter of said Section 24 a distance of 1248.61 feet to the ACTUAL PLACE OF BEGINNING, said point being the Southwest Corner of Ingalls Crossing Fifth Addition, an addition to the City of Kearney, Buffalo County, Nebraska; thence continuing on the South line of the Southwest Quarter of said Section 24, S89°38'03"W a distance of 202.00 feet; thence leaving the South line of the Southwest Quarter of said Section 24, N00°21'57"W a distance of 275.00 feet; thence N89°38'03"E and parallel

with the South line of the Southwest Quarter of said Section 24, a distance of 202.00 feet to a point on the West line of said Ingalls Crossing Fifth Addition; thence on the West line of said Ingalls Crossing Fifth Addition, S00°21'57"E a distance of 275.00 feet to the place of beginning, EXCEPTING THEREFROM; all that part of the North 17.0 feet of the South 50.0 feet of the aforescribed tract of land Deeded to the City of Kearney, Nebraska, a municipal corporation and described on Quitclaim Deed recorded August 12, 1994, on Microfilm Roll 94, Page 13006 thru 13007 filed in the Office of the Register of Deeds of Buffalo County, containing 1.20 acres, more or less, Buffalo County, Nebraska; and

WHEREAS, the Kearney City Planning Commission has received and held a public hearing on October 18, 2013 on the inclusion of Ingalls Crossing Sixth Addition within the corporate limits and recommended the Kearney City Council approve said application; and

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

WHEREAS, a public hearing was held by the Kearney City Council relating to said application on November 12, 2013 who deemed the said addition to be included within the corporate limits to be advantageous to and in the best interests of the City.

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

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

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE PORTION OF FOUNTAIN HILLS SECOND ADDITION AND REZONING SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE**

The City received a letter from the developer postponing until November 26, 2013 Public Hearing 10 on the Applications submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner): (1) to vacate Lots 1 and 2 of Block One, Fountain Hills Second Addition to the City of Kearney, Buffalo County, Nebraska and to consider Ordinance No. 7853; and (2) to rezone from District AG, Agricultural District and District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue).

Moved by Clouse seconded by Lammers to postpone until November 26, 2013 the public hearing on the Applications submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner): (1) to vacate Lots 1 and 2 of Block One, Fountain Hills Second Addition to the City of Kearney, Buffalo County, Nebraska; and (2) to rezone from District AG, Agricultural District and District C-2, Community Commercial District to District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

### **FINAL PLAT FOR FOUNTAIN HILLS SEVENTH ADDITION**

The City received a letter from the developer postponing until November 26, 2013 Public Hearing 11 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the Final Plat and Subdivision Agreement for Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue).

Moved by Clouse seconded by Lammers to postpone until November 26, 2013 the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the Final Plat and Subdivision Agreement for Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

### **ANNEXATION OF FOUNTAIN HILLS SEVENTH ADDITION**

The City received a letter from the developer postponing until November 26, 2013 Public Hearing 12 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the annexation of Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue).

Moved by Clouse seconded by Lammers to postpone until November 26, 2013 the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for the annexation of Fountain Hills Seventh Addition, an addition to the City of Kearney, Buffalo County Nebraska, for property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M,

Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue). Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**DEVELOPMENT PLANS FOR SOUTH OF 56TH STREET AND EAST OF 11TH AVENUE**

The City received a letter from the developer postponing until November 26, 2013 Public Hearing 13 on the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for Planned District Development Plan Approval for an apartment complex on property to be zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District on property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue)

Moved by Clouse seconded by Lammers to postpone until November 26, 2013 the Application submitted by Miller & Associates (Applicant) for Grand West LLC, a Nebraska Limited Liability Company (Owner) for Planned District Development Plan Approval for an apartment complex on property to be zoned District R-3/PD, Urban Residential Multi-Family (Medium Density)/Planned Development Overlay District on property described as a tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 26, Township 9 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (south of 56th Street and east of 11th Avenue) recognizing the requested deviation for the length of cul-de-sac for 54th Street Place. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

**CONDITIONAL USE PERMIT TO COMMNET WIRELESS FOR 1711 EAST 39TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by U.S. Cellular and Commnet Wireless for a Conditional Use Permit as provided in Paragraph H of Section 46-110 "Telecommunications Towers" of Chapter 46 "Supplemental Use Regulations" of the City Code to co-locate telecommunications equipment for wireless communications on property zoned District Ag, Agricultural District and described as part of the Northwest Quarter of the Northwest Quarter and the north five acres of the Southwest Quarter of the Northwest Quarter all located in Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska lying west of the railroad tracks (1711 East 39th Street) and to consider Ordinance No. 7855.

The applicant is requesting approval of a Conditional Use Permit (CUP) to colocate telecommunications equipment on the existing tower at 1711 East 39th Street on property that is part of the fairgrounds. The Telecommunications Ordinance allows for an expedited timeline bypassing Planning Commission and going directly to City Council for new co-locators to encourage colocation as opposed to construction of additional towers. The same applicant brought two such expedited colocation requests before the Council last month at 1905 Avenue B and 905 Avenue M. The applicant has submitted all of the required documentation for this CUP. A structural analysis report

prepared by a licensed structural engineer is included. The size of the tower itself will not be increased, nor will the footprint of the tower or the ground enclosure containing equipment buildings. There are no time limits or other conditions recommended for this CUP.

Rex Currie, 109 West 109th Street, Suite 300, Overland Park, Kansas on behalf of SCC presented this matter to the Council. He was representing Commnet in this project and they will be adding on the tower. It is a 125-foot tall monopole communications tower owned by U.S. Cellular. Commnet Wireless will be co-locating at the 100-foot level which would be just below the current bottom antennas. It would be a total of six antennas. Cabling runs to the base of the compound down the tower to the equipment compound area. Commnet uses outdoor equipment so there will not be a shelter it will be stand-alone radio equipment and outdoor equipment cabinets.

Mayor Clouse asked if the City received all the engineering specs and there were no loading issues. Mr. Currie stated that was correct, and they conducted a structural analysis to confirm the tower is structurally adequate to handle the new load and it is.

Council Member Lammers asked is the City received a signed acknowledgment. City Clerk stated Mr. Currie is working with U.S. Cellular to get that so that is why approval should be subject to the City receiving that. Mr. Currie stated they will have that signed and returned to the City.

There was no one present in opposition to this hearing.

Moved by Lammers to close the public hearing on the Application submitted by U.S. Cellular and Commnet Wireless for a Conditional Use Permit as provided in Paragraph H of Section 46-110 "Telecommunications Towers" of Chapter 46 "Supplemental Use Regulations" of the City Code to co-locate telecommunications equipment for wireless communications on property zoned District Ag, Agricultural District and described as part of the Northwest Quarter of the Northwest Quarter and the north five acres of the Southwest Quarter of the Northwest Quarter all located in Section 31, Township 9 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska lying west of the railroad tracks (1711 East 39th Street) and introduced Ordinance No. 7855 subject to the City receiving the signed Acknowledgment and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council Member Lear seconded the motion to close the hearing and suspend the rules for Ordinance No. 7855. 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, Lammers. Nay: None. Nikkila 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. 7855 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, Lammers. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lear seconded by Buschkoetter that Ordinance No. 7855 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Lammers, Buschkoetter. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7855 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

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

Moved by Buschkoetter seconded by Clouse that Subsections 1 through 6 of Consent Agenda Item IV be approved. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear. Nay: None. Nikkila absent. Motion carried.

1. Approve Minutes of Regular Meeting held October 22, 2013.

2. Approve the following Claims:

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

AAT \$3,782.40 smcs; Abramson,C \$13.28 smcs; Alamar Uniforms \$1,255.15 smcs,ps; Albrecht,H \$1,203.00 smcs; Alfred Benesch \$16,906.38 co; All Amer Sewer \$525.00 smcs; All Makes Auto Supply \$576.51 smcs; Ally B Designs \$110.00 smcs; Amer Fence \$2,900.00 smcs; Amer Library Assn \$88.20 smcs; AWWA \$1,656.00 smcs; Amsan \$4,579.41 co; Anderson Bros \$5,139.45 smcs; APA-NE Chapter \$100.00 smcs; ARC of Buffalo Co \$1,205.03 smcs; Ask Supply \$789.82 smcs; Aurora Coop \$81.60 smcs; Bacon,B \$39.67 smcs; Baird Holm \$6,372.50 smcs; Baker & Taylor Books \$6,962.30 smcs; Barker,L \$5.56 smcs; Barney Ins \$15,953.50 smcs; Barr-Thorp Electric \$4,073.58 smcs; Beckenhauer,T \$26.18 smcs; Bike Shed \$275.00 smcs; BlueCross BlueShield \$150,766.23 smcs; Borer,K \$100.00 smcs; Bosselman \$22,147.78 smcs; Branch,M \$62.76 smcs; Brill,T \$3.71 smcs; Broadfoot's \$10,649.00 smcs; Buffalo Outdoor Power \$22.73 smcs; Builders Warehouse \$3,601.74 smcs,co; Buse,D \$63.75 smcs; Butler,B \$116.00 smcs; Capital Business Systems \$509.36 smcs; Casey's General Store \$7.15 smcs; Cash Wa \$1,539.57 smcs; Center Point Large Print \$96.53 smcs; Central NE Bobcat \$5,815.00 co; Central States Wire \$7,087.30 smcs; Charter \$493.14 smcs; Chatelain,M \$47.32 smcs; CHS Agri Service Center \$2,748.97 smcs; City of Ky \$348,166.93 co,smcs,ps; Clark,R \$1.26 smcs; CNA Surety \$40.00 smcs; Consolidated Management \$264.25 smcs; Construction Rental \$70.16 smcs; Cool-Tech \$124.50 smcs; Copycat Printing \$494.04 smcs; Credit Management Serv \$476.02 ps; Culligan \$1,850.00 smcs; Danko Emergency \$100.22 smcs; Danner,Q \$41.21 smcs; Davis,J \$14.11 smcs; Dawson PPD \$40,544.28 smcs; Dennis Electric \$307.78 co; Depository Trust \$4,849,528.66 ds; Dish \$156.74 smcs; Dmilaco \$1,484.48 smcs,ps; Dominion Const \$2,689.86 smcs; Dorsey,R \$16.00 smcs; DPC Industries \$6,326.66 smcs; Dutton-Lainson \$829.87 smcs,co; Eakes \$2,489.55 smcs; Ed Broadfoot & Sons \$381.40 smcs; Egan,S \$28.40 smcs; Ehmen,D \$54.13 smcs; Eirich,T \$50.00 smcs;

EMC Ins \$545,257.20 smcs; Ensley Electrical \$1,645.97 smcs; Evans,M \$183.63 smcs; Expression Wear \$490.42 smcs; FedEx \$100.04 smcs; Fireguard \$360.04 smcs; Foster,D \$58.84 smcs; Frontier \$9,268.93 smcs; Fuller,J \$26.93 smcs; Gale \$1,190.61 smcs; Galls \$22.47 smcs; Gametime \$177.16 co; Garrett Tires & Treads \$5,831.84 smcs; Gear for Sports \$2,294.48 smcs; Golto,D \$13.88 smcs; Goodwin Tucker Group \$866.57 smcs; Graham,A \$35.97 smcs; Graphic Screen Printing \$55.00 smcs; Gray,C \$405.00 smcs; Hach Co \$851.39 smcs; Hanson,A \$11.81 smcs; Hargon,E \$31.00 smcs; Harley-Davidson \$246.53 smcs; Hawthorne Jewelry \$1,141.00 ps; HD Supply \$9,066.17 smcs; Heartland Strategy Group \$5,000.00 smcs; Hissam,S \$230.00 ps; Hoehner Turf \$125.00 smcs; Homan,B \$26.03 smcs; Hometown Leasing \$430.98 smcs; Hoss,N \$64.53 smcs; ICMA RC \$5,477.54 smcs,ps; ID Security Online \$2,035.00 co; Ingersoll,O \$14.77 smcs; IRS \$127,164.86 ps; Investment Property Exchange \$1,250.00 co; IPMA \$152.00 smcs; Jack Lederman \$299.34 smcs; James,D \$30.00 smcs; Jensen,J \$16.66 smcs; K&K Parts \$1,363.85 smcs; Karlson,B \$20.00 smcs; Kart-Mart \$999.48 smcs; Ky Chamber Comm \$250.00 co; Ky CrossFit \$100.00 ps; Ky Glass \$254.22 smcs; Ky Hub \$33.00 smcs; Ky Humane Society \$6,825.00 smcs; Ky Noon Rotary \$110.00 smcs; Ky Towing \$100.00 smcs; Ky United Way \$604.04 ps; Ky Visitors Bureau \$45,942.71 smcs; Ky Women's Club \$4,000.00 smcs; Kincaid,M \$29.11 smcs; Kliewer,P \$47.88 smcs; Konica Minolta \$1,319.93 smcs; Kritzer,J \$180.32 smcs; Krull Ins \$1,950.00 smcs; Lang,L \$288.20 smcs; Large Print Overstocks \$209.06 smcs; Lawn Builders \$9,435.25 smcs,co; League of NE Municipalities \$495.00 smcs; Lepine,K \$6.00 smcs; Lincoln Winwater Works \$1,155.60 smcs; Logan Contractors Supply \$50.00 smcs; Luedke,W \$800.00 smcs; Lynaugh,L \$45.00 smcs; M& E Const \$7,760.00 smcs; M&E Rentals \$57.87 smcs; Magic Cleaning \$6,100.00 smcs; Mail Express \$6,304.28 smcs; Marlatt Machine Shop \$129.90 smcs; Matheson Tri-Gas \$113.36 smcs; McHarness,C \$48.72 smcs; Menards \$3,009.06 smcs; Metal Doors \$87.18 smcs; Metlife \$8,053.30 ps; Michael Frederick \$24.00 smcs; Mid Amer Signal \$878.00 smcs; Miller & Associates \$293.28 co; Miller Signs \$50.00 smcs; Monzon,M \$5.89 smcs; Moonlight Embroidery \$7,056.00 smcs; Mullen Lawn Service \$140.00 smcs; Municipal Emergency \$1,338.75 smcs; Municipal Supply \$4,273.89 smcs; Myslik \$7,825.00 smcs; Navigator Motorcoaches \$500.00 smcs; NCS Equipment \$851.60 co; NE Child Support \$2,284.66 ps; NE Dept of Environmental \$20.50 smcs; NE Dept of Revenue \$37,719.10 ps; NE Golf Assn \$200.00 smcs; NE Law Enforcement \$80.00 smcs; NE Public Health \$1,229.00 smcs; NEland Distributors \$263.17 smcs; Nordhues,B \$44.95 smcs; North Platte Telegraph \$101.37 smcs; Northwestern Energy \$2,800.54 smcs; Office Depot \$175.82 smcs; O'Keefe Elevator \$4,497.99 smcs; Olsson Associates \$4,652.35 smcs,co; One Call Concepts \$525.40 smcs; Orduna,A \$30.13 smcs; O'Reilly Automotive \$540.06 smcs; Otto Environmental \$24,488.00 smcs; Outdoor Recreation \$4,795.50 smcs,co; Page,K \$77.21 smcs; Panowicz,K \$236.00 ps; Paramount Linen \$357.46 smcs; Pat's Plumbing \$145.00 smcs; Payflex Systems \$544.00 ps; PCAN \$50.00 smcs; Pep Co \$56.34 smcs; Philby,J \$69.53 smcs; Pitney Bowes \$61.13 smcs; Platte Valley Comm \$1,226.58 smcs; Platte Valley Laboratories \$167.50 smcs; Police Officers Assn \$870.00 smcs; Poppe,S \$54.32 smcs; Presto-X \$459.69 smcs; Public Agency Training \$295.00 smcs; Random House \$147.75 smcs; Ready Mixed Concrete \$603.21 smcs; Recorded Books \$1,092.65 smcs; Red Willow Co. \$3,150.00 smcs; Rheome Tree \$5,170.00 smcs; Rick's Sod Farm \$2,815.00 co; Roalson,K \$27.54 smcs; Roberts,J \$38.02 smcs; Roesler,A \$344.14 smcs; Russell,R \$55.13 smcs; Sally McMinamen \$20.00 smcs; Sampson Const \$128,114.51 co; Sapp Bros \$27,104.00 smcs; School District #7 \$9,516.85 smcs; Seals,S \$29.21 smcs;

Sherrod Library \$55.00 smcs; Shotkoski Services \$255.00 smcs; Sirius Computer Solutions \$53,650.02 co; Slaymaker,K \$31.56 smcs; Snap-On Tools \$1,498.00 smcs; State of NE/AS Central \$3,732.13 smcs; Steinbrink Landscaping \$23,340.23 smcs,co; Sun Life Financial \$62,425.08 smcs; Tacha,J \$50.00 smcs; Takeuchi,M \$22.66 smcs; Theis,J \$90.00 smcs; Thompson,K \$544.59 smcs; Tielke's Sandwiches \$61.64 smcs; Titleist \$1,339.61 smcs; Trost,D \$49.66 smcs; TruGreen ChemLawn \$165.00 smcs; Tye & Rademacher \$11,420.77 smcs; Union Bank & Trust \$59,995.06 ps; UNK \$3,000.00 smcs; Urbanek,G \$14.98 smcs; Valley Forklift Sales \$400.00 smcs; Vasquez,C \$40.00 smcs; Veldkamp,J \$80.00 smcs; Verizon \$1,243.19 smcs; Village Uniform \$582.61 smcs; Volz,T \$3.71 smcs; Warren-T Plbg \$177.00 smcs; Warrington,D \$11.18 smcs; Watchguard Video \$659.00 co; Weller,B \$1,571.00 smcs; Wells Fargo \$2,000.00 smcs; West Villa Animal \$47.38 smcs; Wilkins Hinrichs Stober \$3,080.49 co; Williams,M \$45.65 smcs; WPCI \$357.00 ps; Yanda's \$1,701.00 smcs; Yant Equipment \$220.99 smcs; Yellow Van Cleaning \$140.00 smcs; Young,J \$20.00 smcs; Payroll Ending 11-2-2013 - \$358,878.42. 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. 2013-215** rescheduling the regular Council meeting scheduled for December 24, 2013 at 7:00 p.m. to December 23, 2013 at 4:00 p.m. as required by Section 1-210 of the Kearney City Code.

### **RESOLUTION NO. 2013-215**

WHEREAS, Section 19-615 of the Nebraska Revised Statutes mandates that the council in cities of the first class shall meet at such time and place as it may prescribe by ordinance, but not less frequently than twice each month; and

WHEREAS, according to Section 1-210 of the Kearney City Code, the regular meetings of the Council shall be held on the second and fourth Tuesday of each month; and

WHEREAS, the second regularly scheduled meeting in December falls on December 24, 2013 which is Christmas Eve; and

WHEREAS, Section 1-210 of the Kearney City Code also provides if the meeting falls upon a legal holiday, the meeting shall be held on the preceding or following day, as the Council determines appropriate.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the regularly meeting scheduled for Tuesday, December 24, 2013 shall be held on Monday, December 23, 2013 at 4:00 p.m. in the Council Chambers at City Hall.

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**4. Adopt Resolution No. 2013-216** to designate and appoint the Assistant City Manager as the ADA Coordinator for the City of Kearney and repeal Resolution Nos. 2008-20 and 2010-51.

**RESOLUTION NO. 2013-216**

WHEREAS, the Americans with Disabilities Act (ADA) was enacted on July 26, 1990 which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services and programs, and telecommunications; and

WHEREAS, Title II regulations of the ADA require that all public entities with 50 or more employees designate at least one employee to coordinate compliance with ADA; and

WHEREAS, the requirement for designation of a particular employee and dissemination of information about how to locate that employee helps to ensure that individuals dealing with large agencies are able to easily find a responsible person who is familiar with the requirements of the Act and to communicate those requirements to other individuals in the agency who may be unaware of their responsibilities.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that Resolution No. 2008-20 passed on February 12, 2008 and Resolution No. 2010-51 passed on March 9, 2010 be and are hereby repealed.

BE IT RESOLVED that the Assistant City Manager under the supervision of the City Manager, be and is hereby designated and appointed as the ADA Coordinator for the City of Kearney.

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Adopt **Resolution No. 2013-217** approving the recommendation from the Advisory Board of Park & Recreation Commissioners to establish a Tobacco Free Courtesy Rule for City Park and Recreation Properties.

**RESOLUTION NO. 2013-217****TOBACCO FREE COURTESY RULE FOR CITY  
PARK AND RECREATION PROPERTIES**

WHEREAS, the United States Health and Human Services reports adverse health effects from cigarette smoking account for an estimated 443,000 deaths, nearly one of five deaths, each year in the United States; and

WHEREAS, tobacco use, including secondhand smoke, is the leading cause of preventable death and disease in the United States; and

WHEREAS, the United States Centers for Disease Control and Prevention reports there is no risk-free level of exposure to secondhand smoke; and

WHEREAS, each year, primarily due to exposure of secondhand smoke, an estimated 3,000 nonsmoking Americans die of lung cancer and more than 46,000 nonsmoking Americans die of heart disease; and

WHEREAS, 88 percent of adult daily smokers smoke their first cigarette before the age of 18 years old; and

WHEREAS, the Nebraska Department of Health and Human Services reports if the current tobacco-use trend continues, 36,000 youth and children now under the age of 18 years old will likely die prematurely from smoking; and

WHEREAS, over 2,300 Nebraskans die each year from smoking-attributable causes; and

WHEREAS, 96.2 percent of Nebraskans agree that inhaling secondhand smoke is harmful to babies and children; and

WHEREAS, every year, Nebraska spends \$630 per person, no matter their age, for smoking related medical expenses and lost productivity; and

WHEREAS, the Buffalo County Community Health Partners reports 43.1 percent of Buffalo County residents utilize local parks or recreation centers for exercise at least once per week; and

WHEREAS, City Park and Recreation properties are intended for use by all individuals and families, young and old, residents and visitors, regardless of tobacco use; and

WHEREAS, City Park and Recreation properties exist to provide residents and visitors a clean and safe environment to promote healthy and active living; and

WHEREAS, the discarding of tobacco products, whether cigarettes, cigars, or smokeless tobacco, is unsightly and poses a fire hazard in wooded and playground areas; and

WHEREAS, tobacco-free City Park and Recreation properties would demonstrate a commitment to the community to be responsive fiscal stewards by reducing maintenance costs associated with grounds and facilities clean-up and by leading efforts to improve the costs of long-term health care of residents and visitors; and

WHEREAS, tobacco use by adults can serve as a poor influence on children; therefore, possibly leading to tobacco use among youth and children; and

WHEREAS, the only effective way to promote positive community role modeling, enhance the safety and well-being of residents and visitors, and eliminate the health dangers and environmental denigration posed by tobacco use, particularly secondhand smoke, is to prohibit the use of all tobacco products on City Park and Recreation properties.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that the City of Kearney wishes to provide park and recreational properties free of the influence and harmful effects of all tobacco products.

BE IT FURTHER RESOLVED that the following will now be included in the City of Kearney Park and Recreation Rules and Regulations:

1. The use of smoking cigarettes, cigars, cigarillos, pipes, electronic cigarettes, or other smoking tobacco products shall be discouraged on any Park or Recreational properties of the City of Kearney with the exception of the golf course grounds.

2. The use of tobacco chew, snuff, or other smokeless tobacco products shall be discouraged on any Park or Recreational properties of the City of Kearney with the exception of the golf course grounds.

3. No tobacco products shall be discarded or thrown onto the ground on any Park or Recreational properties of the City of Kearney.

4. The Tobacco-Free Courtesy Rule for the City Park and Recreation Properties will be self-enforced by park users. Although police and/or park staff may request the tobacco user cease using tobacco products and/or leave the park property, the intent is for residents and visitors to willingly respect the policy and not use tobacco products while on any Park or Recreational properties of the City of Kearney.

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

6. Adopt **Resolution No. 2013-218** accepting the increased award from the Department of Economic Development for the Supplemental Funds of the Community Revitalization program for the Central Avenue Paving Project from 26th Street to 31st Street.

**RESOLUTION NO. 2013-218**

WHEREAS, on September 10, 2013 the Council approved an application for CR Supplemental funds in the amount of \$250,000; and

WHEREAS, on September 11, 2013 the City was notified by the Department of Economic Development that available CR Supplemental funds were increased to \$300,000 for our community and on October 3, 2013 the City was notified of availability of an additional \$49,300 in funding bringing the total funding available to the City to \$349,300.

NOW, THEREFORE, BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the City accept the increased award from Department of Economic Development for the Supplemental Funds of the Community Revitalization program and that the Mayor be authorized and directed to proceed with the formulation of any and all contracts and documents between City of Kearney and the Nebraska Department of Economic Development.

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 2013.

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**V. CONSENT AGENDA ORDINANCES**

**ORDINANCE NO. 7856 ISSUING COMBINED UTILITIES REVENUE BOND FOR ULTRA VIOLET DISINFECTION PROJECT**

On September 10, the City Council conducted a public hearing for the purpose of meeting the requirements necessary to obtain a State Revolving Fund Loan to finance the Ultra Violet Disinfection Project at the Platte River Well Field. This project is eligible for financing by a Drinking Water State Revolving Fund loan through the State of Nebraska Department of Environmental Quality. The following loan terms will apply to the loan:

- The amount of the loan will be for \$2,000,000.
- The term of the loan will be for 20 years.
- The interest rate on the loan will be 2% with an additional 1% administrative fee.
- The semi-annual payment on the loan will be \$60,911.20 plus 1 percent of the outstanding balance for the administration fee.

Council Member Clouse introduced Ordinance No. 7856 authorizing the issuance of Combined Utilities Revenue Bond of the City of Kearney, Nebraska, in the principal amount of \$2,000,000 for the purpose of paying the costs of improvements to the City's water system; authorizing the issuance of said bond in the form of a promissory note to evidence a loan from the Nebraska Department of Environmental Quality; approving the execution and delivery of a loan contract with the Nebraska Department of Environmental Quality; approving related documents with respect to said loan; prescribing the form, terms and details of said bond; 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 bond and interest thereon; providing for the collection, segregation and application of the revenues of the City's waterworks plant and water system, sewage disposal plant and sanitary sewer system and electric distribution system; approving execution of related documents; entering into a contract on behalf of the City with the holder of said bond; determining that interest on said bond shall not be excludable from gross income for purposes of federal income taxation, 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 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, Lear, Lammers. Nay: None. Nikkila 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. 7856 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, Lammers. Nay: None. Nikkila absent. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Lear that Ordinance No. 7856 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Lammers. Nay: None. Nikkila absent. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7856 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**

### **OPEN ACCOUNT CLAIMS TO NPPD - \$83,940.05 AND STAN CLOUSE - \$531.47**

Moved by Lear seconded by Buschkoetter that Open Account Claims in the amount of \$83,940.05 payable to Nebraska Public Power District AND \$531.47 payable to Stan Clouse be allowed. Roll call resulted as follows: Aye: Lammers, Buschkoetter, Lear. Nay: None. Clouse abstained. Nikkila absent. Motion carried.

**VII. REPORTS**

**FUTURE COUNCIL MEETINGS**

The Council discussed possibly holding future Council meetings at 5:00 or 5:30 p.m. on the second and fourth Tuesdays. Mayor Clouse encouraged citizens and news media to contact them to let them know their thoughts and concerns in changing the time. This could possibly take effect the first of the year.

**VIII. ADJOURN**

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

**ATTEST:**

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

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