

*Kearney, Nebraska  
December 10, 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 December 10, 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, Bruce Lear, Bob Lammers and Jonathan Nikkila. Absent: None. Michael Morgan, City Manager; Michael Tye, City Attorney; Wendell Wessels, Director of Finance; Suzanne Brodine, Assistant City Manager/ Development Services Director; Kirk Stocker, Director of Utilities; Rod Wiederspan, Director of Public Works; Dan Lynch, Chief of Police; and Shawna Erbsen, Director of Administrative Services were also present. Some of the citizens present in the audience included: Terry Eirich, Kelly Hardin, Jim Tacha, Brad Anderson, Matt Noffke, Brad Norton, Wendy Specer, Delbert Bickford, Jr., Joshua Geiselman, Kasey Potter, Daniel Tenorio, Jeremy Feusner, Anthony Nickerson, Kortni Shemat, Gisel Hand, Rick Marlatt, Florim Ramadani, Chris Miller, Bonnie Marshall, Rick Marlatt, 4 UNK students, 20 firefighters, Steve Altmaier from KGFW Radio, Mike Konz 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.

### **RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT SERVICE AWARDS**

Mayor Clouse and Council members recognized the following volunteer firefighters: Gene Beerbohm, 35 years; Brad Anderson, 20 years; Max Gintzler, 15 years; Trenton

Snow, 15 years; Matt Noffke, 10 years; Brad Norton, 10 years; and Wendy Spencer, 5 years; Dan Follmer, 5 years. Fire Chief Terry Eirich presented each with Service Awards.

### **RECOGNITION – KEARNEY VOLUNTEER FIRE DEPARTMENT FIREFIGHTER I CLASS**

Mayor Clouse and Council members recognized the following volunteer firefighters for completing the Firefighter I Class: Delbert Bickford, Jr., Joshua Geiselman, Nick Looney, Kasey Potter, Daniel Tenorio, Jeremy Feusner, Anthony Hill, Timothy Nickerson, Kortni Shemat, and Eric Van Horn. Fire Chief Terry Eirich presented each with a Certificate of Training.

### **ORAL COMMUNICATIONS**

There was no Oral Communications.

## **II. UNFINISHED BUSINESS**

There was no Unfinished Business.

## **III. PUBLIC HEARINGS**

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

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 1 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) will remain on the table until December 23, 2013.

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

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 2 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) will remain on the table until December 23, 2013.

**ANNEXATION OF FOUNTAIN HILLS SEVENTH ADDITION**

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 3 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) will remain on the table until December 23, 2013.

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

The City continues to work with the developer on resolving some issues with the Subdivision Agreement; therefore, Public Hearing 3 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) will remain on the table until December 23, 2013.

**NAPOLIS ITALIAN LIQUOR LICENSE APPLICATION**

Mayor Clouse opened the public hearing on the Application submitted by Besi and Zeki, LLC, dba Napolis Italian for a Class I-105578 liquor license located at 320 3rd Avenue, consider the manager application for Florim Ramadani, and consider Resolution No. 2013-233.

This is a new application submitted by Besi and Zeki, LLC, dba Napolis Italian for a license to sell alcohol at its facility located at 320 3rd Avenue. This facility was formerly known as Apr IL Vino. They also have restaurants in Hastings and Grand Island.

The Police Department performed a background check and it did not indicate any negative issues with the application nor the applicant. There was nothing found in the background that would indicate a problem with compliance with Council policy nor is there any recent history of any issues with any of the other locations in Nebraska. The Application for Manager identifies Florim Ramadani. Mr. Ramadani also manages the locations in Hastings and Grand Island. None of the principal employees have any record indicating they would not be suitable for this business. The applicant has knowledge of the liquor laws and is aware of the rules and regulations to operate this type of business.

The City Council is concerned with the selling of alcohol to minors in our community, and wants to encourage all license holders to provide the necessary training to all employees that sell or dispense alcohol. Therefore, on March 22, 2011 the City Council adopted a policy for making recommendations with reference to liquor licenses issued by the Nebraska Liquor Control Commission. With regard to new licenses, the license

holder must provide certification of this training when submitting the Liquor License Training Compliance form or within 60 days of the opening of the business. Mr. Ramadani submitted his Certificate of Training and the Liquor License Training Compliance form indicating their employees will receive training within 60 days after the license has been approved.

Florim was not present as he was in another store location and the representative who was there did not speak very good English. He had a female manager present who could translate. She stated Florim will be handling the liquor license. Their employees will all be trained. Council member Lammers asked what they would do if an employee was caught selling to minors. She stated they would definitely get fired.

There was no one present in opposition to this hearing.

Moved by Lammers seconded by Nikkila to close the hearing and adopt **Resolution No. 2013-233** recommending approval to the Nebraska Liquor Control Commission the Application submitted by Besi and Zeki, LLC, dba Napolis Italian for a Class I-105578 liquor license located at 320 3rd Avenue, and the manager application for Florim Ramadani. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

### **NORTHEAST TRUNK SANITARY SEWER MAIN**

Mayor Clouse opened the public hearing on the construction of approximately 3,000 LF of 30-inch diameter Northeast Trunk Sanitary Sewer Main and to consider Resolution No. 2013-234.

In this year's budget the Utilities Department included funds for the construction of the Northeast Trunk Sanitary Sewer Main. The existing Northeast Trunk Sanitary Sewer Main follows the abandoned railroad right-of-way northerly and westerly from approximately the 2200 block of East 56th Street then crossing Avenue N at a location just north of 66th Street Place and ends at the southwest corner of Bel Air Fifth Addition. This sanitary sewer main follows the Sanitary Sewer Master Plan included in the 1994 North Kearney Growth Analysis and will eventually be extended to Highway 10.

The Northeast Trunk Sanitary Sewer Main is necessary to serve the recently annexed Remington Heights Second Addition and for the incremental growth of the City.

The City intends to finance the construction of the Northeast Trunk Sanitary Sewer Main with a State Revolving Fund (SRF) Loan. In order to qualify for the loan the Council must conduct a public hearing regarding the project.

The Utilities Department has included \$1,000,000 for the project in the 2013-2014 Budget for the construction of the Northeast Trunk Sanitary Sewer Main. The City's engineer on the project has completed a cost estimate for the project which ranges between \$900,000 and \$1,200,000.

Chris Miller from Miller & Associates presented this matter to the Council. He stated what was interesting about this trunk line is it will open up and serve about 300 acres of

area. The reason they are constructing this line now is Bel Air is doing another subdivision plat that will be extended so the City needs to extend the sewer. One of the questions that always comes up is why is the City extending this sewer northeast? According to the 1992 Sewer Master Plan, the current sewer trunk feeds Lighthouse Point, Fountain Hills, Spruce Hollow. But the long term plan when projecting the future sewer lines could be constructed that will come up and hook to the proposed sewer trunk and it will eventually gravity down to the City's wastewater treatment facility.

Mayor Clouse asked if the current lift stations would be necessary once the sewer trunk is constructed. Mr. Miller stated the four existing lift stations would be eliminated. It will also be able to serve Glenwood Glenwood area and Clearview. As the City develops, there is approximately two miles of sewer line to construct.

This is a \$1.2 million project and the City is going to borrow money from the State Revolving Loan Fund. It is in the City of Kearney's fiscal year 2014 budget to do this and it creates approximately 300 acres to develop land which is Avenue E extended and north of 56th Street all the way up to where the current sewer line is that will then be able to fill in and feed sewer.

Council member Nikkila asked when the main goes north up towards Glenwood, will the neighborhood that is just north of Menards will that ever be looped into the City sewer. Mr. Miller stated this is Clearview and they will have that opportunity. That would have to be an agreement worked out with the City; they have had difficulties over the years and have asked the City about the availability of water and sewer services. They currently have septic systems and they would have to develop their own collection system and dump to the City sewer system but if an agreement can be worked out. The same with Glenwood which is quite the development to the west and would be able to be served off of this trunk line.

Council member Nikkila asked can a property owner, particularly outside of the City limits, deny the City the right to put in this sewer. Mr. Miller stated the sewer trunk is going along an old railroad property. City Attorney Mike Tye stated the City can either (1) negotiate an agreement with somebody, or (2) through the planning process which is often times how the City of Kearney does things is when people are developing they incorporate the Public Works Plan as part of that process and it also helps with their development, or (3) if the City determines it is necessary it can condemn property and acquire it through condemnation.

There was no one present in opposition to this hearing.

Moved by Nikkila seconded by Lear to close the hearing and adopt **Resolution No. 2013-234** approving the construction of approximately 3,000 LF of 30-inch diameter Northeast Trunk Sanitary Sewer Main. Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

## RESOLUTION NO. 2013-234

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

WHEREAS, the Mayor and City Council have determined that portions of the City sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the City sewer system may be obtained by loan from the Nebraska Department of Environmental Quality, subject to certain requirements and obligations.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Kearney, Nebraska, that they should execute the contract for loan between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska designated as Project No. NE0052647, incorporated by reference into this Resolution as if fully set forth.

BE IT FURTHER RESOLVED that the Mayor is hereby directed to execute the contract and all other documents necessary to facilitate the loan between the Nebraska Department of Environmental Quality and the City of Kearney, Nebraska for the purpose of repairing and improving the City sewer system.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

### **REZONING 2401 AND 2421 AVENUE A, 110 AND 114 EAST 24TH STREET**

Mayor Clouse opened the public hearing on the Application submitted by Horner Lieske McBride & Kuhl Funeral and Cremation Services in Kearney and Eakes Office Plus to rezone from District C-3, General Commercial District to District CBD, Central Business District property described as Lots 19, 20, 21, 65 and 66, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (2401 and 2421 Avenue A, 110 and 114 East 24th Street) and consider Ordinance No. 7857. Planning Commission recommended approval.

The applicant is requesting rezoning from C-3 to CBD for two existing businesses and one existing lot with two houses on them at the above referenced addresses in the downtown area. All of these properties are located within the Kearney Downtown Off-Street Parking District which is an area that includes all of downtown "proper" from Railroad Street to Highway 30 and from the alley west of 2nd Avenue to the alley east of Avenue B. The majority of this area is zoned CBD, Central Business District. CBD zoning actually extends beyond the boundaries of the parking district south to the courthouse and north to encompass the Apple Market Grocery store. There is a swath of C-3 zoning that parallels Highway 30 for a distance south to 24th Street or about 330 feet. The four properties in question are within this swath of C-3 zoning and would like to be rezoned to CBD. There are some advantages to owners in the CBD zoning

district. There are no setback requirements for buildings, there are no landscaping requirements, and there are no off-street parking requirements in CBD zones.

In the arrangement between the funeral home and the office supply store, purchase of the two homes will be used to expand business opportunities for the two businesses. The existing houses will be removed. The north 20 feet of the residential lot will continue to be used by the office supply store to park a delivery van. The remainder of these two lots will be used by the funeral home in some capacity. The final use remains undetermined at this time, but options that have been discussed include off-street parking or a reception building. The subject properties are surrounded by C-3 zoning. The properties are designated as "CBD" on the Land Use Map of the Kearney Comprehensive Development Plan. There is no amendment required to the Land Use Map.

Mitch Bean from Eakes stated currently they have rented those two houses to the east and they are looking for dynamic use of that property. They have been in conversation with their neighbors and they have some plans and if it is approved for rezoning they will move forward with negotiations with them to convert that to a more attractive and better use.

Mark McBride from Horner Lieske McBride & Kuhl Funeral and Cremation Services stated their plans are for the property is taking the houses out and start with a parking lot. Eakes will retain ownership of that north part of the property so they can use that for freight access and then the funeral home can have more useable space for parking in addition to any parking they have for the funeral home.

There was no one present in opposition to this hearing.

Moved by Lear to close the public hearing on the Application submitted by Horner Lieske McBride & Kuhl Funeral and Cremation Services in Kearney and Eakes Office Plus to rezone from District C-3, General Commercial District to District CBD, Central Business District property described as Lots 19, 20, 21, 65 and 66, Southwest Quarter School Section Addition to the City of Kearney, Buffalo County, Nebraska (2401 and 2421 Avenue A, 110 and 114 East 24th Street) and introduced Ordinance No. 7857 and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Buschkoetter seconded the motion to close the hearing and suspend the rules for Ordinance No. 7857. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7857 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7857 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7857 is declared to be lawfully passed and adopted upon publication in pamphlet form and made available to the public at the Office of the City Clerk, the Kearney Police Department and the Kearney Public Library.

**VACATE PART OF ANDERSON PARK 1ST SUBDIVISION AND APPROVE ANDERSON PARK 6TH SUBDIVISION**

Mayor Clouse opened the public hearing on the Applications submitted by Miller & Associates for Arram Equities, Inc. for (1) the vacation of part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska and consider Ordinance No. 7858; and (2) the Final Plat for Anderson Park 6th Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. and formally known as part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (northeast corner of 11th Street and Avenue M) and consider Resolution No. 2013-235. Planning Commission recommended approval.

The applicant is requesting partial vacation of property located on the east side of Avenue M north of 11th Street. Once the existing lots are vacated, the applicant would like to replat the area into a new subdivision. The property is zoned Limited Industrial District.

Part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision is the subject of the vacation request. An existing building is located on part of Lot 1 that was the former Prince of Peace Church building. Once the property is vacated, a 2-lot subdivision to be known as Anderson Park 6th Subdivision is proposed.

A Preliminary and Final Plat have been prepared for Anderson Park 6th Subdivision. The subdivision consists of two lots on 2.92 acres. The Preliminary Plat was approved by Planning Commission on November 15, 2013. No Subdivision Agreement or Developer Constructed Infrastructure Agreement is required. No Infrastructure Feasibility Plan is required. Municipal water and sanitary sewer are available to the site in 11th Street. Stormwater detention will be addressed at the time the lots develop and building permits are required. Staff has reviewed the submittal and offers the following comments:

- a) Vehicular access to the arterial streets shall be limited. One access to 11th Street shall be allowed for Lot 1 of the proposed subdivision and one access to 11th Street shall be allowed for proposed Lot 2.
- b) The existing curb cut/access point to 11th Street closest to Avenue M shall be closed.
- c) Only one access point will be allowed on Avenue M. Therefore, it shall be a shared access point allowing access to existing Lot 2 of Anderson Park 1st

Subdivision through proposed Lot 1 of the new subdivision, Anderson Park 6th Subdivision. Said shared access and ingress-egress easement shall be shown and noted on the Final Plat.

- d) All building setbacks from the street right-of-way lines shall be shown on the Final Plat.
- e) Sufficient additional street right-of-way shall be dedicated along the arterial corridors of 11th Street and Avenue M to provide fifty feet of right-of-way from centerline.

Craig Bennett from Miller & Associates presented this matter to the Council. He represents Arram Equities. The property contains one building and it does have some additional driveway accesses that have been asked for by the City to be closed. The one primarily shown on the south side of the Prince of Peace Church which has a close proximity to the intersection of 11th Street and Avenue M would be closed. The one just east of it accessing onto 11th Street would also be closed and relocated east further to provide proper staking should this require a signal at some point in time. So this will make it a cleaner transition in and out of this property. Currently, it is a minor subdivision which at one point in time consisted of Lot 7 and part of Lot 1. They want to vacate this portion of the minor subdivision and essentially replat it back as it was originally platted. In addition there will be an ingress/egress easement located in the northwest corner of Lot 1 Anderson Park 6th to provide access at a common location both shared by Lot 1 and Lot 2 that is north of it so this way it will provide proper spacing from 11th Street north to this access. They also have dedicated the additional ten feet of right-of-way that is required along the arterial street to provide 50 feet of right-of-way of either side one on the south side of this subdivision for 11th and the east side of Avenue M or the west side of the subdivision.

There was no one present in opposition to this hearing.

Moved by Clouse to close the public hearing on the Applications submitted by Miller & Associates for Arram Equities, Inc. for (1) the vacation of part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska; and (2) the Final Plat for Anderson Park 6th Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. and formally known as part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (northeast corner of 11th Street and Avenue M) and introduced Ordinance No. 7858 vacating part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Lammers seconded the motion to close the hearing and suspend the rules for Ordinance No. 7858. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred

in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7858 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Lammers seconded by Nikkila that Ordinance No. 7858 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7858 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 Nikkila seconded by Lear to adopt **Resolution No. 2013-235** approving the Final Plat for Anderson Park 6th Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska, for property described as a tract of land being part of the Northwest Quarter of the Southwest Quarter of Section 6, Township 8 North, Range 15 West of the 6th P.M. and formally known as part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska (northeast corner of 11th Street and Avenue M). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

#### **RESOLUTION NO. 2013-235**

BE IT RESOLVED BY THE PRESIDENT AND COUNCIL OF THE CITY OF KEARNEY, NEBRASKA, that the plat of Anderson Park 6th Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska for a tract of land being part of Lot 1 and all of Lot 7, Anderson Park 1st Subdivision, a subdivision to the City of Kearney, Buffalo County, Nebraska and more particularly described as follows: Beginning at a star drill hole in concrete at the Southwest corner of Lot 1, Anderson Park 1st Subdivision, and assuming the West line of said Lot 1 as bearing N01°17'38"E and all bearings contained herein are relative thereto; thence N01°17'38"E on said West line for a distance of 280.06 feet to a 5/8" rebar with cap at the Northwest corner of said Lot 1; thence S68°03'59"E a distance of 218.88 feet; thence N89°53'43"E a distance of 115.04 feet to a 5/8" rebar with cap on the West line of Lot 7, Anderson Park 1st Subdivision; thence N01°16'20"E on said the West line a distance of 81.86 feet to a 5/8" rebar with cap at the Northwest corner of said Lot 7; thence N89°57'16"E on the North line of said Lot 7 a distance of 198.43 feet to a 5/8" rebar with cap at the Northeast corner of said Lot 7; thence S01°14'26"W on the East line of said Lot 7 a distance of 279.92 feet to a 5/8" rebar with cap at the Southeast corner of said Lot 7; thence S89°56'08"W on the South line of said Lot 7 for a distance of 198.54 feet to a 5/8" rebar with cap at the Southwest corner of said Lot 7; thence S89°56'08"W on the South line of said Lot 1 a distance of 320.05 feet to the Point of Beginning, containing 2.92 acres more or less, Buffalo County, Nebraska, duly made out, acknowledged and certified, and the same hereby is approved in accordance with the provisions and requirements of Section 19-916 of the Nebraska Revised Statutes, be accepted and ordered filed and recorded in the Office of the Register of Deeds of Buffalo County, Nebraska; said addition is hereby

included within the corporate limits of said City and shall be and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and shall be subject to all laws, ordinances, rules and regulations of said City.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**VACATE TURKEY CREEK SUBDIVISION AND AMEND LAND USE MAP; KEA WEST AVENUE TO 30TH AVENUE, SOUTH OF THE NORTH CHANNEL OF THE PLATTE RIVER**

Mayor Clouse stated, at the request of the developer, Public Hearing 9 on the Applications submitted by Miller & Associates for Turkey Creek Properties, LLC for (1) the vacation of a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 2 to Rural Estates property described as a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River) has been postponed until December 23, 2013.

Moved by Lear seconded by Buschkoetter to postpone until December 23, 2013 Public Hearing 9 on the Applications submitted by Miller & Associates for Turkey Creek Properties, LLC for (1) the vacation of a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska; and (2) an amendment to the Land Use Map of the City of Kearney Comprehensive Development Plan from Mixed Use 2 to Rural Estates property described as a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

**REZONING KEA WEST AVENUE TO 30TH AVENUE, SOUTH OF THE NORTH CHANNEL OF THE PLATTE RIVER**

Mayor Clouse stated, at the request of the developer, Public Hearing 10 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC to rezone from District AG, Agricultural District to District RR-1/PD, Urban Residential Single-Family (Low Density)/ Planned Development Overlay District property described as a tract of land located in part of Government Lots 6 and 9 and accretions abutting said Lots in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County,

Nebraska; AND from District RR-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District to District AG, Agricultural District property described as a tract of land located in part of Government Lots 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River) has been postponed until December 23, 2013.

Moved by Lear seconded by Buschkoetter to postpone until December 23, 2013 Public Hearing 10 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC to rezone from District AG, Agricultural District to District RR-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District property described as a tract of land located in part of Government Lots 6 and 9 and accretions abutting said Lots in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska; AND from District RR-1/PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District to District AG, Agricultural District property described as a tract of land located in part of Government Lots 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

#### **FINAL PLAT FOR TURKEY CREEK SECOND SUBDIVISION**

Mayor Clouse stated, at the request of the developer, Public Hearing 11 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC for the Final Plat for Turkey Creek Second Subdivision, a subdivision in Buffalo County Nebraska, for property described as a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River) has been postponed until December 23, 2013.

Moved by Lear seconded by Buschkoetter to postpone until December 23, 2013 Public Hearing 11 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC for the Final Plat for Turkey Creek Second Subdivision, a subdivision in Buffalo County Nebraska, for property described as a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

#### **DEVELOPMENT PLANS FOR TURKEY CREEK SECOND SUBDIVISION**

Mayor Clouse stated, at the request of the developer, Public Hearing 12 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC for Planned District Development Plan Approval for a single family large lot development on property to be zoned District RR-1/ PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District on property described as a tract of land

located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River) has been postponed until December 23, 2013.

Moved by Lear seconded by Buschkoetter to postpone until December 23, 2013 Public Hearing 12 on the Application submitted by Miller & Associates for Turkey Creek Properties, LLC for Planned District Development Plan Approval for a single family large lot development on property to be zoned District RR-1/ PD, Urban Residential Single-Family (Low Density)/Planned Development Overlay District on property described as a tract of land located in part of Government Lots 6, 7, 8, 9 and accretions abutting said Lots, all in Section 10, Township 8 North, Range 16 West of the 6th P.M, Buffalo County, Nebraska (Kea West Avenue to 30th Avenue, south of the North Channel of the Platte River). Roll call resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried.

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

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

1. Approve Minutes of Regular Meeting held November 26, 2013.

2. Approve the following Claims:

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

A-1 Refrigeration \$1,897.37 smcs; Ahren,V \$423.00 smcs; Alfred Bensech \$12,496.39 co; Ally B Designs \$650.00 smcs; American Fence Co \$18,735.00 co; Anderson Bros \$354.96 smcs; Antelope \$120.00 smcs; Arctic Refrigeration \$172.54 smcs; Ask Supply \$2,751.00 smcs; Aurora Coop \$54.40 smcs; Bamford \$250.00 smcs; Benson,G \$50.00 ps; Blessing \$173,055.15 co; Bluecross Blueshield \$67,551.57 smcs; Broadfoot's \$972.00 smcs; Brown Traffic Products \$29,840.00 smcs; Capital Business Systems \$166.88 smcs; Carlson,R \$100.00 smcs; Cash-Wa \$797.30 smcs; City of Ky \$333,076.24 smcs,ps; City Plumbing \$93.00 smcs; Cleveland,E \$192.00 smcs; Comm. Action Partnership \$2,594.72 smcs; Consolidated Management \$106.75 smcs; Cook,J \$120.00 smcs; Copycat Printing \$394.61 smcs; Crane River Theater \$3,991.71 smcs; Dan Roeder Concrete \$326,166.93 co; Dennis Electric \$645.21 co; Depository Trust Co \$120,933.75 ds; Dmilaco \$20.00 ps; Dutton-Lainson \$40.09 smcs,co; Eakes \$102.53 smcs; Eirich,T \$50.00 smcs; Elliott,K \$325.00 smcs; Expression Wear \$217.50 smcs; Fearnley,M \$72.22 smcs; Ferree,M \$100.00 smcs; Fireguard \$4,531.68 smcs; Flaming,G \$69.00 smcs; Galls \$10.79 smcs; Gangwish Turf \$585.75 smcs; Garrett Tires \$20,609.00 smcs; Giboney,S \$100.00 ps; Glazier,R \$195.49 smcs; Goodner,D \$31.00 smcs; Gray,C \$135.00 smcs; HD Supply \$4,423.38 smcs; Heartland Strategy \$10,000.00 smcs; Hensley,C \$279.00 smcs; Hometown Leasing \$157.20 smcs; Horiba

Instruments \$2,239.00 smcs; ICMA Retirement Trust \$4,074.24 ps; Internal Revenue Service \$129,359.84 ps; J.I.L. Asphalt Paving \$128,237.40 co; Jack Lederman \$897.08 smcs; John Deere Financial \$176.00 smcs; Johnson Hardware \$551.00 smcs; Ky Crete & Block \$112.30 smcs; Ky Humane Society \$6,825.00 smcs; Ky United Way \$604.04 ps; Krueger,L \$80.00 smcs; Krull Insurance \$1,950.00 smcs; Lautenschlager-Stroud,J \$50.00 ps; Login/IACP Net \$1,100.00 smcs; Magic Cleaning \$3,440.00 smcs; Mail Express \$107.40 smcs; Malleck,J \$45.00 smcs; Marlatt Machine Shop \$1,233.00 smcs; Martin,T \$100.00 smcs; Matheson Tri-Gas \$88.82 smcs; McCarty,D \$19.80 smcs; Meier,B \$325.00 smcs; Metlife \$8,076.79 ps; Midlands Contracting \$148,329.57 co; Midwest Storage Solutions \$56,944.10 co; Miller & Associates \$2,100.00 co; Moonlight Embroidery \$949.85 smcs; NE Child Support Pyt. Ctr. \$2,284.66 ps; NE Dept. of Revenue \$36,853.35 ps; NE Golf Association \$2,772.00 smcs; NE LE Training Center \$100.00 smcs; NeRPA \$150.00 smcs; Norm's Plumbing \$1,882.63 smcs; Northwestern Energy \$8,291.28 smcs; O'Keefe Elevator \$367.99 smcs; One Call Concepts \$290.20 smcs; Paramount \$274.15 smcs; Pat's Plumbing \$215.00 smcs; Payflex Systems \$548.25 smcs,ps; Platte Valley Comm. \$115.00 smcs; Presto-X \$48.34 smcs; Ready Mixed Concrete \$760.37 smcs; Reinke's \$880.15 smcs; Rick's Sod Farm \$2,815.00 co; Roesler,A \$50.00 ps; Saltzgaber,S \$42.80 smcs; Sampson Construction \$205,785.31 co; Sapp Brothers \$24,137.90 smcs; School District #7 \$4,101.30 smcs; Smith,M \$132.46 smcs; Smith,R \$50.00 ps; Snap-on Tools \$739.00 smcs; State Electrical Division \$125.00 smcs; State of NE/AS Central \$3,596.08 smcs; Steinbrink Landscaping \$100.00 smcs; Stuffield,P \$25.00 smcs ;Sun Life Financial \$62,576.34 smcs; Tacha,J \$50.00 smcs; Theis,G \$51.29 smcs; Thompson Co \$148.82 smcs; Thomson Reuters \$247.56 smcs; Travel Insured Int'l \$1,680.00 smcs; Trenton D. Snow, LLC \$185.00 co; Tri-Cities Group \$75.00 smcs; Tye & Rademacher \$11,586.33 smcso; Union Bank & Trust \$62,502.36 ps; United Rentals \$2,898.30 smcs; Vasquez,C \$40.00 smcs; Verizon Wireless \$1,080.35 smcs; Village Uniform \$543.74 smcs; Walters Electric \$560.00 smcs; Watchguard Video \$49.00 co; Weidel,G \$244.00 smcs; Williams,M \$146.90 smcs; Payroll Ending 11-30-2013 -- \$367,065.31. 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. Approve the bids received for the purchase of a Combination Sewer Jet Vacuum Truck for the Utilities Department and award the bid to Nebraska Truck Center of Grand Island, Nebraska in the amount of \$369,328.

4. Adopt **Resolution No. 2013-239** approving the recommendation submitted by the Fire Chief to include the following as members of the Kearney Volunteer Fire Department: Cory Flaig and Jarrett Johnston.

#### **RESOLUTION NO. 2013-239**

WHEREAS, Terry Eirich, Chief of the Kearney Volunteer Fire Department, has forwarded several names of individuals desiring to serve as volunteers in the Kearney Volunteer Fire Department; and

WHEREAS, based on the recommendation of Chief Eirich, the City Council of the City of Kearney, Nebraska hereby finds and determines that said persons listed are fully

capable and qualified to serve a membership in the Kearney Volunteer Fire Department; and

WHEREAS, in order to be qualified for benefits in accordance with Sections 48-115, et seq. of the Nebraska Revised Statutes, said volunteer firefighters acting outside the corporate limits of the City must be officially directed to do so in order to be eligible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kearney, Nebraska, that those persons recommended by the Chief of the Kearney Volunteer Fire Department for membership in the Kearney Volunteer Fire Department as set forth on the attached letter of recommendation, marked Exhibit "A," attached hereto and made a part hereof by reference, are hereby confirmed as members of the Kearney Volunteer Fire Department for the purposes of and in accordance with Section 48-115 of the Nebraska Revised Statutes, and that said members are fully entitled to benefits under the Workers' Compensation Act.

BE IT FURTHER RESOLVED that all of said volunteer firefighters named on Exhibit "A" are hereby specifically authorized and directed to serve outside the corporate limits of the municipality under the direction, orders and authority of the Chief of the Kearney Volunteer Fire Department in accordance with Section 4-204 of the Kearney City Code.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

5. Adopt **Resolution No. 2013-240** approving the Agreement for Funding between the City of Kearney and the Kearney Visitor's Bureau for the purpose of providing funding for the management and operation of the Great Platte River Road Archway.

**RESOLUTION NO. 2013-240**

BE IT RESOLVED by the President and Council of the City of Kearney, Nebraska, that the Agreement for Funding between the City of Kearney and the Kearney Visitor's Bureau for the purpose of providing funding for the management and operation of the Great Platte River Road Archway be and is hereby approved. The Agreement, marked as Exhibit 'A', is hereby attached hereto and made a part hereof by reference.

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

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

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

**V. CONSENT AGENDA ORDINANCES**

None.

## **VI. REGULAR AGENDA**

### **KEARNEY COMMUNITY THEATRE MANAGER APPLICATION**

Mayor Clouse opened for discussion the manager application for Richard Marlatt submitted by the Kearney Community Theatre in connection with their Class I-12229 liquor license and located at 83 Plaza Boulevard.

An Application for Manager was been submitted by the Kearney Community Theatre in connection with their Class I-12229 liquor license located at 83 Plaza Boulevard. The Kearney Community Theatre has held a liquor license since 1985 and has not had any violations. A background was conducted by the Police Department on Richard Marlatt as the applicant for Manager and nothing was found that would prohibit Mr. Marlatt from functioning as the manager. He has a basic knowledge of the applicable laws and his plan for managing sales and staff seemed appropriate.

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

Richard Marlatt presented this matter to the Council. He stated Stan Dart has been the bar manager for a long time and has decided to step down.

Moved by Clouse seconded by Lammers to approve the manager application for Richard Marlatt submitted by the Kearney Community Theatre in connection with their Class I-12229 liquor license and located at 83 Plaza Boulevard. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

### **AMEND SECTION 1-206 AND 1-210 OF THE CITY CODE**

It was previously suggested changing the time of the Council meetings. The suggested meeting time is 5:30 p.m. This would allow people to come to the meeting once they are done with work. It also would work well for City staff since they are already at City Hall. The way the ordinance is written is this time change would begin with the first meeting in January which is January 14. Section 1-210 of the City Code would need to be amended to change the time change. Also, staff wanted to make a change to Section 1-206 of the City Code to correct the language to coincide with the Nebraska Revised Statutes relating to the organization meeting of the City Council.

Mayor Clouse stated this was discussed about a couple weeks ago and wanted to get any comments because he is ready to move forward if Council so choses.

Council member Buschkoetter stated he has not heard a thing one way or the other from anybody.

Council member Lammers introduced Ordinance No. 7861, being Subsection 2 of Agenda Item VI amending Section 1-206 "Organization; Mayor/President; Powers" of Article 2 "City Council" of Chapter 1 "Administration" of the Code of the City of Kearney to correct the language to coincide with the Nebraska Revised Statutes relating to the organization meeting of the City Council; and to amend Section 1-210 "Meetings" of Article 2 "City Council" of Chapter 1 "Administration" of the Code of the City of Kearney to change the Council meeting time to 5:30 p.m. on the second and fourth Tuesday of each month, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Nikkila seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7861 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Motion carried. Ordinance was read by number.

Moved by Nikkila seconded by Lear that Ordinance No. 7861 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers, Buschkoetter. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7861 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.

### **CREATE ARCHWAY ADVISORY COMMITTEE**

Mayor Clouse opened for discussion adding a new Article 17 entitled "Archway Advisory Committee" to Chapter 1 "Administration" of the Code of the City of Kearney setting forth guidelines for the creation of an advisory committee, the number of members, appointments, terms of office, meetings and powers and duties.

City Manager Michael Morgan presented this matter to the Council. He thought it would be helpful as has been done in the past with various issues whether it be development or other activities from time to time to have created temporary advisory committees. This is the purpose of this group. There are a lot of individuals that have reached out over the last few days that want to get involved and it will give them a fresh perspective from the community since the City of Kearney is participating financially. It is not intended to be an advisory board; it is not that formal. It is just more of a committee process that will allow us to gain some input throughout the community and not sure how long it will remain. It just depends on the amount of work that will get done and they will take that information and put it in the other information that will receive through the Arch Board and other avenues.

Council member Buschkoetter stated just a sense of getting more heads together to talk about what can be done. City Manager stated several people have asked but the Arch Board is still separate and they are still appointed by the Archway. This is an opportunity where a lot of people want to participate and thought it would be helpful to utilize that expertise and see where it goes. At a certain point if it has ran its course then the Advisory Committee would not need to continue.

City Manager further stated that one of the things he clearly heard is a lot of citizens has never been involved in the Archway and they are looking forward to the opportunity. There will be five members to this Advisory Committee. It is intended to be a fairly small group. There is a requirement that members be a resident of the City of Kearney and the Mayor, at his discretion, can appoint a Council member to serve on the Committee as well.

Council member Nikkila stated he supports it and believes anytime people have the opportunity to give more input and be encouraged is great. But he does not want to send the signal to people in Kearney that the way to get involved in the Archway is to contact the government. He wants to make sure to not discourage citizens from going directly to the Archway and be involved there.

Council member Lear introduced Ordinance No. 7862, being Subsection 3 of Agenda Item VI adding a new Article 17 entitled "Archway Advisory Committee" to Chapter 1 "Administration" of the Code of the City of Kearney setting forth guidelines for the creation of an advisory committee, the number of members, appointments, terms of office, meetings and powers and duties, and moved that the statutory rules requiring ordinances to be read by title on three different days be suspended and said ordinances be considered for passage on the same day upon reading by number only, and then placed on final passage and that the City Clerk be permitted to call out the number of the ordinance on its first reading and then upon its final passage. Council member Buschkoetter seconded the motion to suspend the rules. President of the Council asked for discussion or if anyone in the audience was interested in the ordinance. No one responded. Clerk called the roll which resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion to suspend the rules having been concurred in by three-fourths of the City Council, said motion was declared passed and adopted. City Clerk read Ordinance No. 7862 by number. Roll call of those in favor of the passage of said ordinance on the first reading resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried. Ordinance was read by number.

Moved by Buschkoetter seconded by Clouse that Ordinance No. 7862 be passed, approved and published as required by law. Roll call resulted as follows: Aye: Clouse, Lammers, Buschkoetter, Lear, Nikkila. Nay: None. Motion carried.

By reason of the roll call voted on the first reading and final passage of the ordinance, Ordinance No. 7862 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.

**NEBRASKA POWER REVIEW BOARD FOR REMINGTON HEIGHTS SECOND ADDITION; WEST OF 67TH STREET AND AVENUE L AND NORTH OF CITY'S DETENTION CELL**

Mayor Clouse stated because of a conflict of interest, he would not be discussing or voting on this matter.

Vice-President Buschkoetter opened for discussion the City of Kearney joining with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area to include the annexed land described as 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).

City Clerk stated on July 11, 1989, the City Council passed Resolution No. 89-55 approving the Professional Retail Operations Agreement between NPPD and the City of Kearney. The City of Kearney owns an electric distribution system and NPPD leases and operates the City's system. NPPD maintains the system and constructs any additions necessary for service to the extent such additions are within the established extension area.

On November 12, 2013 the Council adopted Resolution No. 2013-209 annexing Remington Heights Second Addition into the corporate limits. This is land consisting of 18.79 acres and located west of 67th Street and Avenue L and north of City's detention cell. NPPD will need to apply to the Nebraska Power Review Board for an order amending its existing retail service area to include this 18.79-acre tract of land into the corporate boundaries. The City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement and will be a co-applicant with NPPD to the Nebraska Power Review Board.

Moved by Lammers seconded by Nikkila to adopt **Resolution No., 2013-241** authorizing the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area to include the annexed land described as 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: Buschkoetter, Lear, Nikkila, Lammers. Nay: None. Clouse abstaining. Motion carried.

**RESOLUTION NO. 2013-241**

WHEREAS, on November 12, 2013 the Kearney City Council passed and approved Resolution No. 2013-209 extending to include within the corporate limits of the City the contiguous and adjacent tract of land 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 Nebraska Public Power District (NPPD) will apply to the Nebraska Power Review Board for an order amending its existing retail service area, which includes the City of Kearney, to include the above described property into the corporate boundaries of the City of Kearney, Nebraska; and

WHEREAS, the City of Kearney has an interest in the outcome of such application by reason of its rights under the Professional Retail Operations Agreement with NPPD approved on July 11, 1989, pursuant to which NPPD operates and maintains the electric distribution system owned by the City of Kearney; and

WHEREAS, it is determined by the City Council that it would be desirable and in the best interests of the City of Kearney to join with NPPD as a co-applicant to the Nebraska Power Review Board.

NOW, THEREFORE, BE IT RESOLVED by the Vice-President and Council of the City of Kearney, Nebraska, that the City of Kearney, Nebraska, be authorized to join with NPPD as a co-applicant to the Nebraska Power Review Board for an amendment to NPPD's retail service area which includes the City to include the above described property into the corporate boundaries of the City of Kearney, Nebraska in said retail service area.

BE IT FURTHER RESOLVED that the Vice-President be and is hereby authorized to execute on behalf of the City of Kearney a joint application with NPPD to the Nebraska Power Review Board and to cooperate with NPPD in the prosecution of its application.

BE IT FURTHER RESOLVED that such joint application shall be prosecuted at the sole cost and expense of NPPD.

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

ATTEST:  
MICHAELLE E. TREMBLY  
CITY CLERK

RANDY BUSCHKOETTER  
VICE-PRESIDENT OF THE COUNCIL

**OPEN ACCOUNT CLAIMS: GOODWILL INDUSTRIES - \$1,920.00**

Moved by Clouse seconded by Lammers that the Open Account Claim in the amount of \$1,920.00 payable to Goodwill Industries be allowed. Roll call resulted as follows: Aye: Clouse, Lear, Nikkila, Lammers. Nay: None. Buschkoetter abstained. Motion carried.

**VII. REPORTS**

Council member Nikkila commended the Kearney Area Community Foundation for Give Where You Live campaign. He noted a few projects that were City related that will be impacted; i.e. an outdoor fitness park, Yanney Park Foundation, the White Water Group, and the Skatepark. With regard to the Skatepark and the matching of funds, he commended James Staub and Carol Staub in particular for keeping this project alive and doing a great job in raising \$100 short of what they needed.

City Manager stated with respect to Skatepark they will move forward with the final design. It was a great concept and there were several participants who were directly involved in determining what items go in a skatepark. So it was not City staff driven it was user driven so there are a lot of ideas that they came up with. He believes the \$100 shortage was close enough that the City would be glad to help them out and get that project.

The City received its ISO rating renewal that usually happens every ten years or sometimes sooner. This has been talked about before and presented one of the most impressive graphs. ISO (Insurance Services Organization) is a national entity that analyzes fire risks based on several factors distribution, water, dispatch, training to come up with a rating to categorize 1-11. One being the best and 11 being not the best. Kearney will remain at a Class 2 and according to the graph 1.14 percent of all those rated are 2 which is extremely impressive. He is really proud of that rating. It affects

citizens in their pocket books; some insurance companies still utilize there ISO services to determine your property rates in your home. A lot of major businesses still use ISO to determine their rates as they are individually based.

So it is still a very, very good tool and what is even more exciting is we have a combined dispatch with City and County working together which is part of this. Kearney also has a combination of volunteer and paid Fire Department and suspected that of the 1.1 percent very few combination departments would qualify for ISO 2 rating. It reaffirms the talent within the City and the Kearney Volunteer Fire Department. Mayor Clouse stated the class 2 rating was one of the key items in the Veterans Home proposal and also Facebook and those types of things. It is very important on Kearney's economic development.

Also he wanted to commend the County for making a difficult decision on approving the management agreement and will be moving forward on a variety of projects related to the Archway. He believes the message that was sent is the City and County do partner and do work together and even with split votes will continue to work together and make things work. The Mayor will serve and the County will need to appoint a member to serve on The Archway Board.

City Clerk reminded the Council that the next Council Meeting will be Monday, December 23rd at 4:00 p.m.

### **VIII. ADJOURN**

Moved by Lear seconded by Buschkoetter that Council adjourn at 7:45 p.m. Roll call resulted as follows: Aye: Clouse, Nikkila, Lammers, Buschkoetter, Lear. Nay: None. Motion carried.

**ATTEST:**

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

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**MICHAELLE E. TREMBLY  
CITY CLERK**